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Presidential Documents

Title 3—

The President

Presidential Determination No. 2005–21 of February 15, 2005

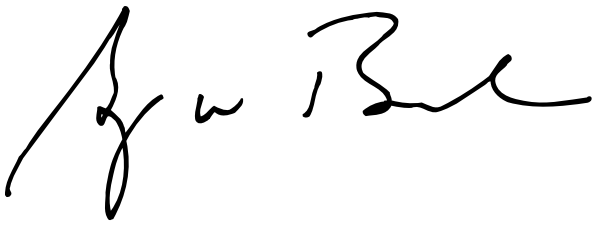
Determination to Waive Military Coup-Related Provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005, with Respect to Pakistan

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and laws of the United States, including Public Law 107–57, as amended, I hereby determine and certify, with respect to Pakistan, that a waiver of any provision of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 2005 (Division D, Public Law 108–447), that prohibits direct assistance to the government of any country whose duly elected head of government was deposed by decree or military coup:

- would facilitate the transition to democratic rule in Pakistan; and
- is important to United States efforts to respond to, deter, or prevent acts of international terrorism.

Accordingly, I hereby waive, with respect to Pakistan, any such provision. You are authorized and directed to transmit this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, February 15, 2005.

[FR Doc. 05–4268
Filed 3–2–05; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–125–3]

Emerald Ash Borer; Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the emerald ash borer regulations by adding areas in Indiana, Michigan, and Ohio to the list of areas quarantined because of emerald ash borer. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary to prevent the artificial spread of the emerald ash borer from infested areas in the States of Indiana, Michigan, and Ohio into noninfested areas of the United States.

DATES: This interim rule was effective February 25, 2005. We will consider all comments that we receive on or before May 2, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- *EDOCKET:* Go to *http://www.epa.gov/feddocket* 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 you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 02–125–3, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–125–3.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

The emerald ash borer (EAB) *(Agrilus planipennis)* is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, Taiwan, and Canada, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

Quarantined Areas

The EAB regulations in 7 CFR 301.53–1 through 301.53–9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of EAB to noninfested areas of the United States. Portions of the States of Indiana, Michigan, and Ohio are already designated as quarantined areas.

Recent surveys conducted by inspectors of State, county, and city agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that infestations of EAB have occurred outside the quarantined areas in Michigan, Indiana, and Ohio. Specifically, infestations of EAB have been detected in Alcona, Antrim, Barry, Branch, Calhoun, Cheboygan, Clinton, Eaton, Emmet, Grand Traverse, Gratiot, Hillsdale, Ionia, Iosco, Kalkaska, Kent, Manistee, Midland, Oceana, Oscoda, Presque Isle, Saginaw, Saint Joseph, and Sanilac Counties, MI; Millgrove Township in Steuben County, IN; and in new areas of Fulton, Henry, and Lucas Counties, OH. Officials of the U.S. Department of Agriculture (USDA) and officials of State, county, and city agencies in Indiana, Michigan, and Ohio are conducting intensive survey and eradication programs in the infested areas. Indiana, Michigan, and Ohio have quarantined the infested areas and have restricted the intrastate movement of regulated articles from the quarantined areas to prevent the spread of EAB within each State. However, Federal regulations are necessary to restrict the interstate movement of regulated articles from the quarantined areas to prevent the spread of EAB to other States.

The regulations in § 301.53–3(a) provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, where EAB has been found by an inspector, where the Administrator has reason to believe that EAB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where EAB has been found.

Less than an entire State will be designated as a quarantined area only under certain conditions. Such a designation may be made if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles; and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of the EAB.

In accordance with these criteria and the recent EAB findings described above, we are amending § 301.53–3(c) to add portions of Alcona, Antrim, Barry, Branch, Calhoun, Cheboygan, Clinton, Eaton, Emmet, Grand Traverse, Gratiot,

Hillsdale, Ionia, Iosco, Kalkaska, Kent, Manistee, Midland, Oceana, Oscoda, Presque Isle, Saginaw, Saint Joseph, and Sanilac Counties, MI; Millgrove Township in Steuben County, IN; and new areas of Fulton, Henry, and Lucas Counties, OH, to the list of quarantined areas. An exact description of the quarantined areas can be found in the rule portion of this document.

Emergency Action

This rulemaking is necessary on an emergency basis to help prevent the spread of EAB to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This emergency situation makes timely compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.53–3, paragraph (c) is amended as follows:

■ a. Under the heading Indiana, by revising the entry for Steuben County to read as set forth below.

■ b. Under the heading Michigan, by revising the entries for Branch County, Calhoun County, Eaton County, Kent County, and Saginaw County, and by adding, in alphabetical order, entries for Alcona and Iosco Counties, Antrim, Grand Traverse, and Kalkaska Counties, Barry and Ionia Counties, Cheboygan and Presque Isle Counties, Clinton County, Emmet County, Gratiot County, Hillsdale County, Manistee County, Midland County, Oceana County, Oscoda County, Presque Isle County, Sanilac County, and St. Joseph County to read as set forth below.

■ c. Under the heading Ohio, by revising the entries for Fulton County, Henry County, and Lucas County to read as set forth below.

§ 301.53–3 Quarantined areas.

* * * * *

(c) * * *

Indiana

* * * * *

Steuben County. Jamestown Township, Millgrove Township.

Michigan

Alcona and Iosco Counties. Cedar Lake/Van Etten area: That portion of the counties bounded by a line drawn as follows: Beginning at the intersection of Poor Farm Road and Kings Corner Road; then north on Poor Farm Road to Wissmiller Road; then east on Wissmiller Road to Cedar Lake Road; then north on Cedar Lake Road to Smith Road; then east on Smith Road to and across U.S. Highway 23, continuing east to the Lake Huron shoreline; then south along the Lake Huron shoreline to a point on the shoreline east of the intersection of Interlake Drive and Ridge Road; then west to Interlake Drive and continuing west on Interlake Drive to Loud Drive, then northwest on Loud Drive to Love Road; then north on Love Road to the point of beginning.

Antrim, Grand Traverse, and Kalkaska Counties. Lake Skegemog/Torch Lake area: That portion of the counties bounded by a line drawn as follows: Beginning in Grand Traverse County at the intersection of Elk Lake Road and Michigan Route 72; then east on Michigan Route 72, crossing into Kalkaska County, to McNulty Hill Road NW.; then east on McNulty Hill NW. to Hill Road NW.; then east on Hill Road NW. to Way Road NW.; then north and northwest on Way Road NW. to Gillett Road NW.; then north on Gillett Road NW. to Valley Road NW.; then east on Valley Road NW. to Kellogg Road NW.; then north on Kellogg Road NW. to Plum Valley Road NW.; then west on Plum Valley Road NW. to Manley Road NW.; then north on Manley Road NW. to the Kalkaska/Antrim County line; then west along the Kalkaska/Antrim County line to the intersection of the Clearwater, Milton, and Helena Township lines; then northeast along the Helena/Milton Township line to a point due east of Ringler Road; then west from that point to Ringler Road and continuing west on Ringler Road to its western terminus; then due west from the terminus of Ringler Road to the Milton/Elk Rapids Township line; then south along the Milton/Elk Rapids Township line to the Antrim/Grand Traverse County line; then west along the Antrim/Grand Traverse County line to Elk Lake Road; then south on Elk Lake Road to the point of beginning.

Barry and Ionia Counties. Lake Odessa area: That portion of the counties bounded by a line drawn as follows: Beginning at the intersection of Thompson Road and Bell Road; then south on Bell Road to its intersection with Vedder Road and Messer Road; then continuing south on Messer Road to Brown Road; then east on Brown Road to Usborne Road; then south on Usborne Road to Jordon Road; then east on Jordon Road to Martin Road; then north on Martin Road to its intersection

with Vedder Road and Bliss Road; then continuing north on Bliss Road to Musgrove Highway; then west on Musgrove Highway to Jackson Road; then north on Jackson Road to Campbell Road; then west on Campbell Road to Nash Highway; then south on Nash Highway to Thompson Road; then west on Thompson Road to the point of beginning.

* * * * *

Branch County. The entire county.

Calhoun County. The entire county.

Cheboygan and Presque Isle Counties. Forest Township area: That portion of the counties bounded by a line drawn as follows: Beginning at the intersection of Walters Road and Center Line Road; then south on Center Line Road to Clute Road; then east on Clute Road to Martins Grove; then south on Martins Grove to Schommer Road; then south on Schommer Road to its end then continuing south along an imaginary line to Post Road; then east on Post Road to Black River Road; then east on Black River Road to Canada Creek Road; then east on Canada Creek Road to Highway 634; then north and east on Highway 634 to Michigan Route 33; then northwest and north on Michigan Route 33 to 4 Mile Highway; then west on 4 Mile Highway to the Cheboygan/Presque Isle County line; then continuing west on an imaginary line to Walters Road; then west on Walters Road to the point of beginning.

Clinton County. The entire county.

Eaton County. The entire county.

Emmet County. Petoskey area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Pickerel Lake Road and Fletcher Road; then south on Fletcher Road to Atkins Road; then east and south on Atkins Road to Greenwood Road; then south and east on Greenwood Road to Russett Road; then south on Russett Road to King Road; then west and southwest on King Road to Evergreen Trail; then northwest and west on Evergreen Trail to River Road; then south on River Road to Gruler Road; then west on Gruler Road to U.S. Highway 131; then north on U.S. Highway 131 to Sheridan Street; then west on Sheridan Street to Eppler Road; then north on Eppler Road to Charlevoix Avenue, and continuing north on an imaginary line to Little Traverse Bay; then north and northeast along the shoreline of Little Traverse Bay to Bear Creek/Little Traverse Township line; then east along the Bear Creek/Little Traverse Township line to U.S. Highway 31; then southwest on U.S. Highway 31 to Graham Road; then east on Graham Road to Bellmer Road; then south on Bellmer Road to Pickerel Lake Road; then west on Pickerel Lake Road to the point of beginning.

* * * * *

Gratiot County. The entire county.

Hillsdale County. The entire county.

* * * * *

Kent County. Kentwood/Wyoming/Grand Rapids area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of 36th Street SW. and Byron Center Avenue SW.; then east on 36th Street SW. to 36th Street SE.; then east on 36th Street SE. to Kalamazoo Avenue SE.; then south on Kalamazoo Avenue SE. to 68th Street SE.; then west on 68th Street SE. to 68th Street SW.; then west on 68th Street SW. to Burlingame Avenue SW.; then south on Burlingame Avenue SW. to 72nd Street SW.; then west on 72nd Street SW. to Byron Center Avenue SW.; then north on Byron Center Avenue SW. to the point of beginning.

* * * * *

Manistee County. Tippy Dam area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of the Dickson, Maple Grove, and Marilla Township lines; then west along the Maple Grove/Dickson Township line to Clements Road; then south on Clements Road to Fife Springs Road; then east on Fife Springs Road to Dilling Road; then south and southeast on Dilling Road to River Road; then east and northeast on River Road to the Dickson/Marilla Township line; then west along the Dickson/Marilla Township line to the point of beginning.

Midland County. Coleman area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Shearer Road and East County Line Road; then south on East County Line Road to its end, then continuing south along the Midland/Isabella County line to Ruhle Road; then east on Ruhle Road to Coleman Road; then south on Coleman Road to McNally Road; then east on McNally Road to Castor Road; then north on Castor Road to Grant Street; then northwest on Grant Street to Barden Road; then northeast on Barden Road to Saginaw Road; then southeast on Saginaw Road to Michigan Route 18; then north on Michigan Route 18 to Shearer Road; then west on Shearer Road to the point of beginning.

* * * * *

Oceana County. Pentwater Township, including the Village of Pentwater.

Oscoda County. McKinley area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Reber Road and Abbe Road; then east on Reber Road to Pearsall Road; the south and east on Pearsall Road to Barakel Trail; then east on Barakel Trail to Shear Lake Road; then south on Shear Lake Road to Miller Road, then continuing due south along an imaginary line to Old State Road; then west on Old State Road to McKinley Road; then west on McKinley Road to Abbe Road; then north on Abbe Road to the point of beginning.

Presque Isle County. Ocqueoc Lake area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Town Hall Highway and Thorne Road; then east on Town Hall Highway to Balch Road; then north on Balch Road to Beach Highway; then east on Beach Highway to U.S. Highway 23; then southeast on U.S. Highway 23 to Acorn Ridge Highway; then west on Acorn Ridge Highway to Brege Road; then south on Brege Road to its terminus; then due south from that point along an imaginary line to where Brege Road begins again; then south on Brege Road to Pomranke Highway; then west on Pomranke Highway to Dittmar Road; then continuing due west along an imaginary line to Roost Road; then north on Roost Road to its northern end; then continuing due north from that point to Shells Highway; then west on Shells Highway to Thorne Road; then north on Thorne Road to the point of beginning.

* * * * *

Saginaw County. The entire county.

Sanilac County. (1) Brown City area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Montgomery Road and Cade Road; then south on Cade Road to Wilcox Road; then east on Wilcox Road to Shephard Road; then north on Shephard Road to Montgomery Road; then west on Montgomery Road to the point of beginning.

(2) Sanilac Township area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Walker Road and Ridge Road; then south on Ridge Road to Townsend Road; then west on Townsend Road to Wildcat Road; then south on Wildcat Road to Aitken Road; then east on Aitken Road to its terminus; then east to the Lake Huron shoreline; then north along the Lake Huron shoreline to a point on the shore due west of Walker Road; then west along an imaginary line to Walker Road; then west on Walker Road to the point of beginning.

* * * * *

St. Joseph County. Nottawa/Colon area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Prairie

Corners Road and Bucknell Road; then south on Bucknell Road to Michigan Route 86; then east on Michigan Route 86 to Michigan Route 66, then continuing east on Bonham Road to Lepley Road; then north on Lepley Road to Spring Creek Road; then east on Spring Creek Road to Hodges Road; then north on Hodges Road to Colon Road; then west on Colon Road to Michigan Route 66; then north on Michigan Route 66 to Prairie Corners Road; then west on Prairie Corners Road to the point of beginning.

* * * * *

Ohio

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Fulton County. That portion of the county east of State Route 109.

Henry County. That portion of the county east of State Route 109 and north of the Maumee River.

Lucas County. That portion of Lucas County west of the Maumee River.

Done in Washington, DC, this 25th day of February 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–4095 Filed 3–2–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20063; Airspace Docket No. 05–ACE–5]

Modification of Class E Airspace; Neosho, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Neosho, MO. A review of the Class E airspace area extending upward from 700 feet above ground level (AGL) at Neosho, MO revealed it is not in compliance with established airspace criteria. The area is modified and enlarged to conform to the criteria in FAA Orders. The intended effect of this rule is to provide controlled airspace of appropriate dimensions to protect aircraft departing from and executing Standard Instrument Approach Procedures (SIAPs) to Neosho Hugh Robinson Airport.

DATES: This direct final rule is effective on 0901 UTC, July 7, 2005. Comments for inclusion in the Rules Docket must be received on or before April 15, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2005–20063/ Airspace Docket No. 05–ACE–5, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 modifies the Class E airspace area extending upward from 700 feet above the surface at Neosho, MO. An examination of controlled airspace for Neosho, MO revealed the Class E airspace area does not comply with airspace requirements for diverse departures from Neosho Hugh Robinson Airport as set forth in FAA Order 7400.2E, Procedures for Handling Airspace Matters. The criteria in FAA Order 7400.2E for an aircraft to reach 1200 feet AGL, taking into consideration rising terrain, is based on a standard climb gradient of 200 feet per mile plus the distance from the airport reference point to the ned of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. Additionally, the examination revealed the description and dimensions of the extension to the airspace area were not in compliance with FAA Orders 7400.2E and 8260.19C, Flight Procedures and Airspace. This amendment expands the airspace area from a 6.5-mile to a 7-mile radius of Neosho Hugh Robinson Airport, decreases the width of the extension from 1.8 miles to 1.5 miles each side of the Neosho very high frequency omni-directional radio range/ distance measuring equipment (VOR/ DME) 310° radial, expands the extension from 7 miles northwest of the airport to 7 miles northwest of the VOR/ DME and defines the extension in relation to the VOR/DME. Additional, the location of the VOR/DME is corrected in the legal description. These modifications provide controlled airspace of appropriate dimensions to protect aircraft departing from and executing SIAPs to Neosho Hugh Robinson Airport and bring the legal description of the Neosho, MO Class E airspace area into compliance with FAA Orders 7400.2E and 8260.19C. This area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulations will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does not receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the view and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above.

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2005–20063/Airspace Docket No. 05–ACE–5.'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, that FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it contains aircraft executing instrument approach procedures to Neosho Hugh Robinson Airport.

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

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

* * * * *

ACE MO E5 Neosho, MO

Neosho Hugh Robinson Airport, MO
(Lat. 36°48′39″ N., long. 94°23′30″ W.)
Neosho VOR/DME
(Lat. 36°50′33″ N., long. 94°26′09″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Neosho Hugh Robinson Airport and within 1.5 miles each side of the Neosho VOR/DME 310° radial extending from the 7-mile radius of the airport to 7 miles northwest of the VOR/DME.

* * * * *

Issued in Kansas City, MO, on February 17, 2005.

Anthony D. Roetzel,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–4130 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9187]

RIN 1545–BA52

Loss Limitation Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations under sections 337(d) and 1502 of the Internal Revenue Code (Code). These regulations disallow certain losses recognized on sales of subsidiary stock by members of a consolidated group. These regulations apply to corporations filing consolidated returns, both during and after the period of affiliation, and also affect purchasers of the stock of members of a consolidated group.

DATES: *Effective Date:* These regulations are effective April 4, 2005.

Applicability Date: For dates of applicability, see §§ 1.337(d)–2(g), 1.1502–20(i), and 1.1502–32(b).

FOR FURTHER INFORMATION CONTACT: Theresa Abell (202) 622–7700 or Martin Huck (202) 622–7750 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1774.

The collection of information in these final regulations is in §§ 1.337(d)–2(c), 1.1502–20(i), and 1.1502–32(b)(4). The information is required to allow the taxpayer to make certain elections to determine the amount of allowable loss under § 1.337(d)–2, § 1.1502–20 as currently in effect, or under § 1.1502–20 modified so that the amount of allowable loss determined pursuant to § 1.1502–20(c)(1) is computed by taking into account only the amounts computed under § 1.1502–20(c)(1)(i) and (ii); to allow the taxpayer to reapportion a section 382 limitation in certain cases; to allow the taxpayer to waive certain loss carryovers; to allow acquiring groups to reduce the amount of certain loss carryovers deemed to expire; and to ensure that loss is not disallowed and basis is not reduced under § 1.337(d)–2 to the extent the taxpayer establishes that the loss or basis is not attributable to the recognition of built-in gain on the disposition of an asset. The collection of information is required to obtain a benefit. The likely respondents are corporations that file consolidated income tax returns.

The estimated burden is as follows:

Estimated total annual reporting and/or recordkeeping burden: 36,720 hours.

Estimated average annual burden per respondent: 2 hours.

Estimated number of respondents: 18,360.

Estimated annual frequency of responses: Once.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and

Budget, Attn: Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224.

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

Books or records relating to the 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.

Background

On March 7, 2002, the IRS and Treasury Department issued a Treasury decision that included temporary regulations and cross-referencing proposed regulations (TD 8984, 67 FR 11034; REG–102740–02) implementing the repeal of the *General Utilities* doctrine in the consolidated return context pursuant to the mandate of section 337(d). Those regulations included §§ 1.337(d)–2T, 1.1502–20T(i), and 1.1502–32T(b)(4)(v).

For dispositions and deconsolidations of subsidiary stock before March 7, 2002, and dispositions and deconsolidations of subsidiary stock on or after March 7, 2002, that were effected pursuant to a binding written contract entered into before such date that was in continuous effect until the disposition or deconsolidation, § 1.1502–20T(i) permits consolidated groups to elect to calculate allowable loss on the sale of subsidiary stock, or the basis reduction required on the deconsolidation of subsidiary stock, by applying § 1.1502–20 in its entirety, § 1.1502–20 without regard to the duplicated loss factor of the loss disallowance formula, or § 1.337(d)–2T. Section 1.337(d)–2T disallows certain losses recognized on sales of subsidiary stock by members of a consolidated group and, under certain circumstances, requires the basis of subsidiary stock to be reduced to its value immediately before a deconsolidation of the stock. For dispositions and deconsolidations on or after March 7, 2002, unless the disposition or deconsolidation was effected pursuant to a binding written contract entered into before March 7, 2002, that was in continuous effect until the disposition or deconsolidation, groups must apply § 1.337(d)–2T to calculate allowable loss on the sale of subsidiary stock or the basis reduction required on the deconsolidation of subsidiary stock.

The Treasury decision also included a number of correlative provisions, in both §§ 1.1502–20T and 1.1502–32T, designed to address certain issues that could arise if a group elected to apply § 1.1502–20 without regard to the duplicated loss factor of the loss disallowance formula, or § 1.337(d)–2T. Technical changes to §§ 1.337(d)–2T, 1.1502–20T, and 1.1502–32T were made by Treasury decisions 8998 (67 FR 37998), 9057 (68 FR 24351), 9118 (69 FR 12799), and 9155 (69 FR 51175).

On August 25, 2004, the IRS issued Notice 2004–58 (2004–39 I.R.B. 520) describing the basis disconformity method and announcing that the IRS will accept that method as a method for determining whether subsidiary stock loss is disallowed and subsidiary stock basis is reduced under § 1.337(d)–2T. Contemporaneous with the issuance of the Notice, the IRS and Treasury Department published temporary and cross-referencing proposed regulations (TD 9154, 69 FR 52419; REG–135898–04) extending the time for making an election under § 1.1502–20T(i) and permitting taxpayers to amend or revoke prior elections made under § 1.1502–20T(i).

In response to the promulgation of § 1.337(d)–2T and the issuance of Notice 2004–58, the IRS and Treasury Department have received a number of comments on the regulations, the basis disconformity method, and, more generally, on the manner in which the repeal of the *General Utilities* doctrine should be implemented in the consolidated group context. The IRS and Treasury Department have studied and are continuing to study those comments. In that regard, the IRS and Treasury Department intend to publish within the near term proposed regulations with an alternative approach to this problem. Until those proposed regulations are published as final or temporary regulations, whether certain losses recognized on sales of subsidiary stock are disallowed and whether basis of subsidiary stock must be reduced immediately before a deconsolidation of the stock will continue to be determined under the rules of § 1.337(d)–2T. Accordingly, this Treasury decision adopts the rules of § 1.337(d)–2T (as in effect on March 2, 2005) as final regulation § 1.337(d)–2 without substantive change. The IRS will accept the basis disconformity method as a method for determining whether subsidiary stock loss is disallowed and subsidiary stock basis is reduced under that final regulation.

In addition, to permit taxpayers to make the election to apply § 1.1502–20 without regard to the duplicated loss factor of the loss disallowance rule, or the rule of § 1.337(d)–2, as provided in this Treasury Decision, this Treasury decision also adopts the rules of § 1.1502–20T and the correlative rules of § 1.1502–32T (as in effect on March 2, 2005) as final regulations without substantive change.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Theresa Abell and Martin Huck of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

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

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.337(d)–2T and adding an entry in numerical order to read, in part, as follows:

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

Section 1.337(d)–2 also issued under 26 U.S.C. 337(d). * * *

■ **Par. 2.** Section 1.337(d)–2 is revised to read as follows:

§ 1.337(d)–2 Loss limitation rules.

(a) *Loss disallowance*—(1) *General rule.* No deduction is allowed for any loss recognized by a member of a consolidated group with respect to the disposition of stock of a subsidiary.

(2) *Definitions.* For purposes of this section:

(i) The definitions in § 1.1502–1 apply.

(ii) *Disposition* means any event in which gain or loss is recognized, in whole or in part.

(3) *Coordination with loss deferral and other disallowance rules.* For purposes of this section, the rules of § 1.1502–20(a)(3) apply, with appropriate adjustments to reflect differences between the approach of this section and that of § 1.1502–20.

(4) *Netting.* Paragraph (a)(1) of this section does not apply to loss with respect to the disposition of stock of a subsidiary, to the extent that, as a consequence of the same plan or arrangement, gain is taken into account by members with respect to stock of the same subsidiary having the same material terms. If the gain to which this paragraph applies is less than the amount of the loss with respect to the disposition of the subsidiary's stock, the gain is applied to offset loss with respect to each share disposed of as a consequence of the same plan or arrangement in proportion to the amount of the loss deduction that would have been disallowed under paragraph (a)(1) of this section with respect to such share before the application of this paragraph (a)(4). If the same item of gain could be taken into account more than once in limiting the application of paragraphs (a)(1) and (b)(1) of this section, the item is taken into account only once.

(b) *Basis reduction on deconsolidation*—(1) *General rule.* If the basis of a member of a consolidated group in a share of stock of a subsidiary exceeds its value immediately before a deconsolidation of the share, the basis of the share is reduced at that time to an amount equal to its value. If both a disposition and a deconsolidation occur with respect to a share in the same transaction, paragraph (a) of this section applies and, to the extent necessary to effectuate the purposes of this section, this paragraph (b) applies following the application of paragraph (a) of this section.

(2) *Deconsolidation. Deconsolidation* means any event that causes a share of stock of a subsidiary that remains outstanding to be no longer owned by a member of any consolidated group of which the subsidiary is also a member.

(3) *Value. Value* means fair market value.

(4) *Netting.* Paragraph (b)(1) of this section does not apply to reduce the basis of stock of a subsidiary, to the extent that, as a consequence of the same plan or arrangement, gain is taken into account by members with respect to stock of the same subsidiary having the same material terms. If the gain to which this paragraph applies is less than the amount of basis reduction with respect to shares of the subsidiary's stock, the gain is applied to offset basis reduction with respect to each share deconsolidated as a consequence of the same plan or arrangement in proportion to the amount of the reduction that would have been required under paragraph (b)(1) of this section with respect to such share before the application of this paragraph (b)(4).

(c) *Allowable loss*—(1) *Application.* This paragraph (c) applies with respect to stock of a subsidiary only if a separate statement entitled *§ 1.337(d)–2(c) statement* is included with the return in accordance with paragraph (c)(3) of this section.

(2) *General rule.* Loss is not disallowed under paragraph (a)(1) of this section and basis is not reduced under paragraph (b)(1) of this section to the extent the taxpayer establishes that the loss or basis is not attributable to the recognition of built-in gain, net of directly related expenses, on the disposition of an asset (including stock and securities). Loss or basis may be attributable to the recognition of built-in gain on the disposition of an asset by a prior group. For purposes of this section, gain recognized on the disposition of an asset is built-in gain to the extent attributable, directly or indirectly, in whole or in part, to any excess of value over basis that is reflected, before the disposition of the asset, in the basis of the share, directly or indirectly, in whole or in part, after applying section 1503(e) and other applicable provisions of the Internal Revenue Code and regulations. Federal income taxes may be directly related to built-in gain recognized on the disposition of an asset only to the extent of the excess (if any) of the group's income tax liability actually imposed under Subtitle A of the Internal Revenue Code for the taxable year of the disposition of the asset over the group's income tax liability for the taxable year redetermined by not taking into account the built-in gain recognized on the disposition of the asset. For this purpose, the group's income tax liability actually imposed and its redetermined income tax liability are determined without taking into account the foreign tax credit under section 27(a) of the Internal Revenue Code.

(3) *Contents of statement and time of filing.* The statement required under paragraph (c)(1) of this section must be included with or as part of the taxpayer's return for the year of the disposition or deconsolidation and must contain—

(i) The name and employer identification number (E.I.N.) of the subsidiary; and

(ii) The amount of the loss not disallowed under paragraph (a)(1) of this section by reason of this paragraph (c) and the amount of basis not reduced under paragraph (b)(1) of this section by reason of this paragraph (c).

(4) *Example.* The principles of paragraphs (a), (b), and (c) of this section are illustrated by the examples in §§ 1.337(d)–1(a)(5) and 1.1502–20(a)(5) (other than *Examples 3, 4,* and *5*) and (b), with appropriate adjustments to reflect differences between the approach of this section and that of § 1.1502–20, and by the following example. For purposes of the examples in this section, unless otherwise stated, the group files consolidated returns on a calendar year basis, the facts set forth the only corporate activity, and all sales and purchases are with unrelated buyers or sellers. The basis of each asset is the same for determining earnings and profits adjustments and taxable income. Tax liability and its effect on basis, value, and earnings and profits are disregarded. *Investment adjustment system* means the rules of § 1.1502–32. The example reads as follows:

Example. Loss offsetting built-in gain in a prior group. (i) P buys all the stock of T for $50 in Year 1, and T becomes a member of the P group. T has 2 assets. Asset 1 has a basis of $50 and a value of $0, and asset 2 has a basis of $0 and a value of $50. T sells asset 2 during Year 3 for $50 and recognizes a $50 gain. Under the investment adjustment system, P's basis in the T stock increased to $100 as a result of the recognition of gain. In Year 5, all of the stock of P is acquired by the P1 group, and the former members of the P group become members of the P1 group. T then sells asset 1 for $0, and recognizes a $50 loss. Under the investment adjustment system, P's basis in the T stock decreases to $50 as a result of the loss. T's assets decline in value from $50 to $40. P then sells all the stock of T for $40 and recognizes a $10 loss.

(ii) P's basis in the T stock reflects both T's unrecognized gain and unrecognized loss with respect to its assets. The gain T recognizes on the disposition of asset 2 is built-in gain with respect to both the P and P1 groups for purposes of paragraph (c)(2) of this section. In addition, the loss T

recognizes on the disposition of asset 1 is built-in loss with respect to the P and P1 groups for purposes of paragraph (c)(2) of this section. T's recognition of the built-in loss while a member of the P1 group offsets the effect on T's stock basis of T's recognition of the built-in gain while a member of the P group. Thus, P's $10 loss on the sale of the T stock is not attributable to the recognition of built-in gain, and the loss is therefore not disallowed under paragraph (c)(2) of this section.

(iii) The result would be the same if, instead of having a $50 built-in loss in asset 1 when it becomes a member of the P group, T has a $50 net operating loss carryover and the carryover is used by the P group.

(d) *Successors.* For purposes of this section, the rules and examples of § 1.1502–20(d) apply, with appropriate adjustments to reflect differences between the approach of this section and that of § 1.1502–20.

(e) *Anti-avoidance rules.* For purposes of this section, the rules and examples of § 1.1502–20(e) apply, with appropriate adjustments to reflect differences between the approach of this section and that of § 1.1502–20.

(f) *Investment adjustments.* For purposes of this section, the rules and examples of § 1.1502–20(f) apply, with appropriate adjustments to reflect differences between the approach of this section and that of § 1.1502–20.

(g) *Effective dates.* This section applies with respect to dispositions and deconsolidations on or after March 3, 2005. In addition, this section applies to dispositions and deconsolidations for which an election is made under § 1.1502–20(i)(2) to determine allowable loss under this section. If loss is recognized because stock of a subsidiary became worthless, the disposition with respect to the stock is treated as occurring on the date the stock became worthless. For dispositions and deconsolidations after March 6, 2002 and before March 3, 2005, see § 1.337(d)–2T as contained in the 26 CFR part 1 in effect on March 2, 2005.

§ 1.337(d)–2T [Removed]

■ **Par. 3.** Section 1.337(d)–2T is removed.

■ **Par. 4.** In § 1.1502–20, paragraph (i) is revised to read as follows:

§ 1.1502–20 Disposition or deconsolidation of subsidiary stock.

* * * * *

(i) *Limitations on the applicability of § 1.1502–20*—(1) *Dispositions and deconsolidations on or after March 7, 2002.* Except to the extent specifically incorporated in § 1.337(d)–2, paragraphs (a) and (b) of this section do not apply to a disposition or deconsolidation of stock of a subsidiary on or after March 7, 2002, unless the disposition or deconsolidation was effected pursuant to a binding written contract entered into before March 7, 2002, that was in continuous effect until the disposition or deconsolidation.

(2) *Dispositions and deconsolidations prior to March 7, 2002.* In the case of a disposition or deconsolidation of stock of a subsidiary by a member before March 7, 2002, or a disposition or deconsolidation on or after March 7, 2002, that was effected pursuant to a binding written contract entered into before March 7, 2002, that was in continuous effect until the disposition or deconsolidation, a consolidated group may determine the amount of the member's allowable loss or basis reduction by applying this section in its entirety, or, in lieu thereof, subject to the conditions set forth in this paragraph (i), by making an irrevocable election to apply the provisions of either—

(i) This section, except that in applying paragraph (c)(1) of this section, the amount of loss disallowed under paragraph (a)(1) of this section and the amount of basis reduction under paragraph (b)(1) of this section with respect to a share of stock will not exceed the sum of the amounts described in paragraphs (c)(1)(i) and (ii) of this section; or

(ii) Section 1.337(d)–2.

(3) *Operating rules*—(i) *Reattribution of losses in the case of an election to determine allowable loss by applying the provisions described in paragraph (i)(2)(i) of this section.* If a consolidated group elects to determine allowable loss by applying the provisions described in paragraph (i)(2)(i) of this section, an election described in paragraph (g) of this section to reattribute losses will be respected only if the requirements of paragraph (g) of this section, including the requirement that the election be filed with the group's income tax return for the year of the disposition, have been or are satisfied. For example, if a consolidated group did not file a valid election described in paragraph (g) of this section with its return for the year of the disposition, this section does not authorize the group that disposed of the stock to make such an election with its return for the year in which it elects to determine its allowable stock loss under the provisions described in paragraph (i)(2)(i) of this section. If a consolidated group that made a valid election described in paragraph (g) of this section with respect to the disposition of stock elects to determine allowable loss by applying the provisions described in paragraph (i)(2)(i) of this section, the election described in paragraph (g) of this section may not be revoked, and the amount of loss treated as reattributed as of the time of the disposition pursuant to the election described in paragraph (g) of this section is the amount of loss originally reattributed, reduced to the extent that it exceeds the greater of—

(A) The amount of stock loss disallowed after applying the provisions described in paragraph (i)(2)(i) of this section; and

(B) The amount of reattributed losses that the group that disposed of the stock absorbed in years for which the assessment of a deficiency is prevented by any law or rule of law as of the date the election to apply the provisions described in paragraph (i)(2)(i) of this section is filed and at all times thereafter.

(ii) *Reattribution of losses in the case of an election to determine allowable loss by applying the provisions described in paragraph (i)(2)(ii) of this section.* If a consolidated group elects to determine allowable loss by applying the provisions described in paragraph (i)(2)(ii) of this section, the consolidated group may not make an election described in paragraph (g) of this section to reattribute any losses. If the consolidated group made an election described in paragraph (g) of this section with respect to the disposition of subsidiary stock, the amount of loss treated as reattributed pursuant to such election will be the greater of—

(A) Zero; and

(B) The amount of reattributed losses that the group that disposed of the stock absorbed in years for which the assessment of a deficiency is prevented by any law or rule of law as of the date the election to apply the provisions described in paragraph (i)(2)(ii) of this section is filed and at all times thereafter.

(iii) *Apportionment of section 382 limitation in the case of a reduction of reattributed losses*—(A) *Losses subject to a separate section 382 limitation.* If, as a result of the application of paragraph (i)(3)(i) or (ii) and paragraph (i)(3)(vii) of this section, pre-change separate attributes that were subject to a separate section 382 limitation are treated as losses of a subsidiary and the common parent previously elected to apportion all or a part of such limitation to itself under § 1.1502–96(d), the common parent may reduce the amount of such limitation apportioned to itself.

(B) *Losses subject to a subgroup section 382 limitation.* If, as a result of the application of paragraph (i)(3)(i) or (ii) and paragraph (i)(3)(vii) of this section, pre-change subgroup attributes that were subject to a subgroup section

382 limitation are treated as losses of a subsidiary and the common parent previously elected to apportion all or a part of such limitation to itself under § 1.1502–96(d), the common parent may reduce the amount of such limitation apportioned to itself. In addition, if such subsidiary has ceased to be a member of the loss subgroup to which the pre-change subgroup attributes relate, the common parent may increase the total amount of such limitation apportioned to such subsidiary (or loss subgroup that includes such subsidiary) under § 1.1502–95(c) by an amount not in excess of the amount by which such limitation that is apportioned to the common parent is reduced pursuant to the previous sentence.

(C) *Losses subject to a consolidated section 382 limitation.* If, as a result of the application of paragraph (i)(3)(i) or (ii) and paragraph (i)(3)(vii) of this section, pre-change consolidated attributes (or pre-change subgroup attributes) that were subject to a consolidated section 382 limitation (or subgroup section 382 limitation where the common parent was a member of the loss subgroup) are treated as losses of a subsidiary, and the subsidiary has ceased to be a member of the loss group (or loss subgroup), the common parent may increase the amount of such limitation that is apportioned to such subsidiary (or loss subgroup that includes such subsidiary) under § 1.1502–95(c). The amount of each element of such limitation that can be apportioned to a subsidiary (or loss subgroup that includes such subsidiary) pursuant to this paragraph (i)(3)(iii)(C), however, cannot exceed the product of (x) the element and (y) a fraction the numerator of which is the amount of pre-change consolidated attributes (or subgroup attributes) subject to that limitation that are treated as losses of the subsidiary (or loss subgroup) as a result of the application of paragraph (i)(3)(i) or (ii) and paragraph (i)(3)(vii) of this section and the denominator of which is the total amount of pre-change attributes subject to that limitation determined as of the close of the taxable year in which the subsidiary ceases to be a member of the group (or loss subgroup).

(D) *Operating rules*—(1) *Limitations on apportionment.* In making any adjustment to an apportionment of a subgroup section 382 limitation or a consolidated section 382 limitation pursuant to paragraph (i)(3)(iii)(B) or (C) of this section, the common parent must take into account the extent, if any, to which such limitation has previously been apportioned to another subsidiary or loss subgroup prior to the date the election to apply the provisions described in paragraph (i)(2)(i) or (ii) of this section is filed.

(2) *Manner and effect of adjustment to previous apportionment of limitation to common parent.* Any reduction in a previous apportionment of a separate section 382 limitation or a subgroup section 382 limitation to the common parent made pursuant to paragraph (i)(3)(iii)(A) or (B) of this section is treated as effective when the previous apportionment was effective. Any such adjustment must be made in a manner consistent with the principles of § 1.1502–95(c). For example, to the extent the apportionment of a separate section 382 limitation or a subgroup section 382 limitation to a common parent is reduced pursuant to paragraph (i)(3)(iii)(A) or (B) of this section, the amount of such limitation available to the subsidiary or loss subgroup, as applicable, is increased.

(3) *Manner and effect of adjustment to apportionment of limitation to departing subsidiary or loss subgroup.* Any increase in an amount of a subgroup section 382 limitation or a consolidated section 382 limitation apportioned to a departing subsidiary (or loss subgroup that includes such subsidiary) made pursuant to paragraph (i)(3)(iii)(B) or (C) of this section is treated as effective for taxable years ending after the date the subsidiary ceases to be a member of the group or loss subgroup. Any such adjustment may be made regardless of whether the common parent previously elected to apportion all or a part of such limitation to such subsidiary (or loss subgroup that includes such subsidiary) under § 1.1502–95(c) or 1.1502–95A(c), but must be made in a manner consistent with the principles of § 1.1502–95(c). For example, to the extent the apportionment of an element of a subgroup section 382 limitation or a consolidated section 382 limitation to a departing subsidiary is increased pursuant to paragraph (i)(3)(iii)(B) or (C) of this section, the amount of such element of such limitation that is available to the loss subgroup or loss group is reduced consistent with § 1.1502–95(c)(3).

(4) *Prohibition against other adjustments.* This paragraph (i)(3)(iii) does not authorize the common parent to adjust the apportionment of any separate section 382 limitation, subgroup section 382 limitation, or consolidated section 382 limitation that it previously apportioned to a subsidiary, to a loss subgroup, or to itself under § 1.1502–95(c), 1.1502–95A(c), or 1.1502–96(d), other than as provided in paragraphs (i)(3)(iii)(A), (B), and (C) of this section.

(E) *Time and manner of making apportionment adjustment.* An adjustment to the apportionment of any separate section 382 limitation, subgroup section 382 limitation, or consolidated section 382 limitation pursuant to paragraph (i)(3)(iii)(A), (B), or (C) of this section must be made as part of the group's election to apply the provisions of paragraph (i)(2)(i) or (ii) of this section, as described in paragraph (i)(4) of this section.

(iv) *Notification of reduction of reattributed losses and adjustment of apportionment of section 382 limitation.* If the application of paragraph (i)(3)(i) or (ii) of this section results in a reduction of the losses treated as reattributed pursuant to an election described in paragraph (g) of this section, then, prior to the date that the group files its income tax return for the taxable year that includes August 26, 2004, the common parent must send the notification required by this paragraph to the subsidiary, at the subsidiary's last known address. In addition, if the acquirer of the subsidiary stock was a member of a consolidated group at the time of the disposition, the common parent must send a copy of such notification to the person that was the common parent of the acquirer's group at the time of the acquisition, at its last known address. The notification is to be in the form of a statement entitled *Recomputation of Losses Reattributed Pursuant to the Election Described in § 1.1502–20(g)*, that is signed by the common parent and that includes the following information—

(A) The name and employer identification number (E.I.N.) of the subsidiary;

(B) The original and the recomputed amount of losses treated as reattributed pursuant to the election described in paragraph (g) of this section; and

(C) If the apportionment of a separate section 382 limitation, a subgroup section 382 limitation, or a consolidated section 382 limitation is adjusted pursuant to paragraph (i)(3)(iii)(A), (B), or (C) of this section, the original and the adjusted apportionment of such limitation.

(v) *Items taken into account in open years*—(A) *General rule.* An election under paragraph (i)(2) of this section affects a taxpayer's items of income, gain, deduction, or loss only to the extent that the election gives rise, directly or indirectly, to items or amounts that would properly be taken into account in a year for which an assessment of deficiency or a refund of overpayment, as the case may be, is not

prevented by any law or rule of law. Under this paragraph, if the election increases the loss allowed with respect to a disposition of subsidiary stock, but the year of the disposition (or the year to which such loss would have been carried back or carried forward) is a year for which a refund of overpayment is prevented by law, to the extent that the absorption of such excess loss in such year would have affected the tax treatment of another item (*e.g.*, another loss that was absorbed in such year) that has an effect in a year for which a refund of overpayment is not prevented by any law or rule of law, the election will affect the treatment of such other item. Therefore, if the absorption of the excess loss in the year of the disposition (which is a year for which a refund of overpayment is prevented by law) would have prevented the absorption of another loss (the second loss) in such year and such loss would have been carried to and used in a year for which a refund of overpayment is not prevented by any law or rule of law (the other year), the election makes the second loss available for use in the other year.

(B) *Special rule.* If a member's basis in stock of a subsidiary was reduced pursuant to § 1.1502–32 because a loss with respect to stock of a lower-tier subsidiary was treated as disallowed under this section, then, to the extent such disallowed loss is allowed as a result of an election under paragraph (i) of this section but would have been properly absorbed or expired in a year for which a refund of overpayment is prevented by law or rule of law, the member's basis in the subsidiary stock may be increased for purposes of determining the group's or the shareholder-member's Federal income tax liability in all years for which a refund of overpayment is not prevented by law or rule of law.

(vi) *Conforming amendments for items previously taken into account in open years.* To the extent that, on any Federal income tax return, the common parent absorbed losses that were reattributed pursuant to an election described in paragraph (g) of this section and the amount of losses so absorbed is in excess of the amount of losses that are treated as reattributed after application of paragraph (i)(3)(i) or (ii) of this section, or that may be taken into account after any adjustment to an apportionment of a separate section 382 limitation, a subgroup section 382 limitation, or a consolidated section 382 limitation pursuant to paragraph (i)(3)(iii) of this section, such returns must be amended to the greatest extent possible to reflect the reduction in the amount of losses treated as reattributed and any adjustment to the apportionment of such limitation.

(vii) *Availability of losses to subsidiary.* To the extent that any losses of a subsidiary are reattributed to the common parent pursuant to an election described in paragraph (g) of this section, such reattribution is binding on the subsidiary and any group of which the subsidiary is or becomes a member. Therefore, if the subsidiary ceases to be a member of the group, any reattributed losses are not thereafter available to the subsidiary and may not be utilized by the subsidiary or any other group of which such subsidiary is or becomes a member. To the extent that the application of paragraph (i)(3)(i) or (ii) of this section results in a reduction in the amount of losses treated as reattributed to the common parent pursuant to an election described in paragraph (g) of this section, however, losses in the amount of such reduction are available to the subsidiary and may be utilized by the subsidiary or any group of which such subsidiary is a member, subject to applicable limitations (*e.g.*, section 382).

(viii) *Apportionment of section 382 limitation in the case of an amendment of an election made pursuant to § 1.1502–32(b)(4)*—(A) *In general.* If, in connection with a disposition or deconsolidation of subsidiary stock, the subsidiary the stock of which was disposed of or deconsolidated became a member of another consolidated group (the acquiring group), and, pursuant to § 1.1502–32(b)(4)(vii), the acquiring group amends an election made pursuant to § 1.1502–32(b)(4) to treat all or a portion of the loss carryovers of such subsidiary (or a lower-tier corporation of such subsidiary) as expiring for all Federal income tax purposes, then the common parent may reapportion a separate, subgroup, or consolidated section 382 limitation with respect to such subsidiary or lower-tier corporation in a manner consistent with the principles of paragraphs (i)(3)(iii)(A) through (D) of this section. Any reapportionment of a section 382 limitation made pursuant to the previous sentence shall have the effects described in paragraphs (i)(3)(iii)(D)(*ii*) and (*iii*) of this section. For purposes of this section, a lower-tier corporation is a corporation that was a member of the group of which the subsidiary was a member immediately before becoming a member of the acquiring group and that became a member of the acquiring group as a result of the subsidiary becoming a member of the acquiring group.

(B) *Time and manner of adjustment of apportionment of section 382 limitation.* The common parent must include a statement entitled *Adjustment of Apportionment of Section 382 Limitation in Connection with Amendment of Election under § 1.1502–32(b)(4)* with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (with regard to extensions). The statement must set forth the name and E.I.N. of the subsidiary and both the original and the adjusted apportionment of a separate section 382 limitation, a subgroup section 382 limitation, and a consolidated section 382 limitation, as applicable. The requirements of this paragraph (i)(3)(viii)(B) will be treated as satisfied if the information required by this paragraph (i)(3)(viii)(B) is included in the statement required by paragraph (i)(4) of this section rather than in a separate statement.

(4) *Time and manner of making the election.* An election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) or (ii) of this section is made by including the statement required by this paragraph with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (including any extensions). Filing a statement in accordance with the provisions of this paragraph satisfies the requirement to file a ''statement of allowed loss'' otherwise imposed under paragraph (c)(3) of this section or § 1.337(d)–2(c)(3). The statement required by this paragraph satisfies the requirement that a statement be filed in order to claim allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) or (ii). The statement filed under this paragraph shall be entitled *Allowed Loss Under Section [Specify Section Under Which Allowed Loss Is Determined] Pursuant to Section 1.1502–20(i)* and must include the following information—

(i) The name and E.I.N. of the subsidiary and of the member(s) that disposed of the subsidiary stock;

(ii) In the case of an election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) of this section, a statement that the taxpayer elects to determine allowable loss or

basis reduction by applying such provisions;

(iii) In the case of an election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(ii) of this section, a statement that the taxpayer elects to determine allowable loss or basis reduction by applying such provisions;

(iv) If an election described in paragraph (g) of this section was made with respect to the disposition of the stock of the subsidiary, the amount of losses originally treated as reattributed pursuant to such election and the amount of losses treated as reattributed pursuant to paragraph (i)(3)(i) or (ii) of this section;

(v) If an apportionment of a separate section 382 limitation, a subgroup section 382 limitation, or a consolidated section 382 limitation is adjusted pursuant to paragraph (i)(3)(iii)(A), (B), or (C) of this section, the original and redetermined apportionment of such limitation; and

(vi) If the application of paragraph (i)(3)(i) or (ii) of this section results in a reduction of the amount of losses treated as reattributed pursuant to an election described in paragraph (g) of this section, a statement that the notification described in paragraph (i)(3)(iv) of this section was sent to the subsidiary and, if the acquirer was a member of a consolidated group at the time of the stock sale, to the person that was the common parent of such group at such time, as required by paragraph (i)(3)(iv) of this section.

(5) *Revocation or amendment of prior elections*—(i) *In general.* Notwithstanding anything to the contrary in this paragraph (i), if a consolidated group made an election under § 1.1502–20T(i) to apply the provisions described in § 1.1502–20T(i)(2)(i) or (ii), the consolidated group may revoke or amend that election as provided in this paragraph (i)(5).

(ii) *Time and manner of revoking or amending an election.* An election to apply the provisions described in § 1.1502–20T(i)(2)(i) or (ii) is revoked or amended by including the statement required by paragraph (i)(5)(iii) of this section with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (including any extensions).

(iii) *Required statement*—(A) *Revocation.* To revoke an election to apply the provisions described in § 1.1502–20T(i)(2)(i) or (ii), the consolidated group must file a statement entitled *Revocation of Election Under Section 1.1502–20T(i).* The statement must include the name and E.I.N. of the subsidiary and of the member(s) that disposed of the subsidiary stock.

(B) *Amendment.* To amend an election to apply the provisions described in § 1.1502–20T(i)(2)(i) or (ii), the consolidated group must file a statement entitled *Amendment of Election Under Section 1.1502–20T(i).* The statement must include the following information—

(*1*) The name and E.I.N. of the subsidiary and of the member(s) that disposed of the subsidiary stock; and

(*2*) The provision the taxpayer elects to apply to determine allowable loss or basis reduction (described in paragraph (i)(2)(i) or (ii) of this section).

(iv) *Special rule.* If a consolidated group revokes an election made under § 1.1502–20T(i), an election described in paragraph (g) of this section to reattribute losses will not be respected, even if such election was filed with the group's return for the year of the disposition.

(6) *Effective date.* This paragraph (i) is applicable on and after March 3, 2005.

(7) *Cross references.* See § 1.1502–32(b)(4)(v) for a special rule for filing a waiver of loss carryovers.

§ 1.1502–20T(i) [Removed]

■ **Par. 5.** In § 1.1502–20T, paragraph (i) is removed.

■ **Par. 6.** Section 1.1502–32 is amended by revising paragraphs (b)(4)(v) and (b)(4)(vii) to read as follows:

§ 1.1502–32 Investment adjustments.

* * * * *

(b) * * *

(4) * * *

(v) *Special rule for loss carryovers of a subsidiary acquired in a transaction for which an election under § 1.1502–20(i)(2) is made*—(A) *Expired losses.* Notwithstanding paragraph (b)(4)(iv) of this section, unless a group otherwise chooses, to the extent that S's loss carryovers are increased by reason of an election under § 1.1502–20(i)(2) and such loss carryovers expire or would have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502–20(i)(3)(iv) and at all times thereafter, the group will be deemed to have made an election under paragraph (b)(4) of this section to treat all of such loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group. A group may choose not to apply the rule of the previous sentence to all of such loss carryovers of S by taking a position on an original or amended tax return for each relevant taxable year that is consistent with having made such choice.

(B) *Available losses.* Notwithstanding paragraph (b)(4)(iv) of this section, to the extent that S's loss carryovers are increased by reason of an election under § 1.1502–20(i)(2) and such loss carryovers have not expired and would not have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502–20(i)(3)(iv) and at all times thereafter, the group may make an election under paragraph (b)(4) of this section to treat all or a portion of such loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group. Such election must be filed with the group's original return for the taxable year in which S receives the notification described in § 1.1502–20(i)(3)(iv).

(C) *Effective dates.* Paragraph (b)(4)(v) of this section is applicable on and after March 3, 2005. For prior periods, see § 1.1502–32T(b)(4)(v) as contained in the 26 CFR part 1 in effect on March 2, 2005.

(vi) * * *

(vii) *Special rules for amending waiver of loss carryovers from separate return limitation year*—(A) *Waivers that increased allowable loss or reduced basis reduction required.* If, in connection with the acquisition of S, the group made an election pursuant to paragraph (b)(4) of this section to treat all or any portion of S's loss carryovers as expiring, and the prior group elected to determine the amount of the allowable loss or the basis reduction required with respect to the stock of S or a higher-tier corporation of S by applying the provisions described in § 1.1502–20(i)(2)(i) or (ii), then the group may reduce the amount of any loss carryover deemed to expire (or increase the amount of any loss carryover deemed not to expire) as a result of the election made pursuant to paragraph (b)(4) of this section. The aggregate amount of loss carryovers that may be treated as not expiring as a result of amendments made pursuant to this paragraph (b)(4)(vii)(A) with respect to S and any higher- and lower-tier corporation of S may not exceed the

amount described in § 1.1502–20(c)(1)(iii) with respect to the acquired stock (computed without regard to the effect of the group's election or elections pursuant to paragraph (b)(4) of this section, but with regard to the effect of the prior group's election pursuant to § 1.1502–20(g), if any, prior to the application of § 1.1502–20(i)(3)). For purposes of determining the aggregate amount of loss carryovers that may be treated as not expiring as a result of amendments made pursuant to this paragraph (b)(4)(vii)(A) with respect to S and any higher- and lower-tier corporation of S, the group may rely on a written notification provided by the prior group. Nothing in this paragraph shall be construed as permitting a group to increase the amount of any loss carryover deemed to expire (or reduce the amount of any loss carryover deemed not to expire) as a result of the election made pursuant to paragraph (b)(4) of this section.

(B) *Inadvertent waivers of loss carryovers previously subject to an election described in § 1.1502–20(g).* If, in connection with the acquisition of S, the group made an election pursuant to paragraph (b)(4) of this section to waive loss carryovers of S by identifying the amount of each loss carryover deemed not to expire, the prior group elected to determine the amount of the allowable loss or the basis reduction required with respect to the stock of S or a higher-tier corporation of S by applying the provisions described in § 1.1502–20(i)(2)(i) or (ii), and the amount of S's loss carryovers treated as reattributed to the prior group pursuant to the election described in § 1.1502–20(g) is reduced pursuant to § 1.1502–20(i)(3), then the group may amend its election made pursuant to paragraph (b)(4) of this section to provide that all or a portion of the loss carryovers of S that are treated as loss carryovers of S as a result of the prior group's election to apply the provisions described in § 1.1502–20(i)(2)(i) or (ii) are deemed not to expire. This paragraph (b)(4)(vii)(B), however, does not permit a group to reduce the amount of any loss carryover deemed not to expire as a result of the election made pursuant to paragraph (b)(4) of this section.

(C) *Time and manner of amending an election under § 1.1502–32(b)(4).* The amendment of an election made pursuant to paragraph (b)(4) of this section must be made in a statement entitled *Amendment of Election to Treat Loss Carryover as Expiring Under § 1.1502–32(b)(4) Pursuant to § 1.1502–32(b)(4)(vii).* The statement must be filed with or as part of any timely filed (including extensions) original return for the taxable year that includes August 26, 2004, or with or as part of an amended return filed before the date the original return for the taxable year that includes August 26, 2004, is due (with regard to extensions). A separate statement shall be filed for each election made pursuant to paragraph (b)(4) of this section that is being amended pursuant to this paragraph (b)(4)(vii). For purposes of making this statement, the group may rely on the statements set forth in a written notification provided by the prior group. The statement filed under this paragraph must include the following—

(*1*) The name and employer identification number (E.I.N.) of S;

(*2*) In the case of an amendment made pursuant to paragraph (b)(4)(vii)(A), a statement that the group has received a written notification from the prior group confirming that the group's prior election or elections pursuant to paragraph (b)(4) of this section had the effect of either increasing the prior group's allowable loss on the disposition of subsidiary stock or reducing the prior group's amount of basis reduction required;

(*3*) The amount of each loss carryover of S deemed to expire (or the amount of loss carryover deemed not to expire) as set forth in the election made pursuant to paragraph (b)(4) of this section;

(*4*) The amended amount of each loss carryover of S deemed to expire (or the amended amount of loss carryover deemed not to expire); and

(*5*) In the case of an amendment made pursuant to paragraph (b)(4)(vii)(A) of this section, a statement that the aggregate amount of loss carryovers of S and any higher- and lower-tier corporation of S that will be treated as not expiring as a result of amendments made pursuant to paragraph (b)(4)(vii)(A) of this section will not exceed the amount described in § 1.1502–20(c)(1)(iii) with respect to the acquired stock (computed without regard to the effect of the group's election or elections pursuant to paragraph (b)(4) of this section, but with regard to the effect of the prior group's election pursuant to § 1.1502–20(g), if any, prior to the application of § 1.1502–20(i)(3)).

(D) *Items taken into account in open years.* An amendment to an election made pursuant to paragraph (b)(4) of this section affects the group's items of income, gain, deduction, or loss only to the extent that the amendment gives rise, directly or indirectly, to items or amounts that would properly be taken into account in a year for which an assessment of deficiency or a refund for overpayment, as the case may be, is not prevented by any law or rule of law. Under this paragraph, if the year to which a loss previously deemed to expire as a result of an election made pursuant to paragraph (b)(4) of this section is deemed not to expire as a result of an election made pursuant to this paragraph would have been carried back or carried forward is a year for which a refund of overpayment is prevented by law, then to the extent that the absorption of such loss in such year would have affected the tax treatment of another item (*e.g.*, another loss that was absorbed in such year) that has an effect in a year for which a refund of overpayment is not prevented by any law or rule of law, the amendment to the election made pursuant to paragraph (b)(4) of this section will affect the treatment of such other item. Therefore, if the absorption of such loss (the first loss) in a year for which a refund of overpayment is prevented by law would have prevented the absorption of another loss (the second loss) in such year and such second loss would have been carried to and used in a year for which a refund of overpayment is not prevented by any law or rule of law (the other year), the amendment of the election makes the second loss available for use in the other year.

(E) *Higher- and lower-tier corporations of S.* A *higher-tier corporation of S* is a corporation that was a member of the prior group and, as a result of such higher-tier corporation becoming a member of the group; S became a member of the group. A *lower-tier corporation of S* is a corporation that was a member of the prior group and became a member of the group as a result of S becoming a member of the group.

(F) *Effective date.* This paragraph (b)(4)(vii) is applicable on and after March 3, 2005. For prior periods, see § 1.1502–32T(b)(4)(vii) as contained in the 26 CFR part 1 in effect on March 2, 2005.

* * * * *

■ **Par. 7.** In § 1.1502–32T, paragraphs (b)(4)(v) and (b)(4)(vii) are revised to read as follows:

§ 1.1502–32T Investment adjustments (temporary).

* * * * *

(b) * * *

(4) * * *

(v) For further guidance see § 1.1502–32(b)(4)(v).

(vi) * * *

(vii) For further guidance see § 1.1502–32(b)(4)(vii).

* * * * *

■ **Par. 8.** The following sections in the table below are amended by revising

''§ 1.337(d)–2T'' to read ''§ 1.337(d)–2,'' each time it appears in the paragraph:

Section	Remove	Add
§ 1.267(f)–1(k)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.597–4(g)(2)(v)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.1502–11(b)(3)(ii)(c)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.1502–12(r)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.1502–15(b)(2)(iii)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.1502–35T(b)(6)(ii)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.1502–35T(c)(9)	§ 1.337(d)–2T	§ 1.337(d)–2.
§ 1.1502–91(h)(2)	§ 1.337(d)–2T	§ 1.337(d)–2.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 9.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 10.** In § 602.101, paragraph (b) is amended by removing the entry for § 1.337(d)–2T and adding entries to the table in numerical order to read, in part, as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.337(d)–2	1545–1774
* * * * *	
1.1502–20	1545–1774
* * * * *	
1.1502–32	1545–1774
* * * * *	

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 18, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05–3951 Filed 3–2–05; 8:45 am]

BILLING CODE 4830–01–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (''Corporation'') is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of March 3, 2005.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007; (202) 295–1624; *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (''Act''), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2005 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 18, 2005 (70 FR 8373).

List of Subjects in 45 CFR Part 1611

Grant programs—law, Legal services.

■ For reasons set forth above, 45 CFR part 1611 is amended as follows:

PART 1611—ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

■ 2. Appendix A of Part 1611 is revised to read as follows:

Appendix A of Part 1611

LEGAL SERVICES CORPORATION 2005 POVERTY GUIDELINES*

Size of family unit	48 Contiguous States and the District of Columbia [i]	Alaska [ii]	Hawaii [iii]
1	$11,963	$14,938	$13,763
2	16,038	20,038	18,450
3	20,113	25,138	23,138
4	24,188	30,238	27,825
5	28,263	35,338	32,513
6	32,338	40,438	37,200
7	36,413	45,538	41,888

LEGAL SERVICES CORPORATION 2005 POVERTY GUIDELINES*—Continued

Size of family unit	48 Contiguous States and the District of Columbia [i]	Alaska [ii]	Hawaii [iii]
8	40,488	50,638	46,575

*The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

[i] For family units with more than eight members, add $4,075 for each additional member in a family.

[ii] For family units with more than eight members, add $5,100 for each additional member in a family.

[iii] For family units with more than eight members, add $4,688 for each additional member in a family.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 05–4063 Filed 3–2–05; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 515, 520, 530, 535, 540, 550, 555, and 560

RIN 3072–AC27

[Docket No. 04–11]

Update of Existing and Addition of New Filing Fees

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (''Commission'') revises its existing fees for filing petitions and complaints; various public information services, such as record searches, document copying, and admissions to practice; filing ocean transportation intermediary license applications; applications for special permission; service contracts; agreements; and passenger vessel performance and casualty certificate applications. These revised fees reflect current costs to the Commission. In addition, the Commission is establishing a separate fee for the filing of terminal exempt agreements.

DATES: Effective on April 4, 2005.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001. E-mail: *secretary@fmc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On August 31, 2004, the Commission published in the **Federal Register** a notice of proposed rulemaking (''NPR''), 69 FR 53027, in Docket No. 04–11, *Update of Existing and Addition of New Filing Fees.* This NPR proposed to update the Commission's current filing and service fees which have been in effect since July 15, 2002, and are no longer representative of the Commission's actual costs for providing such services. Fee increases primarily reflected increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounted in part for the increase in the level of fees. For other services, fees were lower due to overall reduced costs to provide those services.

The Commission also established a separate fee for terminal exempt agreements. Currently, the Commission maintains the same filing fee for carrier and terminal exempt agreements; however, terminal exempt agreements generally require less processing time than carrier exempt agreements. Consequently, the Commission proposed to establish a separate filing fee for terminal exempt agreements to reflect better the difference in processing times.

II. Comments

The Commission received one comment, from B. Sachau, a private citizen. The commenter suggested that fees should be much higher because, since 2002, everything has gone up by a commenter-estimated one hundred percent. The commenter also suggested that fees should be updated annually, and that all fees should be a minimum of $550, except for document searches, which should cost $8.00 per hour maximum. Further, the commenter suggested that it should not cost anything to have one's name on a mailing list for specific dockets.

III. Discussion

The Commission followed established OMB guidelines enumerated in OMB Circular A–25 (''Circular'') when developing its user fee schedule. The Circular provides that costs be determined from agency records, and that costs cover the direct and indirect costs to the Government of carrying out an activity, including, but not limited to, personnel costs, physical overhead, management and supervisory costs, and the costs of enforcement, collection, search, establishment of standards and regulations, etc. This method of determining fees addresses the concern raised in the comment that fees pay for the operation of the agency. With regard to specific fee suggestions in the comments, no documentary basis is provided for setting fees at an arbitrary minimum, for increasing fees beyond those proposed in the NPR, for setting document search costs at a certain maximum amount, or for providing mailing list services for no fee. As the Commission followed standard Government guidelines in developing its fees and the comment provides no basis for their modification, the fees set out in the NPR will be made final.

This Final Rule reflects changes in certain CFR section numbers and Commission bureau names which were put into effect in other Commission rulemakings which became final after the NPR was issued in this proceeding.

The Commission intends to update its fees biennially in keeping with OMB guidance. In updating its fees, the Commission will incorporate changes in employee salaries into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on the current level of costs.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chairman of the Federal Maritime Commission has certified that the rule will not have a significant economic impact on a substantial number of small entities. As stated in the NPR, while the Commission recognized that the rule may impact businesses that qualify as small entities under Small Business Administration guidelines, the Commission is required to assess recipients of specific governmental services reasonable charges to recover the costs of providing these services. The charges in the rule reflect the costs of specific Commission services mandated by statute, and these services benefit the shipping industry and the foreign commerce of the United States. The Commission believes that the charges in the rule will not have a harmful effect on entities within the

Commission's jurisdiction, the general public, or the U.S. economy. Furthermore, the Commission's regulations provide for waiver or reduction of any charge in extraordinary situations pursuant to 46 CFR 503.41. Requests for fee waiver or reduction are to be made to the Secretary of the Commission, and should demonstrate either that the waiver or reduction is in the best interest of the public or that imposition of the fee would impose an undue hardship. No comments disputed the Commission's certification. The certification, therefore, remains in effect.

This regulatory action was not subject to OMB review under Executive Order 12866, dated September 30, 1993. This regulatory action is not a ''major rule'' under 5 U.S.C. 804(2). This rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 503

Classified information, Freedom of information, Privacy, Sunshine act.

46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reporting and recordkeeping requirements.

46 CFR Part 520

Common carrier, Freight, Intermodal transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 530

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 535

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 550

Administrative practice and procedure, Maritime carriers.

46 CFR Part 555

Administrative practice and procedure, Investigations, Maritime carriers.

46 CFR Part 560

Administrative practice and procedure, Maritime carriers.

■ For the reasons set forth above, the Federal Maritime Commission amends 46 CFR parts 502, 503, 515, 520, 530, 535, 540, 550, 555, and 560 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817d, 817e, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964–1965 Comp. P. 306; 21 U.S.C. 853a; Pub. L. 105–258, 112 Stat. 1902.

Subpart D—Rulemaking

■ 2. The fourth sentence of § 502.51(a) is revised to read as follows:

§ 502.51 Initiation of procedure to issue, amend, or repeal a rule.

(a) * * * Petitions shall be accompanied by remittance of a $241 filing fee. * * *

* * * * *

Subpart E—Proceedings; Pleadings; Motions; Replies

■ 3. Section 502.62(g) is revised to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(g) The complaint shall be accompanied by remittance of a $221 filing fee.

* * * * *

■ 4. Section 502.68(a)(3) is revised to read as follows:

§ 502.68 Declaratory orders and fee.

(a) * * *

(3) Petitions shall be accompanied by remittance of a $241 filing fee.

* * * * *

■ 5. Section 502.69(b) is revised to read as follows:

§ 502.69 Petitions-General and fee.

* * * * *

(b) Petitions shall be accompanied by remittance of a $241 filing fee. [Rule 69.]

Subpart K—Shortened Procedure

■ 6. The last sentence of § 502.182 is revised to read as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint shall be accompanied by remittance of a $221 filing fee. [Rule 182.]

Subpart Q—Refund or Waiver of Freight Charges

■ 7. § 502.271(d)(5) is revised to read as follows:

§ 502.271 Special docket application for permission to refund or waive freight charges.

* * * * *

(d) * * *

(5) Applications must be accompanied by remittance of a $77 filing fee.

* * * * *

Subpart S—Informal Procedure for Adjudication of Small Claims

■ 8. The last sentence of § 502.304(b) is revised to read as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(b) * * * Such claims shall be accompanied by remittance of a $67 filing fee.

* * * * *

PART 503—PUBLIC INFORMATION

■ 9. The authority citation for Part 503 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12958 of April 20, 1995 (60 FR 19825), sections 5.2(a) and (b).

■ 10. In § 503.43, paragraphs (c)(1) (i) and (ii), the first sentence of paragraph (c)(2), paragraph (c)(3)(ii) and (iii), paragraph (c)(4), paragraph (d) and paragraph (e) are revised to read as follows:

§ 503.43 Fees for services.

* * * * *

(c) * * *

(1) * * *

(i) Search will be performed by clerical/administrative personnel at a rate of $19 per hour and by professional/executive personnel at a rate of $48 per hour.

(ii) Minimum charge for record search is $19.

(2) Charges for review of records to determine whether they are exempt from disclosure under § 503.33 shall be assessed to recover full costs at the rate of $79 per hour. * * *

(3) * * *

(ii) By Commission personnel, at the rate of five cents per page (one side) plus $19 per hour.

(iii) Minimum charge for copying is $4.75.

* * * * *

(4) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $94 for each certification.

(d) To have one's name and address placed on the mailing list of a specific docket as an interested party to receive all issuances pertaining to that docket: $9 per proceeding.

(e) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of $104 pursuant to § 502.27 of this chapter.

Subpart G—Access to Any Record of Identifiable Personal Information

■ 11. In § 503.69, paragraph (b)(2) is revised to read as follows:

§ 503.69 Fees.

* * * * *

(b) * * *

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $94 for each certification.

* * * * *

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

■ 12. The authority citation for Part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

Subpart A—General

■ 13. In § 515.5, paragraphs (a), (b)(1), (b)(2), and (b)(3) are revised to read as follows:

§ 515.5 Forms and Fees.

(a) *Forms.* License form FMC–18 Rev., and financial responsibility forms FMC–48, FMC–67, FMC–68, FMC–69 may be obtained from the Commission's Web site at *http://www.fmc.gov,* the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, DC 20573, or from any of the Commission's area representatives.

(b) * * *

(1) Application for license as required by § 515.12(a): $825;

(2) Application for status change or license transfer as required by §§ 515.18(a) and 515.18(b): $525; and

(3) Supplementary investigations required by § 515.25(a): $225.

Subpart D—Duties and Responsibilities of Ocean Transportation Intermediaries; Reports to Commission

■ 14. The second sentence of § 515.34 is revised to read as follows:

§ 515.34 Regulated Persons Index.

* * * The database may be purchased for $108 by contacting the Bureau of Certification and Licensing, Federal Maritime Commission, Washington, DC 20573. * * *

PART 520—CARRIER AUTOMATED TARIFFS

■ 15. The authority citation for Part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1702, 1707–1709, 1712, 1716; and sec. 424 of Pub. L. 105–383, 112 Stat. 3411.

■ 16. The last sentence of § 520.14(c)(1) is revised to read as follows:

§ 520.14 Special permission.

(c) * * *

(1) * * * Every such application shall be submitted to the Bureau of Trade Analysis and be accompanied by a filing fee of $195.

* * * * *

PART 530—SERVICE CONTRACTS

■ 17. The authority citation for Part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1704, 1705, 1707, 1716.

Subpart B—Filing Requirements

■ 18. Section 530.10(c), introductory text, is revised to read as follows:

§ 530.10 Amendment, correction, cancellation, and electronic transmission.

* * * * *

(c) * * *

Corrections. Requests shall be filed, in duplicate, with the Commission's Office of the Secretary within forty-five (45) days of the contract's filing with the Commission, accompanied by remittance of a $315 service fee, and shall include:

* * * * *

PART 535—OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984

■ 19. The authority citation for Part 535 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1718; Pub. L. 105–383, 112 Stat. 3411.

Subpart D—Filing of Agreements

■ 20. In §535.401, paragraphs (g) and (h) are revised to read as follows:

§ 535.401 General requirements.

* * * * *

(g) *Fees.* The filing fee is $1,780 for new agreements requiring Commission review and action; $851 for agreement modifications requiring Commission review and action; $397 for agreements processed under delegated authority (for types of agreements that can be processed under delegated authority, see § 501.26(e) of this chapter); $138 for carrier exempt agreements; and $75 for terminal exempt agreements.

(h) The fee for the Commission's agreement database report is $6.

PART 540—PASSENGER VESSEL FINANCIAL RESPONSIBILITY

■ 21. The authority citation for Part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; secs. 2 and 3, Pub. L. 89–777, 80 Stat. 1356–1358; 46 U.S.C. app. 817e, 817d; 46 U.S.C. 1716.

Subpart A—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

■ 22. The last two sentences in § 540.4(b) are revised to read as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Performance), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of $2,767. An application for a Certificate (Performance) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of $1,382.

* * * * *

Subpart B—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

■ 23. The last two sentences in § 540.23(b) are revised to read as follows:

§ 540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Casualty), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of $1,206. An application for a Certificate (Casualty) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of $605.

* * * * *

PART 550—REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

■ 24. The authority citation for Part 550 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 19(a)(2), (e), (f), (g), (h), (i), (j), (k) and (l) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(a)(2), (e), (f), (g), (h), (i), (j), (k) and (l), as amended by Pub. L. 105–258; Reorganization Plan No. 7 of 1961, 75 Stat 840; and sec. 10002 of the Foreign Shipping Practices Act of 1988, 46 U.S.C. app. 1710a.

Subpart D—Petitions for Section 19 Relief

■ 25. Section 550.402 is revised to read as follows:

§ 550.402 Filing of petitions.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a $241 filing fee.

* * * * *

PART 555—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

■ 26. The authority citation for Part 555 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a), as amended by Pub. L. 105–258.

■ 27. In § 555.4, paragraph (a) is revised to read as follows:

§ 555.4 Petitions.

(a) A petition for investigation to determine the existence of adverse conditions as described in § 555.3 may be submitted by any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and fifteen copies with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a $241 filing fee.

* * * * *

PART 560—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

■ 28. The authority citation for Part 560 continues to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(6), 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(6), 1714 and 1716, as amended by Pub. L. 105–258; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a), as amended by Pub. L. 105–258.

■ 29. Section 560.3(a)(2) is revised to read as follows:

§ 560.3 Petitions for relief.

(a) * * *

(2) An original and fifteen copies of such a petition including any supporting documents shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a $241 filing fee.

* * * * *

By the Commission.

Bryant L. VanBrakle,

Secretary.

Note: The following appendix will not appear in the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION SUMMARY OF FEES

[Effective April 4, 2005]

CFR reference	Application or service	Current fee
	PART 502—Rules of Practice and Procedure	
502.51(a)	Petitions	241.00
502.68(a)(3)	Declaratory Orders	
502.69(b)	Petitions	
502.271(d)(5)	Special Dockets	77.00
502.62(g)	Formal Complaints	221.00
502.182		
502.304(b)	Informal Procedures	67.00
	PART 503—Public Administration	
503.43(c)(1), (2), (3)	Search, review and copying of documents 5 cents per page with min. $4.75 $19/hour clerical/administrative personnel $48/hour for professional/executive personnel $79/hour FOIA review $19/minimum charge for record search.	Various
503.43(c)(4)	Validation of Documents	94.00
503.69(b)(1)(2)		
503.43(d)	Mailing List	9.00
503.43(e)	Non-Attorney Admission to Practice	104.00

FEDERAL MARITIME COMMISSION SUMMARY OF FEES—Continued

[Effective April 4, 2005]

CFR reference	Application or service	Current fee
PART 515—Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries		
515.5(b)(1)	Application for License	825.00
515.5(b)(3)	Supplementary Investigation	225.00
515.5(b)(2)	Application for Status Change or License Transfer	525.00
515.34	Sale to Public of RPI	108.00
PART 520—Carrier Automated Tariffs		
520.14(c)(1)	Application for Special Permission	195.00
PART 530—Service Contracts		
530.10(c)	Clerical Errors on Service Contracts	315.00
PART 535—Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984		
535.401(g)	New Agreement Requiring Commission Review	1,780.00
535.401(g)	Agreement Amendments Requiring Commission Review	851.00
535.401(g)	Agreement Filing Review under Delegated Authority	397.00
535.401(g)	Carrier Exempt Agreement Filings	138.00
535.401(g)	Terminal Exempt Agreement Filings	75.00
535.401(h)	Database Report on Effective Carrier Agreements	6.00
PART 540—Passenger Vessel Financial Responsibility		
540.4(b)	Passenger Vessel Certificate (Performance)	2,767.00
	Addition or substitution of vessel	1,382.00
540.23(b)	Passenger Vessel Certificate (Casualty)	1,206.00
	Addition or substitution of vessel	605.00
PART 550—Regulations To Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States		
550.402	Petitions	241.00
PART 555—Actions To Address Adverse Conditions Affecting U.S.-Flag Carriers That Do Not Exist for Foreign Carriers in the United States		
555.4(a)	Petitions	241.00
PART 560—Actions To Address Conditions Unduly Impairing Access of U.S.-Flag Vessels to Ocean Trade Between Foreign Ports		
560.3(a)(2)	Petitions	241.00

[FR Doc. 05–4027 Filed 3–2–05; 8:45 am]
BILLING CODE 6730–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–03–15734; Amdt. 192–100, 195–84]

RIN 2137–AD95

Pipeline Safety: Operator Qualifications; Statutory Changes

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Direct final rule.

SUMMARY: The Research and Special Programs Administration (RSPA) Office of Pipeline Safety's (OPS) regulations require operators of gas and hazardous liquid pipelines to conduct programs to qualify individuals who perform certain safety-related tasks on pipelines. Congress addressed these programs through an amendment to the Federal pipeline safety law (49 U.S.C. Chap. 601). In accordance with the mandates in that amendment, this Direct Final Rule codifies the new program requirements concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method.

DATES: This Direct Final Rule goes into effect July 1, 2005. If RSPA/OPS does not receive any adverse comment [1] or notice of intent to file an adverse comment by May 2, 2005, it will publish a confirmation document within 15 days after the close of the comment period. The confirmation document will announce that this Direct Final Rule will go into effect on the date stated above or at least 30 days after the document is published, whichever is later. If RSPA/OPS receives an adverse comment, it will publish a timely notice to confirm that fact and withdraw this Direct Final Rule in whole or in part. RSPA/OPS may then incorporate changes based on the adverse comment

[1] An adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. Comments that are frivolous or insubstantial will not be considered adverse under this procedure. A comment recommending a rule change in addition to the rule will not be considered an adverse comment, unless the commenter states why the rule would be ineffective without the additional change. (49 CFR 190.339(c)).

into a subsequent Direct Final Rule or may publish a Notice of Proposed Rulemaking.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Alternatively, you may submit written comments to the docket electronically at the following Web address: *http://dms.dot.gov.* See the **SUPPLEMENTARY INFORMATION** section for additional filing information.

FOR FURTHER INFORMATION CONTACT: Stanley Kastanas by phone at (202) 366–3844; or by e-mail at *stanley.kastanas@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION:

Filing Information, Electronic Access, and General Program Information

All written comments should identify the docket and amendment numbers stated in the heading of this document. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to *http://dms.dot.gov, click on ''Comment/Submissions.''* You can also read comments and other material in the docket at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Current Program Regulations

RSPA/OPS's pipeline safety regulations require operators of gas and hazardous liquid pipelines to conduct programs for qualification of pipeline personnel (49 CFR part 192, subpart N, and part 195, subpart G). The purpose of the qualification programs is to ensure that individuals performing certain safety-related tasks on pipelines, called covered tasks,[2] are qualified to perform those tasks. Operators must evaluate the individual's ability to perform the covered task and to respond to abnormal conditions (§§ 192.805(b) and 195.505(b)). After initial qualification, operators must reevaluate the individual's ability at appropriate intervals (§§ 192.805(g) and 195.505(g)). Operators may use any suitable form of evaluation, including written or oral examination, review of work performance history, and observation of on-the-job performance, on-the-job training, or simulations (§§ 192.803 and 195.503). However, review of work performance history may not be the sole method of evaluation (§§ 192.809(d) and 195.509(d)). To enable on-the-job training, the regulations allow individuals who lack requisite qualifications to perform covered tasks while under the direction and observation of a qualified individual (§§ 192.805(c) and 195.505(c)).

In addition to the regulations, RSPA/OPS has developed protocol questions and guidance criteria to assist RSPA/OPS and state agency inspectors in evaluating operators' programs and verifying compliance with the regulations. This material is available at RSPA/OPS's Web site dedicated to personnel qualification topics (*http://primis.rspa.dot.gov/oq/index.htm*).

Congressional Action and Related Changes to Program Regulations

In Section 13 of the Pipeline Safety Improvement Act of 2002 (Pub. L. 107–355, 116 Stat. 2985), Congress addressed the content of operators' personnel qualification programs by adding a new section (49 U.S.C. 60131) to the Federal pipeline safety law (49 U.S.C. Chap. 601) . Many provisions of 49 U.S.C 60131 dictate either the content of operators' programs or DOT regulation of that content. As explained below, RSPA/OPS's existing regulations, including supplementary protocols and guidance material, are consistent with many of these content provisions, but in a few cases new regulations are needed to codify the remaining Congressional mandates.

This Direct Final Rule codifies the mandates in 49 U.S.C. 60131(e)(6) in which Congress directly ordered operators to adopt programs that meet the requirements of 49 U.S.C. 60131(b)(2)(B) and (d) (see below) no later than December 17, 2004. In the November 26, 2004, issue of the **Federal Register**, RSPA/OPS published an Advisory Bulletin to inform operators about this statutory obligation (69 FR 69028). This Direct Final Rule also codifies the review and verification requirements in 49 U.S.C. 60131(b)(2)(C).

Qualification Programs. In 49 U.S.C. 60131(a), Congress directed DOT to require each operator to develop and adopt a qualification program to ensure that individuals performing covered tasks are qualified to do so. In 49 U.S.C. 60131(b)(1), Congress directed DOT to establish standards and criteria for these programs. RSPA/OPS believes its regulations in 49 CFR part 192, subpart N, and part 195, subpart G are consistent with these broad directives.

Evaluation Methods. Under 49 U.S.C. 60131(b)(2)(A), DOT's standards and criteria must include methods for evaluating the acceptability of an individual's qualifications. Also, 49 U.S.C. 60131(b)(2)(B), provides that the standards and criteria must require operators to develop and implement written plans and procedures for using the methods to qualify individuals to an acceptable level. RSPA/OPS believes its regulations satisfy these specific directives. Sections 192.803 and 195.503 specify acceptable methods for evaluating an individual's qualifications. Also, under §§ 192.805 and 195.505, operators must have and follow written programs that describe use of the methods to conduct evaluations.

Program Review and Verification. Under 49 U.S.C. 60131(b)(2)(C), Congress directed that DOT's standards and criteria must include a requirement that operators' plans and procedures for using evaluation methods must be reviewed and verified under 49 U.S.C. 60131(e). Among other things, 49 U.S.C. 60131(e) directs DOT to review each operator's qualification program and verify its compliance with the required standards and criteria and that it includes the program elements described in 49 U.S.C. 60131(d), which are discussed below. As authorized by the Federal pipeline safety law, RSPA/OPS and state pipeline safety inspectors already review operators' qualification programs to verify compliance with the regulations in 49 CFR part 192, subpart N, and part 195, subpart G. Also, future reviews will cover any program changes operators have to make because of 49 U.S.C. 60131 and this Direct Final Rule. However, the regulations do not state that operators' programs are subject to such reviews. Therefore, in response to the specific directive of 49 U.S.C. 60131(b)(2)(C), by this Direct Final Rule, RSPA/OPS is amending §§ 192.809(a) and 195.509(a) to require that operators make their written qualification programs available for review by RSPA/OPS or a state pipeline safety agency.

[2] *Covered task* means an activity, identified by the operator, that: (1) Is performed on a pipeline facility; (2) is an operations or maintenance task; (3) is performed as a requirement of part 192 or 195; and (4) affects the operation or integrity of the pipeline. (49 CFR 192.801(b) and 195.501(b)).

Program Compliance Deadline. In 49 U.S.C. 60131(c), Congress directed DOT to require each pipeline operator to develop and adopt, not later than December 17, 2004, a qualification program that complies with the standards and criteria described in 49 U.S.C. 60131(b). As explained above, RSPA/OPS's regulations already require operators to have qualification programs that comply with the standards and criteria described in 49 U.S.C. 60131(b)(1) and (b)(2)(A) and (B). In addition, under the Federal pipeline safety law, operators written qualification programs are subject to review as required by 49 U.S.C. 60131(b) (2)(C). Therefore, RSPA/OPS considers the directive in 49 U.S.C. 60131(c) to have been satisfied.

Observation of On-the-Job Performance. In 49 U.S.C. 60131(d)(1), Congress ratified the methods of evaluation included in §§ 192.803 and 195.503. However, Congress declared that an operator's method of evaluation ''may not be limited to observation of on-the-job performance, except with respect to tasks for which [DOT] has determined that such observation is the best method of examining or testing qualifications.'' (As discussed above, Congress directly ordered operators to implement this restriction no later than December 17, 2004.) The current regulations in 49 CFR part 192, subpart N, and part 195, subpart G do not preclude operators from using observation of on-the-job performance as the sole method of evaluation, and RSPA/OPS has not determined that such observation is the best method of evaluation for any particular covered task. Therefore, by this Direct Final Rule, RSPA/OPS is establishing §§ 192.809(e) and 195.509(e) to restrict operators from using observation of on-the-job performance as the sole method of evaluation.

Anyone who wants RSPA/OPS to determine that observation of on-the-job performance is the best method of evaluation for a particular task may file a petition for rulemaking under the rulemaking procedures in 49 CFR 190.331. In addition, for pipeline facilities under the direct regulatory authority of RSPA, operators may petition RSPA/OPS for waiver of § 192.809(e) or § 195.509(e) as provided by 49 U.S.C. 60118(c). For intrastate facilities under the safety regulatory authority of a certified state agency, waiver petitions may be filed with the state agency as provided by 49 U.S.C. 60118(d). However, to avoid making determinations case-by-case, RSPA/OPS is interested in developing criteria that would identify those covered tasks for which observation of on-the-job performance is the best method of evaluation. RSPA/OPS will also pursue this idea through its ongoing collaboration with the American Society of Mechanical Engineers to create a consensus standard on qualification of operator personnel.

Also in 49 U.S.C. 60131(d)(1), Congress directed DOT to ''ensure that the results of any such observations are documented in writing.'' RSPA/OPS believes the recordkeeping requirements of §§ 192.807 and 195.507 are sufficiently responsive to this directive. Under these requirements, operators have to keep records that identify qualified individuals, the tasks they are qualified to perform, and the qualification method.

Qualification Deadline. In 49 U.S.C. 60131(d)(2), Congress declared that operators must complete the qualification of all individuals performing covered tasks not later than 18 months after the date of adoption of the qualification program. RSPA/OPS believes no changes are needed to the regulations in 49 CFR part 192, subpart N, and part 195, subpart G to meet this congressional order. Under §§ 192.809 and 195.509, operators had to have a written qualification program by April 27, 2001, and complete the qualification of individuals performing covered tasks by October 28, 2002.

Requalification. Under 49 U.S.C. 60131(d)(3), operators' qualification programs must have a periodic requalification component that provides for evaluation of individuals by an acceptable method. As noted above, §§ 192.805 and 195.505 already require that operators reevaluate the abilities of qualified individuals at appropriate intervals. RSPA/OPS believes these requirements are sufficient to implement 49 U.S.C. 60131(d)(3).

Training. Under 49 U.S.C. 60131(d)(4), Congress declared that operators qualification programs must: provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

(As discussed above, Congress ordered operators to implement this training requirement no later than December 17, 2004.) Although observation of on-the-job training or training by simulation are allowable methods of evaluations, RSPA/OPS's regulations do not specifically require that operators' qualification programs provide this or any other training for individuals. Therefore, by this Direct Final Rule, RSPA/OPS is adding new §§ 192.805(h) and 195.505(h) to require that operators' have qualification programs that provide training consistent with Congress' order. RSPA/OPS believes that on-the-job training or training by simulation that many programs already provide are appropriate ways to meet the order and the new regulations. In addition, RSPA/OPS does not intend this new program requirement to mean that operators must pay for training provided by their programs.

Notice of Significant Program Modification. Section 60131(e) concerns review by DOT of each operator's qualification program to verify that it meets the required standards and criteria and program elements. Under § 60131(e)(4), if the operator of a pipeline facility significantly modifies a program that has been verified, the operator must notify DOT of the modifications, and DOT has to review and verify the modifications. At present, RSPA/OPS's regulations do not require that operators notify RSPA/OPS or a participating state pipeline safety agency of a significant program modification. Therefore, by this Direct Final Rule, RSPA/OPS is establishing §§ 192.805(i) and 195.505(i) to require such notification.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures. RSPA/OPS does not consider this Direct Final Rule to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has not received a copy of this rulemaking to review. RSPA/OPS also does not consider this rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034: February 26, 1979).

RSPA/OPS prepared a Regulatory Evaluation of the costs and benefits of the regulations established by this Direct Final Rule, and a copy is in the docket. The evaluation concludes that no costs or benefits are attributable to the regulations.

Regulatory Flexibility Act. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), RSPA/OPS must consider whether its rulemakings have a significant economic impact on a substantial number of small entities. The regulations established by this Direct Final Rule are consistent with current regulatory requirements or direct congressional orders to operators. Therefore, based on the facts available about the anticipated impacts of this rulemaking, I certify that this rulemaking will not have a significant impact on a substantial number of small

entities. If you have any information that this conclusion about the impact on small entities is not correct, please provide that information to the public docket as described above.

Executive Order 13175. This Direct Final Rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because the Direct Final Rule does not significantly or uniquely affect the communities of the Indian tribal governments and would not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

Paperwork Reduction Act. This Direct Final Rule contains two information collection requirements in response to a congressional directive. The first requirement is that operator's written qualification programs provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities (see §§ 192.805(h) and 195.505(h)). This requirement is consistent with a mandate directed to operators by Congress that operators have the required training in their programs by December 17, 2004 (49 U.S.C. 60131(d)(4) and (e)(6)). The second requirement is that operators must notify the Administrator of RSPA or a participating state agency if the operator significantly modifies a qualification program after the Administrator or state agency has verified that it meets applicable requirements (see §§ 192.805(i) and 195.505(i)). This requirement also is consistent with a mandate directed to operators by Congress that operators give the prescribed notices (49 U.S.C. 60131(e)(4)).

Regarding the training requirement, we believe that even prior to the congressional mandate operators' programs provided the requisite training in response to RSPA/OPS's protocols and guidance material. As to the notification requirement, in our experience operators do not routinely make significant modifications to their qualification programs. And if a modification does occur that now requires notification because of the statutory mandate, notice may be provided simply and quickly by e-mail or telephone. So no net increase in paperwork burden is likely from the training and notification requirements. Because no net increase in paperwork burden is likely from this Direct Final Rule, we believe that submitting an analysis of the burdens to OMB under the Paperwork Reduction Act is unnecessary.

Unfunded Mandates Reform Act of 1995. This Direct Final Rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act. For purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), RSPA/OPS prepared an Environmental Assessment of its pipeline personnel qualification regulations when they were first issued (64 FR 46853; Aug. 27, 1999). A copy of that Environmental Assessment is in Docket No. RSPA–98–3783. The assessment determined that the regulations would not have a detrimental impact on the environment because they were expected to reduce the number of incidents related to human error, with a resulting reduction in the potential for environmental damage. The assessment also determined that the regulations would not significantly affect the quality of the human environment. The present Direct Final Rule merely advances the purposes of the original regulations by adding new program requirements concerning instruction and evaluation of operator personnel and information collection. Like the original regulations, these matters should have no detrimental impact on the environment. Therefore, RSPA/OPS does not believe that any further assessment of environmental impact is needed. If you disagree with this conclusion, please submit your comments to the docket as described above.

Executive Order 13132. This Direct Final Rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). The Direct Final Rule does not have any provision that (1) has substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

Executive Order 13211. This rulemaking is not a ''Significant energy action'' under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rulemaking has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

List of Subjects

49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

■ Accordingly, RSPA/OPS amends 49 CFR parts 192 and 195 as follows:

PART 192—[AMENDED]

■ 1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

■ 2. In § 192.805,

■ a. Republish the introductory text,

■ b. Remove ''and'' from the end of paragraph (f),

■ c. Remove the period from the end of paragraph (g) and add a semicolon in its place, and

■ d. Add new paragraphs (h) and (i) to read as follows:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

* * * * *

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.

■ 3. In § 192.809, revise paragraph (a) and add a new paragraph (e) to read as follows:

§ 192.809 General.

(a) Operators must have a written qualification program by April 27, 2001. The program must be available for review by the Administrator or by a state agency participating under 49

U.S.C. Chapter 601 if the program is under the authority of that state agency.

* * * * *

(e) After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation.

PART 195—[AMENDED]

■ 1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

■ 2. In § 195.505,

■ a. Republish the introductory text,

■ b. Remove ''and'' from the end of paragraph (f),

■ c. Remove the period from the end of paragraph (g) and add a semicolon in its place, and

■ d. Add new paragraphs (h) and (i) to read as follows:

§ 195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

* * * * *

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.

■ 3. In § 195.509, revise paragraph (a) and add a new paragraph (e) to read as follows:

§ 195.509 General.

(a) Operators must have a written qualification program by April 27, 2001. The program must be available for review by the Administrator or by a state agency participating under 49 U.S.C. Chapter 601 if the program is under the authority of that state agency.

* * * * *

(e) After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation.

Issued in Washington, DC, on February 25, 2005.

Elaine E. Joost,

Acting Deputy Administrator.

[FR Doc. 05–4122 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 70, No. 41
Thursday, March 3, 2005

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 1033

[Docket No. AO–166–A72; DA–05–01]

Milk in the Mideast Marketing Area; Amendment to Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; amendment to public hearing on proposed rulemaking.

SUMMARY: The Agricultural Marketing Service is withdrawing from the notice of hearing that appeared in the **Federal Register** of February 17, 2005 (70 FR 8043), to consider proposals to amend certain provisions of the Mideast Federal milk marketing order, a proposal regarding producer-handler regulation. Due to unforeseen circumstances, Proposal 10, which would modify the producer-handler definition will not be heard at this time. The proposal to amend the producer-handler definition will be addressed at a future hearing. The date, time and location of the future hearing has yet to be determined. All other proposals as originally published in the February 17, 2005, notice of hearing will still be addressed.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs, Stop 0231—Room 2971, 1400 Independence Avenue, SW., Washington, DC 20250–0231, (202) 690–1366, e-mail address: *gino.tosi@usda.gov.*

SUPPLEMENTARY INFORMATION: The notice of hearing was published in the **Federal Register** on February 17, 2005 (70 FR 8043), containing 11 proposals to be considered at a public hearing scheduled to begin on March 7, 2005. Due to unforeseen circumstances, Proposal 10, which sought to amend the producer-handler provision, will not be heard at this time.

Authority: 7 U.S.C. 601–674.

Dated: March 1, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–4176 Filed 3–1–05; 1:50 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20475; Directorate Identifier 2004–NM–157–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200, –200ER, and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 777–200, –200ER, and –300 series airplanes. This proposed AD would require modification of the splice plate assemblies installed under the floor panels at the forward and aft edges of the cabin aisle. This proposed AD is prompted by reports of cracking of the aluminum splice plates under the floor panels in the cabin aisle. We are proposing this AD to prevent loss of the capability of the cabin floor and seat track structure to support the airplane interior inertia loads under emergency landing conditions. Loss of this support could lead to galley or seat separation from attached restraints, which could result in blocking of the emergency exits and consequent injury to passengers and crew.

DATES: We must receive comments on this proposed AD by April 18, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed 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.
- By 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 proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

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. This docket number is FAA–2005–20475; the directorate identifier for this docket is 2004–NM–157–AD.

FOR FURTHER INFORMATION CONTACT: Gary Oltman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6443; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20475; Directorate Identifier 2004–NM–157–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed 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 proposed AD. Using the search function of that 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can *visit http://dms.dot.gov*.

Examining the Docket

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.

Discussion

We have received reports indicating that cracking of the aluminum splice plates installed at the forward and aft edges under the floor panels in the cabin was found during routine maintenance on several Model 777 series airplanes. The floor panels are attached with fasteners that pass through the floor panel and connect to a threaded nut plate on the splice plate. The airplanes had accumulated between 1,375 and 14,614 total flight cycles. Analysis shows that the cracking of the splice plates is due to repeated bending from frequent traffic in the cabin aisle. This condition, if not corrected, could result in loss of the capability of the cabin floor and seat track structure to support the airplane interior inertia loads under emergency landing conditions. Loss of this support could lead to galley or seat separation from attached restraints, which could result in blocking of the emergency exits and consequent injury to passengers and crew.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 777–53–0042, dated April 15, 2004. The service bulletin describes procedures for modification of the splice plate assemblies under the floor panels at the forward and aft edges of the cabin aisle. The modification involves replacing the existing aluminum splice plate assemblies with new fiberglass laminate assemblies; and marking the service bulletin number on the top of the floor panel. The modification also includes replacing any damaged fasteners with new fasteners. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Bulletin.''

Differences Between the Proposed AD and Service Bulletin

The service bulletin recommends accomplishing the modification at the next scheduled heavy maintenance check, not to exceed 72 months from the service bulletin release date. We have determined that, because maintenance schedules vary among operators, and in order to address the unsafe condition in a timely manner, this proposed AD would require compliance within 60 months after the effective date of this AD. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modification. In light of all of these factors, we find a compliance time of 60 months for completing the modification to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

The applicability of the service bulletin inadvertently excluded Boeing Model 777–200ER series airplanes. Therefore, this proposed AD includes a requirement that the actions specified in the service bulletin be accomplished on those airplanes. This requirement would ensure that the actions specified in the service bulletin, and required by this proposed AD, are accomplished on all affected airplanes.

The service bulletin also recommends marking the service bulletin number on the top of the floor panel assembly, but this proposed AD would not require that action. We find that, with a variety of marking methods and panel locations, this marking could not be accurately verified.

These differences have been coordinated with the manufacturer.

Costs of Compliance

There are about 330 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 131 airplanes of U.S. registry. The proposed modification would take about 28 work hours per airplane, at an average labor rate of $65 per work hour. Required parts would cost between $4,717 and $9,099 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is between $856,347 and $1,430,389, or between $6,537 and $10,919 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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 proposed 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, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Boeing: Docket No. FAA–2005–20475; Directorate Identifier 2004–NM–157–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by April 18, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200, –200ER, and –300 series airplanes, certificated in any category; as listed in Boeing Special Attention Service Bulletin 777–53–0042, dated April 15, 2004.

Unsafe Condition

(d) This AD was prompted by reports of cracking of the aluminum splice plates under the floor panels in the cabin aisle. We are issuing this AD to prevent loss of the capability of the cabin floor and seat track structure to support the airplane interior inertia loads under emergency landing conditions. Loss of this support could lead to galley or seat separation from attached restraints, which could result in blocking of the emergency exits and consequent injury to passengers and crew.

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.

Modification

(f) Within 60 months after the effective date of this AD: Except as provided by paragraph (g) of this AD, modify the splice plate assemblies installed under the floor panels at the forward and aft edges of the cabin aisle (including replacement of damaged fasteners with new fasteners) in accordance with Boeing Special Attention Service Bulletin 777–53–0042, dated April 15, 2004.

(g) The referenced service bulletin recommends marking the service bulletin number on the top of the floor panel assembly, but this proposed AD does not require that action.

Alternative Methods of Compliance (AMOCs)

(h) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on February 22, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–4073 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20474; Directorate Identifier 2004–NM–221–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2–203 and B4–203 Series Airplanes; Model A310 Series Airplanes; Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus transport category airplanes. This proposed AD would require an inspection to determine if the suspect part numbers (P/N) and serial numbers of certain Thales Avionics equipment is installed, and replacement of any suspect part with a modified part having a new P/N. This proposed AD is prompted by reports of loss of the digital distance radio magnetic indicator and subsequent loss of both very high frequency omnidirectional range indicators, both distance measuring equipment, and one centralized maintenance computer. We are proposing this AD to prevent loss of navigation indications on the primary flight display requiring continuation of the flight on emergency instruments, which could lead to reduced ability to control the airplane in adverse conditions.

DATES: We must receive comments on this proposed AD by April 4, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed 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.
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- By 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 proposed AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

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. This docket number is FAA–2005–20474; the directorate identifier for this docket is 2004–NM–221–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2004–20474; Directorate Identifier 2004–NM–221–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed 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 proposed 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 19477–78), or you can visit *http://dms.dot.gov*.

Examining the Docket

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.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on Airbus Model A300 B2–203 and B4–203 series airplanes with a forward facing crew cockpit configuration; Model A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R variant F airplanes (collectively called A300–600); equipped with certain Thales Avionics equipment.

The DGAC advises that it has received a report of loss of the digital distance radio magnetic indicator (DDRMI) and subsequent loss of both very high frequency omnidirectional range (VOR) indicators, both distance measuring equipment (DME), and one centralized maintenance computer (CMC) on a Model A330 series airplane. The DGAC also received a similar report also with the loss of both VORs and DMEs on a Model A320 series airplane. In both cases, the circuit breakers had tripped and the computers failed. Investigations revealed that the power transformer had short-circuited, leading to a leakage of 115 volt alternating current (VAC) to systems connected to the DDRMI ARINC 429 input buses. The reason for the transformer failure has been traced to a manufacturing issue, which affects a batch of transformers (*i.e.*, altimeter, vertical speed indicator (VSI), radio magnetic indicator (RMI)/automatic direction finder (ADF) indicator, and RMI/VOR/DME indicator).

Failure of the DDRMI, if not corrected, could result in loss of navigation indications on the primary flight display requiring continuation of the flight on emergency instruments, which could lead to reduced ability to control the airplane in adverse conditions.

Other Relevant Rulemaking

We have previously issued AD 2002–06–53, amendment 39–12724 (67 FR 19511, April 22, 2002), applicable to Airbus Model A319, A320, A321, A330, and A340 series airplanes equipped with certain Thales Avionics DDRMIs. That AD requires deactivation of certain Thales Avionics DDRMIs. The actions specified in that are intended to prevent failure of the DDRMI, which could cause the loss of data from the affected computers to other systems and degradation or total failure of the computers, leading to reduced ability to control the airplane in adverse conditions.

Relevant Service Information

Airbus has issued the following service bulletins:

AIRBUS SERVICE BULLETINS

For model—	Airbus service bulletin—
A300–600 series airplanes	A300–34A6145, Revision 01, dated October 17, 2003.
A310 series airplanes	A310–34A2178, Revision 01, dated October 17, 2003.
A300 B2–203 and B4–203 series airplanes	A300–34A0173, Revision 01, dated December 18, 2003.

The service bulletins describe procedures for doing an inspection to determine if the suspect part numbers (P/N) and serial numbers (S/N) of certain Thales Avionics equipment is installed, and replacement of any suspect part with a modified part having a new P/N. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information, operational restrictions, and a report; and issued French airworthiness directive F–2004–037, issued March 17, 2004; to ensure the continued airworthiness of these airplanes in France.

Each Airbus service bulletin refers to the following Thales Avionics service bulletins as additional sources of service information for accomplishing the inspection and replacement if necessary.

THALES AVIONICS SERVICE BULLETINS

Thales Avionics service bulletin—	Revision—	Dated—
354–34–051	03	October 13, 2003.
354–34–053	02	October 10, 2003.
520–34–014	04	April 22, 2004.
520–34–015	04	July 1, 2004.
520–34–016	03	November 20, 2003.
520–34–017	03	July 1, 2004.
528–34–006	03	June 29, 2004.
528–34–007	02	October 10, 2003.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we

need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the Airbus service information described previously and submitting a report to the airplane manufacturer.

Differences Between French Airworthiness Directive and the Proposed AD

The French airworthiness directive mandates a revision to the Minimum Equipment List (MEL) to require that operation of certain navigation units (*i.e.*, altimeter, vertical speed indicator, RMI/ADF indicator, and RMI/VOR/DME indicator) is necessary for dispatch of the airplane, until the actions specified in the Airbus service information described previously are done. This proposed AD does not contain this restriction because the FAA's Master MEL already contains these operational restrictions for these navigation units.

Costs of Compliance

This proposed AD would affect about 158 Model A310 series airplanes, and Model A300–600 series airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for these U.S. operators is $10,270, or $65 per airplane.

Currently, there are no affected Model A300 B2–203 and B4–203 series airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the required actions would take about 1 work hour, at an average labor rate of $65 per work hour. Based on these figures, we estimate the cost of this AD for Model A300 B2–203 and B4–203 series airplanes to be $65 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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 proposed 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, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Airbus: Docket No. FAA–2005–20474; Directorate Identifier 2004-NM–221–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by April 4, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes in paragraphs (c)(1) through (c)(3) of this AD certificated in any category, equipped with at least one of the Thales Avionics equipment part numbers listed in Table 1 of this AD.

(1) Airbus Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R variant F airplanes (collectively called A300–600);

(2) Airbus Model A310 series airplanes; and

(3) Airbus Model A300 B2–203 and B4–203 series airplanes with a forward facing crew cockpit configuration.

TABLE 1.—AFFECTED THALES AVIONICS EQUIPMENT

Equipment	Part number (P/N)
Altimeter indicator	65205–211–2, –3, or –4; 65205–230–1, –2, or –3; or 65205–235–1.
Radio magnetic indicator (RMI)/automatic direction finder (ADF) indicator.	63540–040–1 or 63540–031–2
RMI/very high frequency omnidirectional range (VOR) indicators/distance measuring equipment (DME).	63540–170–2 or 63540–156–3.
Vertical speed indicator (VSI)	65285–220–2 or 65285–230–1.

Unsafe Condition

(d) This AD was prompted by reports of loss of the digital distance radio magnetic indicator and subsequent loss of both VORs, both DMEs, and one centralized maintenance computer. We are issuing this AD to prevent loss of navigation indications on the primary flight display requiring continuation of the flight on emergency instruments, which could lead to reduced ability to control the airplane in adverse conditions.

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.

Service Bulletins

(f) The term ''Airbus service bulletin,'' as used in this AD, means the Accomplishment Instructions of the applicable service bulletin in Table 2 of this AD.

TABLE 2.—AIRBUS SERVICE BULLETINS

For Model—	Airbus service bulletin—
(1) A300–600 series airplanes	A300–34A6145, Revision 01, dated October 17, 2003.
(2) A310 series airplanes	A310–34A2178, Revision 01, dated October 17, 2003.
(3) A300 B2–203 and B4–203 series airplanes	A300–34A0173, Revision 01, dated December 18, 2003.

(g) Each Airbus service bulletin in Table 2 of this AD refers to the Thales Avionics service bulletins in Table 3 of this AD as additional sources of service information for accomplishing the inspection and replacement if necessary.

TABLE 3.—THALES AVIONICS SERVICE BULLETINS

Thales Avionics service bulletin—	Revision—	Dated—
(1) 354–34–051	03	October 13, 2003.
(2) 354–34–053	02	October 10, 2003.
(3) 520–34–014	04	April 22, 2004.
(4) 520–34–015	04	July 1, 2004.
(5) 520–34–016	03	November 20, 2003.
(6) 520–34–017	03	July 1, 2004.
(7) 528–34–006	03	June 29, 2004.
(8) 528–34–007	02	October 10, 2003.

Inspection and Replacement

(h) Within 6 months after the effective date of this AD, do an inspection to determine if the suspect P/Ns and serial number (S/N) of the Thales Avionics equipment is installed, in accordance with the Airbus service bulletin. If any suspect P/N and S/N is found, within 6 months after the effective date of this AD, replace the suspect part with a modified part having a new P/N, in accordance with the Airbus service bulletin.

Parts Installation

(i) As of the effective date of this AD, no person may install any Thales Avionics equipment specified in Table 1 of this AD on any airplane.

Reporting Requirement

(j) Within 6 months after the effective date of this AD, submit a report of all P/Ns and S/N of overhauled equipment found during the inspection required by paragraph (h) of this AD to Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; fax 011–33–561934251. 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.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(l) French airworthiness directive F–2004–037, issued March 17, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on February 18, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–4078 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20453; Directorate Identifier 2004–NM–270–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A318, A319, A320, and A321 series airplanes. This proposed AD would require replacing the water drain valves in the forward and aft cargo doors with new valves. This proposed AD is prompted by a report indicating that, during a test of the fire extinguishing system, air leakage through the water drain valves in the forward and aft cargo doors reduced the concentration of fire extinguishing agent to below the level required to suppress a fire. We are proposing this AD to prevent air leakage through the water drain valves, which, in the event of a fire in the forward or aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent and consequent inability of the fire extinguishing system to suppress the fire.

DATES: We must receive comments on this proposed AD by April 4, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed 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.
- By 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 proposed AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

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. This docket number is FAA–2005–20453; the directorate identifier for this docket is 2004–NM–270–AD.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–20453; Directorate Identifier 2004–NM–270–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed 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 proposed 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 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

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.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A318, A319, A320, and A321 series airplanes. The DGAC advises that a test of the fire containment capability of the forward and aft cargo compartments was performed on a Model A319 series airplane. The test revealed that the concentration of the halon fire extinguishing agent decreased below the level required to suppress a fire. Investigation revealed that the drop in concentration of halon was due to too high a rate of air renewal in the compartment. Further investigation revealed that air leakage through the water drain valves in the forward and aft cargo doors and around the aft cargo temperature sensor contributed to the reduced concentration of halon. The air leakage allowed the halon to leak out of the compartment, and the remaining concentration of halon was insufficient to suppress a fire. Water drain valves not reaching the differential pressure necessary to attain the closure set point caused the air leakage through the water drain valves. In the event of a fire in the forward or aft cargo compartment, air leakage through the water drain valves, if not corrected, could result in an insufficient concentration of fire extinguishing agent and consequent inability of the fire extinguishing system to suppress the fire.

The water drain valves installed in forward and aft cargo doors on the Model A318, A320, and A321 series airplanes are identical to those on the affected Model A319 series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Other Related Rulemaking

The DGAC has issued French airworthiness directive F–2004–123, dated July 21, 2004, to address air leakage around the aft cargo temperature sensor; we are planning to address the unsafe condition of that French airworthiness directive with a separate rulemaking action.

Relevant Service Information

Airbus has issued Service Bulletin A320–52–1124, dated May 6, 2004. The service bulletin describes procedures for replacing the water drain valves in the forward and aft cargo doors with new valves that close at a lower differential pressure. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2004–172, dated October 27, 2004, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

This proposed AD would affect about 434 airplanes of U.S. registry. The proposed actions would take about 3 to 5 work hours per airplane, depending on airplane configuration, at an average labor rate of $65 per work hour. Required parts would cost about $120 to $200 per airplane, depending on airplane configuration. Based on these figures, the estimated cost of the proposed AD for U.S. operators is between $136,710 and $227,850, or between $315 and $525 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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 proposed 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, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Airbus: Docket No. FAA–2005–20453; Directorate Identifier 2004–NM–270–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by April 4, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A318, A319, A320, and A321 series airplanes, certificated in any category, as listed in Table 1 of this AD.

TABLE 1.—APPLICABILITY

Airbus model—	Having the following Airbus modification installed in production—	Or the following Airbus service bulletin incorporated in service—	But not having the following Airbus modification installed in production—
A318 series airplanes	Not applicable	Not applicable	33232
A319 series airplanes	25642 or 26213	A320–52–1088	33232
A320 series airplanes	26213 or 26603	A320–52–1088	33232
A321 series airplanes	26213 or 26603	A320–52–1088	33232

Unsafe Condition

(d) This AD was prompted by a report indicating that, during a test of the fire extinguishing system, air leakage through the water drain valves in the forward and aft cargo doors reduced the concentration of fire extinguishing agent to below the level required to suppress a fire. We are issuing this AD to prevent air leakage through the water drain valves, which, in the event of a fire in the forward or aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent and consequent inability of the fire extinguishing system to suppress the fire.

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.

Replacement of Water Drain Valves

(f) Within 6 months after the effective date of this AD, replace the water drain valves in the forward and aft cargo doors with new valves that close at a lower differential pressure, by doing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–52–1124, dated May 6, 2004.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(h) French airworthiness directive F–2004–172, dated October 27, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on February 22, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–4079 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20473; Directorate Identifier 2004–NM–156–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200, –200PF, and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 757–200, –200PF, and –300 series airplanes. This proposed AD would require inspecting for damage of the ground brackets, ground wires, and terminal lugs of the auxiliary power unit (APU) battery and the APU start transformer rectifier unit (TRU) as applicable; and corrective and related investigative actions. This proposed AD is prompted by reports indicating that, during inspections on two airplanes, the ground brackets for the APU battery were found damaged. We are proposing this AD to detect and correct a damaged electrical bonding surface of the APU battery and APU start TRU ground connections, which could cause overheating of the ground connections and lead to possible consequent ignition of the adjacent insulating blankets.

DATES: We must receive comments on this proposed AD by April 18, 2005.

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

• By 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 proposed AD, contact Boeing Commercial Airplanes, PO Box 3707, Seattle, Washington 98124–2207.

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. This docket number is FAA–2005–20473; the directorate identifier for this docket is 2004–NM–156–AD.

FOR FURTHER INFORMATION CONTACT: Elias Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6478; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–20473; Directorate Identifier 2004–NM–156–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed 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 proposed AD. Using the search function of that 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Examining the Docket

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.

Discussion

We have received reports indicating that, during inspections on two Boeing Model 757–200 airplanes, the ground brackets for the auxiliary power unit (APU) battery were found damaged. Manufacturer analysis found that the bonding surface of the ground brackets had an anodized finish, which reduces electrical conductivity. Further manufacturer investigation of airplanes in production revealed that the method used to clean the ground brackets didn't remove the anodized finish from the bonding surface before the ground wires were installed. This condition, if not corrected, could cause overheating of the ground connections and lead to possible consequent ignition of the adjacent insulating blankets.

Similar Models

The subject ground brackets on certain Boeing Model 757–200PF and –300 airplanes are almost identical to those on the affected Model 757–200 airplanes. Therefore, all of these models may be subject to the same unsafe condition.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 757–24A0099 (for Model 757–200 and –200PF series airplanes), and Alert Service Bulletin 757–24A0100 (for Model 757–300 series airplanes); both dated March 25, 2004. The service bulletins describe procedures for inspecting the ground brackets, ground wires, and terminal lugs of the APU battery and the APU start transformer rectifier unit (TRU) ground connections; and corrective and related investigative actions. Corrective actions include cleaning the bonding surfaces of the ground brackets and terminal lugs; and replacing the ground brackets, ground wires, and terminal lugs if necessary. Investigative actions include measuring the electrical resistance between the ground brackets and the terminal lugs and between the ground brackets and the station frame. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Clarification of Inspection Terminology

The Boeing alert service bulletins specify inspecting for damage to certain ground connections, but do not specify the type of inspection to be performed. Paragraph (f) of this proposed AD identifies this inspection as a ''general visual inspection,'' and Note 1 of this proposed AD defines this inspection.

Costs of Compliance

There are about 251 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 159 airplanes of U.S. registry.

For about 95 Group 1 and Group 3 airplanes: The proposed inspection and cleaning of the ground connections would take about 2 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $12,350, or $130 per airplane.

For about 64 Group 2 airplanes: The proposed inspection and cleaning of the ground connection would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $4,160, or $65 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII,

Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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 proposed 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, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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):

Boeing: Docket No. FAA–2005–20473; Directorate Identifier 2004–NM–156–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by April 18, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 757–200, –200PF, and –300 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 757–24A0099, and Boeing Alert Service Bulletin 757–24A0100; both dated March 25, 2004.

Unsafe Condition

(d) This AD was prompted by reports indicating that during inspections on two airplanes, the ground brackets for the auxiliary power unit (APU) battery were found damaged. We are issuing this AD to detect and correct a damaged electrical bonding surface of the APU battery and APU start transformer rectifier unit (TRU) ground connections, which could cause overheating of the ground connections and lead to possible consequent ignition of the adjacent insulating blankets.

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.

Inspection of Ground Connections

(f) Within 18 months after the effective date of this AD, perform a general visual inspection for damage of the ground brackets, ground wires, and terminal lugs of the APU battery and APU start transformer rectifier unit (TRU), and do any corrective and related investigative actions; by doing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 757–24A0099 (for Model 757–200 and –200PF series airplanes), or Boeing Alert Service Bulletin 757–24A0100 (for Model 757–300 series airplanes); both dated March 25, 2004; as applicable.

Note 1: 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 normal available lighting conditions such as daylight, hangar lighting, flashlight or drop-light 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.''

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Issued in Renton, Washington, on February 18, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–4080 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20246; Airspace Docket No. 04–ASO–15]

RIN 2120–AA66

Proposed Establishment of Area Navigation Instrument Flight Rules Terminal Transition Routes (RITTR); Charlotte, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish four Area Navigation (RNAV) Instrument Flight Rules (IFR) Terminal Transition Routes (RITTR) in the Charlotte, NC, terminal area. RITTR's are low altitude Air Traffic Service (ATS) routes, based on RNAV, for use by aircraft having IFR-approved Global Positioning System (GPS)/Global Navigation Satellite System (GNSS) equipment. The purpose of RITTR is to expedite the handling of IFR overflight traffic through busy terminal airspace areas. The FAA is proposing this action to enhance safety and to improve the efficient use of the navigable airspace in the Charlotte, NC, terminal area.

DATES: Comments must be received on or before April 18, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2005–20246 and Airspace Docket No. 04–ASO–15, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2005–20246 and Airspace Docket No. 04–ASO–15) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2005–20246 and Airspace Docket No. 04–ASO–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov,* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In March 2000, the Aircraft Owners and Pilots Association (AOPA) requested that the FAA take action to develop and chart IFR RNAV airways for use by aircraft having IFR-approved Global Positioning System (GPS) equipment. Of particular interest was the use of RNAV to assist IFR pilots transiting though busy terminal airspace areas. Due to the density of air traffic in some areas, en route aircraft are not always able to fly on the existing Federal airway structure when transiting congested terminal airspace. In such cases, air traffic control (ATC) is often required to provide radar vectors to reroute aircraft transitioning through the area to avoid the heavy flow of arriving and departing aircraft. AOPA stated that RNAV airways would facilitate more direct routings than are possible with the current Federal airway system and would provide pilots with easier access through terminal airspace. In addition, AOPA promoted the expanded use of RNAV airways throughout the National Airspace System (NAS) to exploit the benefits and capabilities of RNAV.

In response to the AOPA request, a cooperative effort was launched involving the FAA, AOPA, and the Government/Industry Aeronautical Charting Forum. This effort began with the development of RNAV routes to provide more direct routing for en route IFR aircraft to transition through busy terminal airspace areas. The first step in this effort was the development of 12 IFR transition routes to expedite the handling of IFR overflight traffic through the Charlotte/Douglas International Airport, NC, Class B airspace area. The Charlotte IFR Transition routes became effective on January 30, 2001, and are currently published in the Southeast U.S. volume of the Airport/Facility Directory (A/FD). The action proposed in this notice represents the next step in this effort. Specifically, the development of charted RITTR's to replace the Charlotte transition routes described above. These proposed RITTR's would be depicted on the appropriate low altitude IFR en route charts in lieu of publication in the A/FD.

In the future, the FAA plans to propose RITTR's at additional busy terminal areas where it is expected that they would enhance the safety and efficient use of the navigable airspace.

RITTR Objective

The objective of the RITTR program is to enhance the expeditious movement of IFR overflight traffic around or through congested terminal airspace using IFR-approved RNAV equipment. RITTR's would enhance the ability of pilots to navigate through the area without reliance on ground-based navigation aids or ATC radar vectors. To facilitate this goal, and reduce ATC workload, RITTR routes are designed based on both the radar vector tracks routinely used by ATC to radar vector aircraft through or around the affected terminal area, and on existing VOR Federal airways. The routes would begin and terminate at fixes or NAVAIDs located along existing VOR Federal airways in order to provide connectivity with the low-altitude en route structure. Initially, only Global Navigation Satellite System (GNSS)-equipped aircraft that are capable of filing flight plan equipment suffix ''/G'' would be able to use RITTR's.

RITTR Identification and Charting

RITTR routes would be identified by the letter ''T'' prefix followed by a three digit number. The ''T'' prefix is one of several International Civil Aviation Organization (ICAO) designators used to identify domestic RNAV routes. The FAA has been allocated the letter ''T'' prefix and the number block 200 to 500 for use in naming these routes. The FAA would use the ''T'' prefix for RNAV routes in the low altitude en route structure of the NAS, including RITTR.

RITTR's would be depicted in blue on the appropriate IFR en route low altitude chart(s). Each route depiction would include a Global Navigation Satellite System (GNSS) Minimum Enroute Altitude (MEA) to ensure obstacle clearance and communications reception. The FAA plans to publish information about the RITTR program in the Aeronautical Information Manual (AIM) and the Notices to Airmen Publication (NTAP). In addition, a Charting Notice would be issued by the FAA's National Aeronautical Charting Office to explain the charting changes associated with the RITTR's.

Related Rulemaking

On April 8, 2003, the FAA published the Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes, and Reporting Points rule in the **Federal Register** (68 FR 16943). This

rule adopted certain amendments proposed in Notice No. 02–20, RNAV and Miscellaneous Amendments. The rule revised and adopted several definitions in FAA regulations including Air Traffic Service Routes, to be in concert with ICAO definitions; and reorganized the structure of FAA regulations concerning the designation of Class A, B, C, D, and E airspace areas; airways; routes; and reporting points. The purpose of the rule was to facilitate the establishment of RNAV routes in the NAS for use by aircraft with advanced navigation system capabilities.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to establish four RNAV IFR Terminal Transition Routes (RITTR) in the Charlotte, NC, terminal area. The routes would be designated T–200, T–201, T–202, and T–203, and would be depicted on the appropriate IFR Enroute Low Altitude charts. RITTR's are low altitude Air Traffic Service routes, similar to VOR Federal airways, but based on GNSS navigation. RNAV-equipped aircraft capable of filing flight plan equipment suffix ''/G'' may file for these routes.

If implemented, the RITTR routes proposed in this notice would replace the 12 Charlotte IFR Transition Routes that are currently published in the A/FD. Those Transition Routes would then be cancelled and removed from the A/FD.

The RITTR's described in this notice are being proposed to enhance safety, and to facilitate the more flexible and efficient use of the navigable airspace for en route IFR operations transitioning through the Charlotte Class B airspace area.

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

Environmental Review

RITTR's are low altitude Air Traffic Service routes, comparable to VOR Federal airways, but based on area navigation systems. RITTR's are designed using both existing VOR Federal airways and current radar vector tracks routinely used by ATC to route aircraft through or around the affected terminal area. The FAA determined, therefore, that this action qualifies for a categorical exclusion from further environmental analysis under the National Environmental Policy Act of 1969 in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraphs 311a, 311b, and 311k.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

Paragraph 6011—Area Navigation Routes.

* * * * *

T–200 Foothills, GA to Florence, SC [New]

Foothills, GA (ODF)	VORTAC	(Lat. 34°41′45″ N., long. 83°17′52″ W.)
RICHIE	WP	(Lat. 34°41′54″ N., long. 80°59′23″ W.)
Florence, SC (FLO)	VORTAC	(Lat. 34°13′59″ N., long. 79°39′26″ W.)

* * * * *

T–201 Columbia, SC to JOTTA [New]

Columbia, SC (CAE)	VORTAC	(Lat. 33°51′26″ N., long. 81°03′14″ W.)
HUSTN	WP	(Lat. 34°53′20″ N., long. 80°34′20″ W.)
LOCAS	WP	(Lat. 35°12′05″ N., long. 80°26′45″ W.)
JOTTA	WP	(Lat. 36°00′53″ N., long. 80°50′58″ W.)

* * * * *

T–202 RICHE to GANTS [New]

RICHE	WP	(Lat. 34°41′54″ N., long. 80°59′23″ W.)
HUSTN	WP	(Lat. 34°53′20″ N., long. 80°34′20″ W.)
GANTS	WP	(Lat. 35°27′12″ N., long. 80°06′16″ W.)

* * * * *

T–203 Columbia, SC to Pulaski, VA [New]

Columbia, SC (CAE)	VORTAC	(Lat. 33°51′26″ N., long. 81°03′14″ W.)
LOCKS	WP	(Lat. 34°55′40″ N., long. 81°17′37″ W.)

Barretts Mountain, NC (BZM)	VOR/DME	(Lat. 35°52′08″ N., long. 81°14′26″ W.)
Pulaski, VA (PSK)	VORTAC	(Lat. 37°05′16″ N., long. 80°42′46″ W.)

* * * * *

Issued in Washington, DC, on February 22, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–4138 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–149519–03]

RIN 1545–BC63

Section 707 Regarding Disguised Sales, Generally; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed rulemaking relating to treatment of transactions between a partnership and its partners as disguised sales of partnership interests between the partners under section 707(a)(2)(B) of the Internal Revenue Code.

DATES: The public hearing originally scheduled for Tuesday, March 8, 2005, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Publications and Regulations Branch, Associate Chief Counsel (Procedure and Administration) (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Friday, November 26, 2004 (69 FR 68838), announced that a public hearing was scheduled for Tuesday, March 8, 2005, at 10 a.m. in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 707 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Thursday, February 24, 2005. Outlines of oral comments were due on Thursday, February 24, 2005.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Monday, February 28, 2005, no one has requested to speak. Therefore, the public hearing scheduled for Thursday, March 8, 2005, is cancelled.

Cynthia E. Grigsby,

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

[FR Doc. 05–4142 Filed 2–28–05; 2:41 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–04–148]

RIN 1625–AA09

Drawbridge Operation Regulations; CSX Railroad, Hillsborough River, Mile 0.7, Tampa, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of the CSX Railroad Bridge across the Hillsborough River, mile 0.7, Tampa, Florida. Previously owned by the Seaboard System Railroad, the bridge is now called the CSX Railroad Bridge vice the Seaboard System Railroad Bridge. This proposed rule would allow the bridge to operate using an automated system without an onsite bridge tender. Currently, the bridge is required to open on signal.

DATES: Comments and related material must reach the Coast Guard on or before May 2, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Ave, Suite 432, Miami, FL 33131–3050. Commander (obr) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in the preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Branch, Seventh Coast Guard District, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gwin Tate, Project Manager, Seventh Coast Guard District, Bridge Branch, 305–415–6743.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–04–148], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

The CSX Railroad owner has requested that the Coast Guard remove the existing regulations governing the operation of the CSX Railroad Bridge over the Hillsborough River and allow the bridge to operate utilizing an automated system. The CSX Railroad Bridge is located on the Hillsborough River, mile 0.7, Tampa, Florida. The current regulation governing the operation of the CSX Railroad Bridge is published in 33 CFR 117.291 and requires the bridge to open on signal from 4 p.m. to 12 midnight Monday through Friday. At all other times, the draw shall be maintained in the fully open position.

Currently, there is only one train transit per day. Under the proposed rule, the bridge would remain in the open position to vessel traffic at all

times, closing only when the train passes.

Discussion of Proposed Rule

The Coast Guard proposes to change the operating regulations of the CSX Railroad Bridge so that the bridge can operate automatically. Previously owned by the Seaboard System Railroad, the bridge is now called the CSX Railroad Bridge vice the Seaboard System Railroad Bridge. There is only one train transit per day across this bridge. The proposed action would remove the requirement that a bridge tender be present to open the bridge on signal for vessel traffic. The bridge would remain in the open position until a train approaches to cross the bridge. When a train approaches, the CSX signal department would send an electronic signal to the bridge to begin the closure sequence. The bridge control system will activate a series of laser scanners, positioned along the water level, to detect marine traffic of any size within the bridge closure area. The bridge will not close if a vessel is detected. Next, the bridge control system will turn off the green lights (that indicate it is safe to pass beneath the bridge) and turn on red flashing lights (to indicate it is no longer safe to pass beneath the bridge). Also, the bridge control system will simultaneously sound an audible signal throughout the bridge closing operation. The bridge would remain in the closed position and be closed to vessel traffic until the train has cleared the bridge area. When the train has cleared, the bridge control system would again sound a signal throughout the bridge opening operation. When the bridge is in the fully open position, the red flashing lights will be turned off and the green lights turned back on. The bridge will remain in the open to vessel traffic position until the next train crossing.

Signs would be posted on both sides of the navigation channel indicating, ''Caution; this bridge operates by remote control.'' A toll-free, CSX contact telephone number would be posted on the signs for emergencies.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the policies and procedures of DHS is unnecessary. Vessel traffic will be able to transit through the open bridge with the exception of the short closure period required for the train to transit over the bridge.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels that proceed under the bridge during daily train crossings. However, the proposed rule will not change the number of times the bridge will need to be in a closed position for trains. Additionally, the bridge will remain in the open to navigation position at all other times for the benefit of vessel traffic.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that have questions or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42.U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.291 revise paragraph (b) to read as follows:

§ 117.291 Hillsborough River.

* * * * *

(b) The draw of the CSX Railroad Bridge across the Hillsborough River, mile 0.7, at Tampa, operates as follows:

(1) The bridge is not tended.

(2) The draw is normally in the fully open position, displaying green lights to indicate that vessels may pass.

(3) As a train approaches, provided the marine traffic detection laser scanners do not detect a vessel under the draw, the lights change to flashing red and a horn continuously sounds while the draw closes. The draw remains closed until the train passes.

(4) After the train clears the bridge, the lights continue to flash red and the horn again continuously sounds while the draw opens, until the draw is fully open and the lights return to green.

Dated: February 16, 2005.

W.E. Justice,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 05–4129 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05–359, MB Docket No. 05–52, RM–10300]

Digital Television Broadcast Service; Johnstown and Jeannette, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Paramount Stations Group of Pittsburgh, Inc., requesting the substitution of DTV channel 49 for station WNPA's assigned DTV channel 30 at Johnstown; and the reallottment of DTV channel 49 from Johnstown to Jeannette, Pennsylvania. DTV Channel 49 can be allotted to Jeannette at coordinates 40–23–34 N. and 79–46–54 W. with a power of 437, a height above average terrain HAAT of 301 meters. Canadian concurrence has been obtained for this allotment.

DATES: Comments must be filed on or before April 4, 2005, and reply comments on or before April 19, 2005.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (except in broadcast allotment proceedings). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight 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, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Howard Jaeckel, CBS Broadcasting Inc., 1515 Broadway, 49th Floor, New York, New York 10036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–52, adopted February 10, 2005, and released February 17, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the

Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 301–816–2820, facsimile 301–816–0169, or via e-mail *joshir@erols.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

This document does not contain proposed information collection(s) 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, *see* 44 U.S.C. 3506(c)(4).

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Pennsylvania is amended by removing DTV channel 30 at Johnstown; and adding Jeannette, DTV channel 49.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 05–4113 Filed 3–2–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05–416; MB Docket No. 05–54, RM–11151]

Radio Broadcasting Services; Otter Creek, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division requests comment on a Petition for Rule Making filed by Living Proof, Inc. proposing the reservation of vacant Channel 240A at Otter Creek, Florida for noncommercial educational use. The reference coordinates for Channel *240A at Otter Creek, Florida are 29–16–52 North Latitude and 82–51–42 West Longitude.

DATES: Comments must be filed on or before April 11, 2005, and reply comments on or before April 26, 2005.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Harry C. Martin, Esq, Lee G. Petro, Esq, Counsel for Living Proof, Inc, Fletcher, Heald & Hildreth PLC, 1300 North 17th Street, 11th Floor, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–54, adopted February 16, 2005, and released February 18, 2005. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy Printing, Inc., 445 12th Street, Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed 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, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Flordia, is amended by removing Channel 240A and by adding Channel *240A at Otter Creek.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05–4114 Filed 3–2–05; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 70, No. 41
Thursday, March 3, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Madison-Beaverhead Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Beaverhead-Deerlodge National Forest's Madison-Beaverhead Resource Advisory Committee will meet on Tuesday, March 22, 2005, from 10 a.m. until 4 p.m. in Alder, Montana, for a business meeting. The meeting is open to the public.

DATES: Tuesday, March 22, 2005.

ADDRESSES: The meeting will be held at the Fire Hall in Alder, Montana.

FOR FURTHER INFORMATION CONTACT: Thomas K. Reilly, Designated Forest Official (DFO), Forest Supervisor, Beaverhead-Deerlodge National Forest, at (406) 683–3973.

SUPPLEMENTARY INFORMATION: Agenda topics for these meetings include hearing and deciding on proposals for projects to fund under Title II of Pub. L. 106–393, hearing public comments, and other business. If the meeting location changes, notice will be posted in local newspapers, including the Dillon Tribune and The Montana Standard.

Dated: February 24, 2005.

Thomas K. Reilly,

Designated Federal Official, Forest Supervisor.

[FR Doc. 05–4071 Filed 3–2–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Alpine County, CA, Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Alpine County Resource Advisory Committee (RAC) will meet on Friday, April 1, at 6 p.m. at the Diamond Valley School for business meetings. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payment to States) and expenditure of Title II funds. The meetings are open to the public.

DATES: Friday, April 1, 2005, at 6 p.m.

ADDRESSES: The meeting will be held at the Diamond Valley School, 35 Hawkside Drive, Markleeville, California 96120. Send written comments to Franklin Pemberton, Alpine County RAC coordinator, c/o USDA Forest Service, Humboldt-Toiyabe N.F., Carson Ranger District 1536 So. Carson Street, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Alpine Co. RAC Coordinator, Franklin Pemberton at (775) 884–8150; or Gary Schiff, Carson District Ranger and Designated Federal Officer, at (775) 884–8100, or electronically to *fpemberton@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The Meeting is open to the public. Council discussion is limited to Forest Service staff and Council members. However, persons who wish to bring urban and community forestry matters to the attention of the council may file written statements with the Council staff before and after the meeting.

Dated: February 24, 2005.

Gary Schiff,

Designated Federal Official.

[FR Doc. 05–4074 Filed 3–2–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Environmental Assessment; Notice of Availability

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Natural Resources Conservation Service (NRCS), has prepared a plan and environmental assessment consistent with the National Environmental Policy Act of 1969, as amended. Funding for salinity control projects is available through the Environmental Quality Incentives Program which is covered by a programmatic EA. The Muddy Creek plan and EA were developed to more specifically evaluate the effects associated with this type of water quality activity. Upon review of the information in the Muddy Creek EA, the State Conservationist, NRCS, Utah, made a Finding of No Significant Impact (FONSI) and the determination was made that no environmental impact statement is required to support the Muddy Creek Plan. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Muddy Creek Salinity Control Project, Emery and Sevier Counties, Utah. Written comments regarding this action may be submitted to: Sylvia Gillen, State conservationist, USDA/NRCS, Wallace F. Bennett Federal Building, 125 South State Street, Room 4402, Salt Lake City, UT 84138–1100. Comments must be received no later than 30 days after this notice is published.

EFFECTIVE DATE: March 3, 2005.

FOR FURTHER INFORMATION CONTACT: Sylvia Gillen, State Conservationist, Natural Resources Conservation Service, Wallace F. Bennett Federal Building, 125 South State Street, Room 4402, Salt Lake City, UT 84138–1100; telephone (802) 524–4555.

SUPPLEMENTARY INFORMATION: The environmental assessment of this

federally assisted action documents that the project will not cause significant local, regional, state, or national impacts on the human environment. The findings of Sylvia Gillen, State Conservationist, indicate that the preparation and review of an environmental impact statement is not needed for this project.

The project purpose is to reduce salt loading to the Muddy Creek which is a tributary to the Colorado River. Excessive loading is a result of seepage from the canal and delivery ditch systems and inefficient irrigation application methods and procedures. The planned works of improvement include replacement of delivery ditches with an on-farm and off-farm underground pipeline system; the installation of irrigation sprinkler systems; structures for water control; and wildlife habitat development. These enduring practices are accompanied by facilitating management practices such as; Irrigation Water Management, Wildlife Habitat Management Wetland, and Wildlife Habitat Management Upland.

This Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. Copies of the FONSI and Plan/Environmental Assessment are available by request from Sylvia Gillen, Utah State Conservationist. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Sylvia Gillen, Utah State Conservationist. Copies of the Plan/Environmental Assessment and FONSI may be obtained from Mr. Wayne Greenhaulgh, District Conservationist, USDA–NRCS, 540 Price River Drive, Price, UT 84501; telephone: (435) 637–0041; extension 19.

No administrative action on implementation of this project will be taken until 30 days after the date of this notice is published.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.902, Soil and Water Conservation and Environmental Quality Incentive Program 10.912.)

Signed in Salt Lake City, Utah, on February 18, 2005.

Sylvia A. Gillen,

State Conservationist.

[FR Doc. 05–4125 Filed 3–2–05; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Special Subsistence Permits and Harvest Logs for Pacific Halibut in Waters off Alaska.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 140.

Number of Respondents: 109.

Average Hours Per Response: 20 minutes.

Needs and Uses: The special Pacific halibut permits and harvest logs are created to monitor Pacific halibut subsistence use by Alaska tribes and certain Alaska rural communities. These ceremonial and educational permits are issued in addition to the Pacific halibut subsistence registration described in OMB No. 0648–0460, Subsistence Fishery for Pacific Halibut in Waters Off Alaska: Registration and Marking of Gear.

Affected Public: Individuals or households; business or other for-profit organizations; state, local or tribal government.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: February 25, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–4058 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Logbook Family of Forms.

Form Number(s): None.

OMB Approval Number: 0648–0016.

Type of Request: Regular submission.

Burden Hours: 14,426.

Number of Respondents: 4,783.

Average Hours Per Response: 9 minutes.

Needs and Uses: The purpose of this request for OMB review is to: (a) Modify the existing economic data collection for the Atlantic snapper-grouper and mackerel fisheries; and (b) extend the data collection to include the commercial reef fish and mackerel fisheries in the Gulf of Mexico.

Affected Public: Business and other for-profit organizations; individuals and households.

Frequency: Annually and logbook reports by trip.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: February 25, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–4060 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[03–BIS–14]

Action Affecting Export Privileges; Mr. Kiarash Arastafar In the Matter of: Mr. Kiarash Arastafar, Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, Respondent; Order Relating to Kiarash Arastafar

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') having initiated an administrative proceeding against Kiarash Arastafar, pursuant to section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2004)) (''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (''Act''),[2] by issuing a charging letter to Kiarash Arastafar that alleged that Kiarash Arastafar committed three violations of the Regulations. Specifically, the charges are:

1. One Violation of 15 CFR 764.2(c)—Solicitation of the Unlicensed Export of Items to Iran: From on or about July 15, 2002, to on or about January 28, 2003, Kiarash Arastafar solicited the export of gas processor parts, items subject both to the Regulations (EAR99 [3]) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control (''OFAC'') and located in the United States, to Iran through the Netherlands without the authorization from OFAC required by section 746.7 of the Regulations.

2. One Violation of 15 CFR 764.2(e)—Acting with Knowledge of a Violation: In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar ordered the above-described items with knowledge that a violation of the Regulations was intended to occur in connection with the items. Kiarash Arastafar knew that U.S. government authorization was required for the purported export and would not be obtained.

3. One Violation of 15 CFR 764.2(h)—Attempting to Evade the Provisions of the Regulations: In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar took action with the intent to evade the Regulations by urging the purported exporter to ship the items in question to the Netherlands from the United States, with the understanding that the items would subsequently be shipped to Iran (a destination requiring an export license for these items).

Whereas, BIS and Kiarash Arastafar have entered into a Settlement Agreement pursuant to section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

Whereas, I have approved of the terms of such Settlement Agreement; *It is therefore ordered:*

First, that for a period of 15 years from the date of entry of this Order, Kiarash Arastafar, Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, and when acting for or on behalf of Kiarash Arastafar, his representatives, agents, assigns or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Kiarash Arastafar by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202–4022, notifying that office that this case is withdrawn from adjudication, as provided by section 766.18 of the Regulations.

Sixth, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public

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[1] The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2002–2003)). The 2004 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994, through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 FR 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

[3] The term ''EAR99'' refers to items subject to the Regulations that are not listed on the Commerce Control List. *See* 15 CFR 734.3(c).

and record of the case as described in section 766.22 of the Regulations.

Seventh, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 24th day of February, 2005.

Wendy L. Wysong,

Acting Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 05–4057 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[03–BIS–13]

Action Affecting Export Privileges; Chemical Industries Consolidated B.V. In the Matter of: Chemical Industries Consolidated b.v., Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, Respondent; Order Relating to Chemical Industries Consolidated B.V.

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS'') having initiated an administrative proceeding against Chemical Industries Consolidated b.v. (''CIC''), pursuant to section 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2004)) (''Regulations''),[1] and section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (''Act''),[2] by issuing a charging letter to CIC that alleged that CIC committed three violations of the Regulations. Specifically, the charges are:

1. One Violation of 15 CFR 764.2(c)—Solicitation of the Unlicensed Export of Items to Iran: From on or about July 15, 2002, to on or about January 28, 2003, CIC solicited the export of gas processor parts, items subject both to the Regulations (EAR99 [3]) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control (''OFAC'') and located in the United States, to Iran through the Netherlands without the authorization from OFAC required by section 746.7 of the Regulations.

2. One Violation of 15 CFR 764.2(e)—Acting with Knowledge of a Violation: In connection with the solicitation referenced in paragraph 1 above, CIC ordered the above-described items with knowledge that a violation of the Regulations was intended to occur in connection with the items.

3. One Violation of 15 CFR 764.2(h)—Attempting To Evade the Provisions of the Regulations: In connection with the solicitation referenced in paragraph 1 above, CIC took action with the intent to evade the Regulations by urging the purported exporter to ship the items in question to the Netherlands from the United States, with the understanding that CIC would subsequently ship the items to Iran (a destination requiring an export license for these items).

Whereas, BIS and CIC have entered into a Settlement Agreement pursuant to section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

Whereas, I have approved of the terms of such Settlement Agreement; *It is therefore ordered:*

First, that for a period of five years from the date of entry of this Order, Chemical Industries Consolidated b.v., 151A, 2265 EN Leidschendam, The Netherlands, its successors or assigns, and when acting for or on behalf of CIC, its officers, representatives, agents, or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to CIC by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations

[1] The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2002–2003)). The 2004 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994, through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp 783 (2002)), as extended by the Notice of August 6, 2004 (69 FR 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

[3] The term ''EAR99'' refers to items subject to the Regulations that are not listed on the Commerce Control List. *See* 15 CFR 734.3(c).

where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202–4022, notifying that office that this case is withdrawn from adjudication, as provided by section 766.18 of the Regulations.

Sixth, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public and record of the case as described in section 766.22 of the Regulations.

Seventh, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 24th day of February, 2005.

Wendy L. Wysong,

Acting Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 05–4056 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 05–006. *Applicant:* University of Pittsburgh, S224 Biomedical Science Tower, 3550 Terrace Street, Pittsburgh, PA 15261. *Instrument:* Electron Microscope, Model JEM–1011. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument is intended to be used to perform diverse structural studies of cells including tissues from the liver, intestine, lung, muscle as well as the immune system to support translational research which will lead to novel therapies for disease in NIH funded research. It will also be used for individual training of graduate students, fellows and clinical residents in independent NIH sponsored research programs. *Application accepted by Commissioner of Customs:* February 9, 2005.

Docket Number: 05–007. *Applicant:* Clemson University, 903 Jordan Hall, Clemson University, Clemson, SC 29634. *Instrument:* Electron Microscope, Model H–7600. *Manufacturer:* Hitachi High-Technologies Corp., Japan. *Intended Use:* The instrument is intended to be used to study:

(1) Cell structure of biological samples including grain structure and boundary interactions.

(2) The effects of temperature variation and heat treating of materials in the formation of carbon nanotubes and protein migration in oysters.

(3) Development of new materials and processes.

(4) Ultra thin section evaluation via TEM microscopy.

Application accepted by Commissioner of Customs: February 10, 2005.

Docket Number: 05–008. *Applicant:* Rice University, 6100 Main Street, Houston, TX 77005. *Instrument:* Electron Microscope, Model JEM–1230. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used to investigate the microstructures and properties of nanomaterials as well as biological materials and other types of materials at high levels of resolution and contrast. Cryo-techniques will be used for sample preparations with biological materials. The microscope will also be used for the training of undergraduate and graduate students. *Application accepted by Commissioner of Customs:* February 11, 2005.

Docket Number: 05–009. *Applicant:* Rice University, 6100 Main Street, Houston, TX 77005. *Instrument:* Electron Microscope, Model JEM 2100–F. *Manufacturer:* JEOL, Ltd., japan. *Intended Use:* The instrument is intended to be used to investigate the microstructures and properties of nanomaterials as well as biological materials and other types of materials at high levels of resolution and contrast. Cryo-techniques will be used for sample preparations with biological materials, for which the microscope will be primarily used. The microscope will also be used for the training of undergraduate and graduate students. *Application accepted by Commissioner of Customs:* February 15, 2005.

Docket Number: 05–010. *Applicant:* Tuskegee University, 209 Kresge Building, Tuskegee University, Tuskegee, AL 36088. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* Jeol, Ltd., Japan. *Intended Use:* The instrument is intended to be used to study shape, size, agglomeration, crystalline nature, and particle distribution in polymer matrices using metal, metal oxide and metal carbide nanoparticles embedded in the matrices. The microscope will also be used in the education and training of graduate students in materials science with an emphasis on nanostructures. *Application accepted by Commissioner of Customs:* February 15, 2005.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. E5–861 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–823]

Stainless Steel Plate in Coils from Italy; Final Results of the Full Sunset Review of the Countervailing Duty Order

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

SUMMARY: On April 1, 2004, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty (''CVD'') order on stainless steel plate in coils (''SSPC'') from Italy pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-Year (Sunset) Reviews,* 69 FR 17129 (April 1, 2004). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the interested parties, the Department conducted a full (240-day) sunset review. As a result of this review, the Department finds that revocation of the CVD order would likely lead to continuation or recurrence of subsidies at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: March 3, 2005.

FOR FURTHER INFORMATION CONTACT: Hilary Sadler, Esq., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4340.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2004, the Department initiated a sunset review of the CVD order on SSPC from Italy pursuant to section 751(c) of the Act. *See* Initiation of Five-Year (Sunset) Reviews, 69 FR 17129 (April 1, 2004). On October 21, 2004, the Department published the preliminary results of the full sunset review of the CVD on SSPC from Italy. *See Notice of Preliminary Results of Full Sunset Review: Stainless Steel Plate in Coils from Italy* (''preliminary sunset review results''), 69 FR 61800 (October 21, 2004) and the accompanying *Issues and Decision Memorandum for the Full Sunset Review of the Countervailing Duty Order on Stainless Steel Plate in Coils from Italy: Preliminary Results* (''preliminary results decision memorandum'') dated October 15, 2004.[1] In our preliminary sunset review results, we found that benefits from the following programs would likely continue or recur were the order revoked:

(1) Law 675/77;

(2) Law 451/94 Early Retirement Benefits; and

(3) European Social Fund.

On December 6, 2004, the Department received a joint case brief from the Government of Italy (GOI) and the European Commission (EC). *See* Case Brief from the EC and the GOI re: Sunset Review of the Countervailing Duty Order on Stainless Steel Plate in Coils from Italy (December 6, 2004) including separate GOI and EC Attachments. The Department also received a case brief from ThyssenKrupp Acciai Speciali Terni, S.p.A. (''TKAST'') (formerly Acciai Speciali Terni, S.p.A.) in a timely manner. *See* Case Brief from TKAST re: Stainless Steel Plate in Coils from Italy (Sunset) (December 13, 2004). The Department did not receive a case brief from the domestic interested parties but did receive a rebuttal brief to the case briefs submitted by the GOI, EC and TKAST. *See* Rebuttal Brief from Petitioners re: Sunset Review of the Countervailing Duty Order on Stainless Steel Plate in Coils from Italy (December 20, 2004).

Scope of Review

The product covered by this order is certain SSPC. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled SSPC is also excluded from the scope of this order. The excluded cold-rolled SSPC is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process. The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated February 25, 2005, which is hereby adopted by this notice. The issues discussed in the accompanying Decision Memorandum include the likelihood of continuation or recurrence of countervailable subsidies and the net subsidy likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn,* under the heading ''March 2005.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the countervailing duty order on SSPC from Italy would be likely to lead to continuation or recurrence of countervailable subsidies at the rate listed below:

Producers/exporters	Net countervailable subsidy (percent)
TKAST	0.73
All Others	0.73

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or 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 the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Joseph A. Spetrini,

Assistant Secretary for Import Administration.

[FR Doc. E5–863 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–DS–P

[1] For a full discussion of the history of this order prior to the preliminary results of this sunset review, *see* the October 15, 2004, preliminary results decision memorandum.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fishing Capacity Reduction Program Buyback Requests

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.

DATES: Written comments must be submitted on or before May 2, 2005.

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*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Michael A. Sturtevant, (301) 713–2390 or *michael.a.sturtevant@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA has established a program to reduce excess fishing capacity by paying fishermen to (1) surrender their fishing permits or (2) both surrender their permits and either scrap their vessels or restrict vessel titles to prevent fishing. The buybacks can be funded by a Federal loan to the industry or by direct Federal or other funding. Depending upon the type of buyback involved, the program can entail the submission of buyback requests by industry; the submission of bids; referenda, if fishery participants; and reporting of the collection of fees to repay a Federal loan. For buybacks involving State-managed fisheries, the State may need to develop the buyback plan and comply with other information requirements.

II. Method of Collection

Paper forms.

III. Data

OMB Number: 0648–0376.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; individuals or households; and State, local, or tribal government.

Estimated Number of Respondents: 1,272.

Estimated Time Per Response: 6,634 hours for a business plan; 4 hours for a referenda vote; 4 hours for an invitation to bid; 10 minutes to submit a fish ticket; 2 hours for a monthly buyer report; 4 hours for an annual buyer report; 2 hours for a seller/buyer report; 270 hours for a state approval of plans and amendments to state fishery management plan; and 1 hour for advising of any holder or owner claims that conflict with accepted bidders' representations about reduction permit ownership or reduction vessel ownership.

Estimated Total Annual Burden Hours: 38,563.

Estimated Total Annual Cost to Public: $2,000.

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: February 25, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–4059 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021805H]

Request for a Limited Waiver of the Moratorium on Taking Marine Mammals

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

ACTION: Notice of availability.

SUMMARY: The Makah Tribe of Washington State submitted a request to NMFS for a waiver of the moratorium in the Marine Mammal Protection Act on taking marine mammals. The request is available for public inspection.

ADDRESSES: A copy of the request may be obtained by writing Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS/PR2, 1315 East West Highway, Silver Spring, MD 20910

FOR FURTHER INFORMATION CONTACT: Tom Eagle, Office of Protected Resources, 301–713–2322, ext. 105, e-mail *Tom.Eagle@noaa.gov* .

SUPPLEMENTARY INFORMATION:

Electronic Access

The request for waiver and supplemental material are available via the Internet at *http://www.nmfs.noaa.gov/pr/*. See Makah Request for Waiver under ''Recent News and Hot Topics''.

Background

On February 14, 2005, NMFS received a request from the Makah Tribe of Washington State for a waiver of the MMPA's moratorium on taking marine mammals to allow Tribal members to take limited number of Eastern North Pacific gray whales under an aboriginal subsistence quota issued by the International Whaling Commission (IWC). The Makah request to harvest up to 20 whales in a 5–year period; however, in a single year, no more than seven whales could be struck, and no more than five whales could be landed.

MMPA section 101(a) places a moratorium on the taking of marine mammals with limited specific exceptions. MMPA section 101(a)(3)(A) allows and directs NMFS to determine when, to what extent, if at all, and by what means, it is compatible with the MMPA to waive the moratorium. In so doing, NMFS must have due regard for the distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals. Formal procedures for waiving the moratorium and issuing pertinent regulations are described in MMPA section 103(d).

Dated: February 23, 2005.

Laurie K. Allen,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–4048 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022805A]

Mid-Atlantic Fishery Management Council; Tilefish Fishery; Meetings

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

ACTION: Notice of scoping meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council announces its intention to hold scoping meetings to seek public comment on issues to be addressed when developing Amendment 1 to the Tilefish Fishery Management Plan pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1976, as amended. The purpose of these scoping meetings is to solicit input on management issues to be included in Amendment 1.

DATES: Public scoping meetings will be held on Monday, March 21, 2005, at 7 p.m. and Tuesday March 22, 2005, at 7 p.m.

ADDRESSES: Two scoping meetings will be held in March. Dates, times, and locations of the scoping meetings are scheduled as follows:

1. Monday, March 21, 2005, at 7 p.m. — The Southampton Inn, 91 Hill Street, Southampton, NY 11968 (telephone 631–283–6500).

2. Tuesday, March 22, 2005, at 7 p.m. — Clarion Hotel and Convention Center-Atlantic City West, 6821 Black Horse Pike, Atlantic City, EHT, NJ 08234 (telephone 800–782–9237 or 609–272–0200).

FOR FURTHER INFORMATION CONTACT: Mr. Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street Suite 2115, Dover, DE 19904 (telephone 302–674–2331).

SUPPLEMENTARY INFORMATION: It is anticipated that the following issues will be discussed at these meetings: (1) The possible implementation of an individual fishing quota system; (2) consideration of possible new methods to collect landings information for the commercial fishery; (3) recreational management measures; (4) a required minimum hook size and/or hook configuration in the commercial tilefish fishery; and (5) methods to allow new entrants into the commercial fishery as the stock recovers.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Debbie Donnangelo at the Mid-Atlantic Council, telephone (302) 674–2331, at least 5 days prior to the meeting date.

Dated: February 28, 2005.

Alan D. Risenhoover,

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

[FR Doc. E5–840 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022505C]

North Pacific Fishery Management Council; Notice of Public Meeting

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

ACTION: Meetings of the North Pacific Fishery management Council Gulf Rationalization Community Committee.

SUMMARY: The North Pacific Fishery Management Council (Council) Scallop Plan Team will meet at the Clarion Suites, in Anchorage, AK.

DATES: March 3, 2005, 9 am – 5 pm, Glacier Room.

ADDRESSES: Clarion Suites, 325 W 8th Avenue, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Committee will review and revise Plan Team terms of reference, review the status of Statewide Scallop stocks. Compile Stock Assessment Fishery Evaluation report. Discuss research needs, review revised Fishery Management Plan, observer program, update on Council action with respect to approval of Amendment 10, discussion of Fishermen's Cooperative Marketing Act, scallop cooperative and scallop fishery.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: February 28, 2005.

Alan D. Risenhoover,

Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–894 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

[Docket No.: 050225045–5045–01]

Privacy Act of 1974: System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA System-16; Crab Economic Data Report for Bering Sea/Aleutian Islands Management Area (BSAI) off the coast of Alaska.

SUMMARY: This notice establishes the Department's proposal for a new system of records under the Privacy Act. The National Marine Fisheries Service (NMFS), Alaska Region, is creating a new system of records for the mandatory collection of crab economic data. Eight versions of a form, specific to the four types of crab activity and one specific for historical information that occurred prior to the Crab Rationalization Program and one for annual information to be submitted annually, entitled, ''Crab Economic Data Report (EDR),'' will be used to collect information on costs of fishing and processing, revenues for harvesters and processors, and employment information required under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Information obtained through the EDR would be accessible by the independent Data Collection Agent (DCA) under cooperative agreement with NMFS, Alaska Region, to distribute forms, receive forms, review, and verify information in the crab economic surveys (*see* SYSTEM LOCATION). Each vessel owner or lessee and each plant owner or lessee that participated in the specified crab fisheries since 1996 will be required to submit a EDR to the DCA by mail, FAX, or electronic file.

DATES: To be considered, written comments must be submitted on or before April 4, 2005. Unless comments are received, the new system of records

will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK , 99802, Attn: Lori Durall, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK, 99802.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: NMFS, Alaska Region, is creating a new system of records for two purposes: The first is to evaluate the economic effects of the Crab Rationalization Program, specifically the effects on the harvesting and processing sectors, to determine the economic efficiency and distributional effects of the Program. The second is to provide information to the Department of Justice and Federal Trade Commission to assist in anti-trust analysis of the Program. All vessel owners or lessees and plant owners or lessees who participated in the specified crab fisheries since 1996 will be required to submit the appropriate EDR (specific to the type of activity and whether historical or annual) to the NOAA-approved DCA. The owner will identify lessee on the EDR (name and other contact information). If the vessel or plant owner or lessee did not conduct crab activity for a given year, he or she would send in only the certification page from the EDR for that year declaring no activity for that year.

The system is designed as follows: (1) Participants will be required to submit a historical EDR and an annual EDR to the NOAA-approved DCA; (2) The DCA will provide the EDR information without individual identifiers to NMFS Alaska Region, State of Alaska Department of Fish and Game, and the North Pacific Fishery Management Council; (3) Upon request, the DCA will provide the EDR information with individual identifiers to NOAA Office for Enforcement and the U.S. Coast Guard, and (4) Upon request, DCA will provide the EDR information with individual identifiers to the DOJ and FTC to assist in anti-trust analysis of the Program.

COMMERCE/NOAA–16

SYSTEM NAME:

Crab Economic Data Report (EDR) for BSAI off the coast of Alaska.

SYSTEM CLASSIFICATION:

None.

SYSTEM LOCATION:

Pacific States Marine Fisheries Commission, 612 West Willoughby Avenue, Juneau, Alaska, 99802.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners or lessees of vessels that harvest or process crab beginning with year 1996, including all future data, and owners or lessees of plants that process crab beginning with 1996, including all future data. Crew members. Captains (operators) of vessels.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes records for historical, annual, and current EDRs including financial information, crab harvest activity and cost, crab product and cost information, labor cost information for crew, and crab sales information. Each report includes the following: the name, title, telephone number, FAX number, and e-mail address of the person completing the EDR; name and address of the owner or lessee of the plant or vessel; Federal fisheries permit number; Federal processor permit number; Alaska vessel registration number; crew license number and city of residence, assigned internal individual identifier.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 313(j) of the Magnuson-Stevens Act, 16 U.S.C. 1853.

PURPOSE(S):

This information will permit: The evaluation of the economic effects of the Crab Rationalization Program (Program), specifically the harvesting and processing sectors; the determination of the economic efficiency and distributional effects of the Program; and distribution of information to the Department of Justice and Federal Trade Commission to assist in anti-trust analysis of the Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS OF AND THE PURPOSES OF SUCH USES:

These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates or is relevant to a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, or rule, regulation or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records, including individual identifiers, may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department. That agency may disclose such records in the course of conducting its investigation.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures during the course of litigation, such as through discovery or to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed without individual identifiers to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

5. A record in this system of records may be disclosed with individual identifiers to Department of Justice and the Federal Trade Commission when such records are requested by those agencies for anti-trust analyses or enforcement proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized data base; electronic storage media; paper records in file folders in locked cabinets.

RETRIEVABILITY:

May be retrieved by NMFS internal identification number, name of owner or lessee, vessel permit number, plant permit number, crew license number, vessel name, or plant name; however, records can be accessed by any file element or any combination thereof.

SAFEGUARDS:

Buildings where the records are maintained employ security systems with locks and access limits. Only those that have the need to know, to carry out the official duties of their job, have access to the information. Computerized

data base is password protected and access is limited. Paper records are maintained in secured file cabinets in areas that are accessible only to authorized personnel of DCA. NMFS, Alaska Region, contractors, to whom access to this information is granted in accordance with this system of records routine uses provision, are instructed on the confidential nature of this information.

RETENTION AND DISPOSAL:

All records shall be retained and disposed of in accordance with National Archives and Records Administration regulations (36 CFR subchapter B—Records Retention); Departmental directives and comprehensive records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Pacific States Marine Fisheries Commission, 612 West Willoughby Avenue, Juneau, Alaska 99802.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the System Manager. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

The Department's rules for accessing records, contesting contents, and appealing initial determinations are published in 15 CFR part 4b or may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information contained in the files is obtained from the individual EDRs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: February 25, 2005.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 05–4108 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 040825246–4246–01]

Privacy Act of 1974; System of Records

AGENCY: Department of Commerce.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA System-17, Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska.

SUMMARY: This notice announces the Department of Commerce's (Department's) proposal for a new system of records under the Privacy Act. The National Marine Fisheries Service (NMFS), Alaska Region is creating a new system of records for permits and non-permit registrations used in a variety of management programs for commercial, recreational, and subsistence fisheries. NMFS requires the use of permits or registrations by participants in the fisheries of the EEZ off the coast of Alaska. Applications for various types of permits and registrations would be used to collect information from individuals under authority of the Magnuson-Stevens Act and the North Pacific Halibut Act of 1982. Applications for the various types of permits and registrations are necessary to determine the identification of participants and to evaluate the qualifications of the applicants.

DATES: To be considered, written comments must be submitted on or before April 4, 2005. Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802, Attn: Lori Durall, or delivered to the Federal Building, 709 West 9th Street, Juneau, Alaska, 99801.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: The NMFS, Alaska Region is creating a new system of records for permits and non-permit registrations used in a variety of management programs for commercial, recreational, and subsistence fisheries. NMFS requires the use of permits or registrations by participants in the fisheries of the EEZ off the coast of Alaska and for halibut in all waters off Alaska. Applications for various types of permits and registrations would be used to collect information from individuals under authority of the Magnuson-Stevens Act and/or the Halibut Act of 1982. Applications for the various types of permits and registrations are necessary to determine the identification of participants and to evaluate the qualifications of the applicants. NMFS, Alaska Region issues permits or registrations for the programs listed below. Not all of the permit applications request the social security number (SSN). Where the SSN is requested, bracketed information indicates whether the response to the request is voluntary [SSN voluntary] or mandatory [SSN mandatory]. If mandatory, the authority for this type of collection is the Debt Collection Improvement Act, 31 U.S.C. 7701.

- American Fisheries Act Permits (pollock): Catcher vessel [SSN voluntary], catcher/processor, mothership [SSN voluntary], inshore processor [SSN voluntary], inshore cooperative, inshore vessel contract fishing, and replacement vessel [SSN voluntary].
- Western Alaska Community Development Quota (CDQ) Program Halibut CDQ Permit (Pacific halibut), CDQ Landing Cardholder or Hired Master [SSN voluntary], Registered Buyer Permit [SSN voluntary].
- Exempted Fisheries Permit (NOAA-approved studies).
- Prohibited Species Donation Program Permit.
- Federal Fisheries Permit (groundfish catcher vessels, catcher/processors and motherships) [SSN voluntary].
- Federal Processor Permit (groundfish shoreside processors and stationary floating processors) [SSN voluntary].
- Halibut Subsistence Rural Resident Registration and Halibut Subsistence Alaska Native Tribal Registration (Pacific halibut).
- Individual fishing quota (IFQ) halibut and sablefish permits (Pacific halibut and sablefish): Eligibility to receive quota share/individual fishing quota (QS/IFQ) [SSN mandatory], IFQ Hired Master [SSN voluntary], Registered Buyer Permit [SSN voluntary], Transfer eligibility certificate [SSN mandatory], QS/IFQ Transfer [SSN mandatory], QS/IFQ Transfer by Sweep-up [SSN mandatory].
- License Limitation Program permit for groundfish, crab, or scallops [SSN voluntary].
- Prohibited Species Donation Permit (Pacific halibut and salmon).
- Crab IFQ of the Bearing Sea and Aleutian Islands Management Area (BSAI) off the coast of Alaska permits: Crab Quota Share (QS) or Processor Quota Share (PQS) [SSN mandatory], Crab Individual Fishing/Individual Processing IFQ/IPQ Permit [SSN voluntary], Registered Crab Receiver Permit [SSN mandatory], Federal Crab Vessel Permit [SSN voluntary], Application to Become An Eligible Crab

Community Organization (ECCO), Eligibility to Receive Crab QS/IFQ or PQS/IPQ by Transfer [SSN mandatory], Transfer of Crab QS/IFQ or PQS/IPQ [SSN mandatory], Transfer QS/IFQ to or from an ECCO, Application for Inter-cooperative transfer, Request for Replacement of Lost/Destroyed Permit or Registration [SSN voluntary].

COMMERCE/NOAA–17

SYSTEM NAME:

Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Marine Fisheries Service (NMFS), Alaska Region, 709 West Ninth Street, Juneau, Alaska 99801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners of catcher vessels, catcher/processors, motherships, and tender or support vessels. Owners of shoreside processors and stationary floating processors. Applicants seeking to become authorized distributors of prohibited species, salmon and halibut. Applicants seeking permission to fish in a manner that would otherwise be prohibited in order to conduct limited experimental fishing. Individuals who apply for any permit or registration, initially, annually, or by transfer. Individuals who wish to hire masters to fish a person's permit. Persons receiving halibut or sablefish individual fishing quota (IFQ) or Western Alaska Community Development Quota Program (CDQ) halibut from harvesting vessel; vessel operators and persons making certain types of transfers of IFQ fish and of CDQ halibut from the harvesting vessel. Persons applying for or receiving crab quota share (QS), processor quota share (PQS), IFQ, or individual processing quota (IPQ). Individuals hiring a master for crab. Persons offloading processed crab IFQ or receiving unprocessed crab harvested under an IFQ permit. Residents of an Alaska rural community as defined in 50 CFR 300.61. Members of Alaska Native tribes as defined in 50 CFR 300.61.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant name, address, telephone number, FAX number, e-mail address, date of birth, home telephone number, National Marine Fisheries Service internal identification number, and social security number (both mandatory and voluntary collections). Mandatory collection of social security numbers for: (1) Individual fishing quota halibut and sablefish permits: Eligibility to receive quota share/individual fishing quota; Transfer eligibility certificate; Quota share/individual fishing quota Transfer; Quota share/individual fishing quota Transfer by Sweep-Up; (2) Crab individual fishing quota of the Bearing Sea and Aleutian Islands Management Areas off the coast of Alaska permits: Crab Quota Share or Processor Quota Share; Registered Crab Receiver Permit; Eligibility to Receive Crab quota share/individual fishing quota or processor quota share/individual processing quota by Transfer; Transfer of Crab quota share/individual fishing quota or processing quota share/individual processing quota. Community of residence. Name of Alaska Native tribe. Citizenship. Printed name and signature. Reference names. Name of intended hired master and same personal information as for applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853; North Pacific Halibut Act of 1982, 16 U.S.C. 773; Debt Collection Improvement Act, 31 U.S.C. 7701.

PURPOSE(S):

This information will allow the identification and evaluation of participants in the various fisheries in the EEZ off the coast of Alaska; and of the Pacific halibut fishery in all waters off the coast of Alaska.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, or rule, regulation or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to a member of Congress submitting a request involving an individual when the individual has requested assistance from the member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

5. A record in this system of records may be disclosed to approved persons of the State of Alaska under an Interagency Cooperative Data Sharing Agreement, for the purpose of co-managing a fishery or for making determinations about eligibility for permits when State data are all or part of the basis for the permits.

6. A record in this system of records may be disclosed to North Pacific Fishery Management Council (Council) staff and contractors tasked with development of analyses to support Council decisions about fishery management programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized data base; electronic storage media; paper records in file folders in locked cabinets.

RETRIEVABILITY:

May be retrieved by NMFS internal identification number, name of applicant, vessel permit number, plant permit number, vessel name, or plant name; however, records can be accessed by any file element or any combination thereof.

SAFEGUARDS:

Buildings employ security systems with locks and access limits. Only those that have the need to know, to carry out the official duties of their job, have access to the data. Computerized data base is password protected and access is limited. Paper records are maintained in secured file cabinets in areas that are accessible only to authorized personnel. Safeguards exist on the computer

network where databases are stored. NMFS' contractors, to whom access to this information is granted in accordance with this system of records routine uses provision, are instructed on the confidential nature of this information.

RETENTION AND DISPOSAL:

All records shall be retained and disposed of in accordance with National Archives and Records Administration regulations (36 CFR subchapter b—Records Retention), Departmental directives and comprehensive records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

NMFS, Alaska Region, 709 West Ninth Street, Juneau, Alaska 99801.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the System Manager. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Requests from individuals regarding this system of records should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR part 4b. Use address contained in the notification section.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained provides information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: February 25, 2005.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 05–4109 Filed 3–2–05; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed renewal of its AmeriCorps*VISTA Project Progress Report (OMB Control Number 3045–0043), The previously approved Progress Report will expire on May 31, 2005.

This reinstatement with changes reflects the Corporation's intent to modify selected sections of the collection instrument to reflect changes in data considered ''core reporting'' information to meet a variety of needs, including adding new data elements as needed to ensure information collection captures appropriate data for the Corporation's required performance measurement and other reporting.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by May 2, 2005.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Attn. Carol Rogers, Senior Program Specialist, Room 9201, 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday except Federal holidays.

(3) By fax to: (202) 565–2789, Attention Ms. Carol Rogers, Senior Program Specialist.

(4) Electronically through the Corporation's e-mail address system: *crogers@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rogers (202) 606–5000, ext. 419, or by e-mail at *crogers@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and,
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submissions of responses).

Background

The Progress Report (PPR) was designed to assure that AmeriCorps*VISTA sponsors address and fulfill legislated program purposes, meet agency program management and grant requirements, and assess progress toward project plan goals agreed upon in the signing of the Memorandum of Agreement.

Current Action

The Corporation seeks to revise the previously used PPR to: (a) Enhance data elements collected via this information collection tool; (b) migrate the paper version of the form to the Corporation's electronic grants management system, eGrants; and (c) establish reporting periods consistent with the Corporation's integrated grants management and reporting policies.

The Corporation anticipates making available to all AmeriCorps*VISTA sponsors and grantees a revised PPR by April 1, 2005.

The revised PPR will be used by AmeriCorps*VISTA sponsors and grantees the report progress toward accomplishing work plan goals and objectives, reporting actual outcomes related to self-nominated performance measures meeting challenges encountered, describing significant activities, and requesting technical assistance. Submission requirements are proposed to remain unchanged: All projects will submit the PPR quarterly.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA Project Progress Report.

OMB Number: 3045–0043.

Agency Number: None.

Affected Public: AmeriCorps*VISTA sponsoring organizations, site supervisors, and members.

Total Respondents: 1300.

Frequency: Quarterly.

Average Time Per Response: 14.7 hours.

Estimated Total Burden Hours: 19,110 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 27, 2005.

Kathleen Ferguson,

*Acting Director, AmeriCorps*VISTA.*

[FR Doc. 05–4151 Filed 3–2–05; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed renewal of its Engaging Persons with Disabilities in National and Community Service Application Instructions using the Corporation's Electronic Application System, eGrants. Completion of the Engaging Persons with Disabilities in National and Community Service Application Instructions is required to be considered for funding.

Copies of the information collection requests can be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 2, 2005.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Office of Grants Policy and Operations; Attention Ms. Marci Hunn, Program Officer; 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 565–2787, Attention Ms. Marci Hunn, Program Officer.

(4) Electronically through the Corporation's e-mail address system: *DisabilityOutreach@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Marci Hunn, (202) 606–5000, ext. 280 or by e-mail at *DisabilityOutreach@cns.gov.*

SUPPLEMENTARY INFORMATION: 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 Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submissions of responses).

Description

The purpose of this grant competition is to engage persons with disabilities in national and community service programs. Through Congressional appropriations, this competition was established to fund innovative national or regional partnership models in which organizations serving the disability community connect with volunteer and community service organizations or educational institutions to engage more Americans with disabilities in national and community service. This information collection contains application instructions to apply for funding under the Engaging Persons with Disabilities in National and Community Service competition.

Background

The Application Instructions are completed by applicant organizations interested in supporting an Engaging Persons with Disabilities in National and Community Service grant program. The application is completed electronically by using the Corporation's Web-based system, eGrants.

Current Action

The Corporation seeks to renew and revise application instructions for Engaging Persons with Disabilities in National and Community Service Application Instructions using the eGrants system. When revised, the application will include additional instructions to clarify narrative and work plan sections; will contain an updated list of ''Service Categories'' used by applicants to identify the types of needs the national service participants will meet; and will contain current references used in the grants management system. The application will otherwise be used in the same manner as the existing application.

Type of Review: New information collection; currently approved through emergency clearance.

Agency: Corporation for National and Community Service.

Title: Engaging Persons with Disabilities in National and Community Service Application Instructions.

OMB Number: 3045–0106.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding for Engaging Persons with Disabilities in National and Community Service grants.

Total Respondents: 120.

Frequency: Annual.

Average Time Per Response: Ten (10) hours.

Estimated Total Burden Hours: 1,200 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 25, 2005.

Marlene Zakai,

Director, Office of Grants Policy and Operations.

[FR Doc. 05–4152 Filed 3–2–05; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 2, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 25, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs; businesses or other for-profit; not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 66.

Burden Hours: 1,056.

Abstract: This data collection will be conducted annually to obtain program and performance information from the AIVRS grantees on their project activities. The information collected will assist Federal Rehabilitation Services Administration (RSA) staff in responding to the Government Performance and Results Act (GPRA). Data will primarily be collected through an Internet form.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2694. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–4055 Filed 3–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Alaska Native Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.356A.

DATES: *Applications Available:* March 3, 2005.

Deadline for Transmittal of Applications: April 18, 2005.

Eligible Applicants: (a) Alaska Native organizations;

(b) Educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages;

(c) Cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives; and

(d) Consortia of organizations and entities described in this paragraph.

Note: A State educational agency or local educational agency may apply for an award under this program only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

Estimated Available Funds: $7,300,000. Contingent upon the availability of funds and quality of applications, the Secretary may make additional awards in FY 2006 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $315,000–$630,000.

Estimated Average Size of Awards: $400,000.

Estimated Number of Awards: 12–22.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to develop and support supplemental educational programs to benefit Alaska Natives. Permissible activities under this program include the following: (1) Development and implementation of plans, methods, and strategies to improve the education of Alaska Natives; (2) development of curricula and educational programs that address the educational needs of Alaska Native students; (3) professional development activities for educators; (4) development and operation of home instruction programs for Alaska Native preschool children, to ensure the active involvement of parents in their

children's education from the earliest ages; (5) family literacy services; (6) development and operation of student enrichment programs in science and mathematics; (7) research and data collection activities to determine the educational status and needs of Alaska Native children and adults; (8) other research and evaluation activities related to programs carried out under Alaska Native education programs; (9) remedial and enrichment programs to assist Alaska Native students in performing at a high level on standardized tests; (10) education and training of Alaska Native students enrolled in a degree program that will lead to certification or licensing as teachers; (11) parenting education for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including skills relating to discipline and cognitive development and parenting education provided through in-home visitation of new mothers); (12) activities carried out through Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and Head Start programs under the Head Start Act, including the training of teachers for Even Start and Head Start programs; (13) other early learning and preschool programs; (14) dropout prevention programs; (15) career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing ''tech-prep,'' mentoring, training, and apprenticeship activities; (16) provision of operational support and purchasing of equipment to develop regional vocational schools in rural areas of Alaska, including boarding schools, for Alaska Native students in grades 9 through 12, or at higher levels of education, to provide the students with necessary resources to prepare for skilled employment opportunities; (17) construction of facilities that support the operation of Alaska Native education programs; and (18) other activities, consistent with the purposes of this program, to meet the educational needs of Alaska Native children and adults.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 7304(c) of ESEA (20 U.S.C. 7544(c)).

Competitive Preference Priority: For FY 2005 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional 5 points to an application that meets this priority.

This priority is:

The Secretary shall give priority to applications from Alaska Native regional nonprofit organizations, or consortia that include at least one Alaska Native regional nonprofit organization. In order to receive a competitive preference under this priority, an application must provide documentation supporting its claim that it meets this priority.

Program Authority: 20 U.S.C. 7541, *et seq.*; Consolidated Appropriations Act, 2005 (Pub. L. 108–447).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $7,300,000. Contingent upon the availability of funds and quality of applications, the Secretary may make additional awards in FY 2006 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $315,000—$630,000.

Estimated Average Size of Awards: $400,000.

Estimated Number of Awards: 12–22.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) Alaska Native organizations;

(b) Educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages;

(c) Cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives; and

(d) Consortia of organizations and entities described in this paragraph to carry out programs that meet the purposes of this program.

Note: A State educational agency or local educational agency may apply for an award under this program only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address To Request Application Package:* Alexis Fisher, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W217, Washington, DC 20202–6200. Telephone: (202) 401–0281 or by e-mail: *alexis.fisher@ed.gov*.

You may also obtain the application electronically by downloading it from the following Web site: *http://www.ed.gov/programs/alaskanative/applicant.html*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Applicants are strongly encouraged to limit the application narrative (text plus all figures, charts, tables, and diagrams) to the equivalent of no more than 25 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, one-page proof of eligibility, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

3. *Submission Dates and Times:*

Applications Available: March 3, 2005.

Deadline for Transmittal of Applications: April 18, 2005.

Applications for grants under this competition must be submitted

electronically using the Electronic Grant Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This competition is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* Under section 7304(b) of the ESEA (20 U.S.C. 7544(b)), not more than five percent of funds provided to a grantee under this competition for any fiscal year may be used for administrative purposes.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically, unless you qualify for an exception to this requirement in accordance with the instructions in this section.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

a. *Electronic Submission of Applications.*

Applications for grants under the Alaska Native Education Program—CFDA Number 84.356A—must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgement that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the attention of the Alaska Native Education Program at (202) 742–5418.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of the Department's e-Application system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the e-Application system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Department's e-Application system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the

Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Alexis Fisher, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W217, Washington, DC 20202–6200. Fax: (202) 260–8969.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.356A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.356A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* We will use the following selection criteria from 34 CFR 75.210 to evaluate applications for new grants under this competition. The maximum score for all criteria is 100 points. The maximum score for each criterion is indicated in parentheses.

The selection criteria for this competition are as follows:

(a) *Need for Project* (20 points). In determining the need for the proposed project, the Secretary considers the magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(b) *Quality of Project Design* (30 Points). In determining the quality of the design of the proposed project, the Secretary considers the extent to which the design of the proposed project is appropriate to and will successfully address the needs of the target population or other identified needs.

(c) *Quality of Project Personnel* (15 Points). In determining the quality of project personnel who will carry out the proposed project, the Secretary considers the following factors:

(i) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(ii) The qualifications, including relevant training and experience, of key project personnel.

(d) *Adequacy of Resources* (15 Points). In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which the budget is adequate to support the proposed project.

(e) *Quality of Project Evaluation* (20 Points). In determining the quality of the evaluation for the proposed project, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial

expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The Alaska Native Education program seeks to support supplemental education programs to benefit Alaska Native populations. The Department uses the following performance targets to measure the program's success: (1) An increased percentage of Alaska Native students will meet or exceed proficiency standards in mathematics, science, or reading; (2) an increased percentage of Alaska Native children will improve on measures of school readiness; and (3) the dropout rate of Alaska Native middle and high school students will decrease.

Each grantee is expected to submit an annual performance report documenting its contributions in assisting the Department in meeting these performance measures.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Alexis Fisher, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W217, Washington, DC 20202–6200. Telephone: (202) 401–0281 or by e-mail: *alexis.fisher@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

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Dated: February 25, 2005.

Raymond J. Simon,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 05–4106 Filed 3–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technology and Media Services for Individuals With Disabilities—Research on Technology Effectiveness and Implementation for Children With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327R.

DATES: *Applications Available:* March 4, 2005.

Deadline for Transmittal of Applications: April 15, 2005.

Deadline for Intergovernmental Review: June 14, 2005.

Eligible Applicants: State educational agencies (SEAs); local educational agencies (LEAs); public charter schools that are LEAs under State law; institutions of higher education (IHEs); other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Estimated Available Funds: $600,000.

Maximum Award: The Secretary does not intend to fund an application that proposes a budget exceeding $600,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the program is to: (1) Improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational media services activities designed to be of educational value in the classroom setting to children with disabilities; and (3) provide support for captioning and video description that is appropriate for use in the classroom setting.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from allowable activities specified in the statute (*see* sections 674 and 681(d) of the Individuals With Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2005 this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is: *Technology and Media Services for Individuals With Disabilities—Research on Technology Effectiveness and Implementation for Children With Disabilities.*

Background: Recent years have witnessed the emergence of a technology-based instructional medium that has been variously termed ''electronic text'', ''digital text'', ''hypertext'', ''hypermedia'', ''supported text'', and other similar terms. In this priority, the expression ''electronic text'' will be used.

Specific features and capabilities of ''electronic text'' vary, but the following eight types of resources, proposed by Horney & Anderson-Inman (1999),[1] can be used as a basic (but not necessarily exhaustive) reference set to define ''electronic text'' as used in this priority—

(1) Translational resources that provide the reader with an alternate form for words or phrases that might be problematic (*e.g.*, language translation or text-to-speech);

(2) Illustrative resources that provide the reader with examples, illustrations, or comparisons of a concept or set of concepts, often taking advantage of multimedia such as graphics, animation, or sound;

(3) Summarizing resources that provide an overview of the text's structure, content, or major features, for example in outline form (*e.g.*, a table of contents with each title linked to its appropriate page in the text) or in graphic form (*e.g.*, a concept map of key ideas in the document or a timeline of major events);

(4) Instructional resources that prompt students to learn by guiding their interaction with the text, for example by means of questions embedded in the text, tutorials, or assignments;

(5) Enrichment resources that augment the main body of the text with material that is related to, but not actually necessary for, comprehension, such as photos or sound clips;

(6) Notational resources that enable students to support their reading by

[1] Horney, M. A. & Anderson-Inman, L. (1999). Supported Text in Electronic Reading Environments. Reading & Writing Quarterly, 15, 127–168.

such activities as recording observations, summarizing main ideas, or marking parts of the text;

(7) Collaborative resources that promote the process of joint construction of meaning when reading from text (*e.g.*, collaborative projects shared electronically); and

(8) General-purpose resources that support the content of an electronic book with information that is relevant but never designed to be a part of the book, such as a dictionary linked to an electronic book but not designed specifically for that book.

In electronic text, these resources are generally under the learner's control and are accessed by means of ''buttons,'' specially-marked words, or images located in or near the text.

Electronic text has a number of potential benefits for students with disabilities. For example, it can provide supports to compensate for learning difficulties, sensory impairments, and academic skill deficits. Recently, a National Instructional Materials Accessibility Standard (NIMAS) was developed through an OSEP-funded grant. This new standard is expected to streamline the production of accessible textbooks to students who are blind or print-disabled, and holds tremendous promise related to addressing the needs of a much broader range of students with disabilities.

Toward this end, the Department of Education is funding two centers to support further development and implementation of NIMAS. The NIMAS Technical Assistance Center will provide information and technical assistance to States to improve their effectiveness and efficiency in providing accessible instructional materials to students with disabilities. The NIMAS Development Center will provide national leadership to develop the standard further, including making recommendations about updating and revising NIMAS to take into account advances in technology and to address the needs of a broader range of students with disabilities and evaluating whether adoption of the NIMAS standard results in greater and more timely availability of materials.

Notwithstanding the foregoing, research to document the benefits of electronic text for students with disabilities is not entirely conclusive. While some studies have found electronic text or some of its features to be effective in improving reading comprehension, other studies have found no effects, or inconsistent effects (MacArthur, Ferretti, Okolo, & Cavalier, 2001 [2]). Moreover, resources added to text to provide access for one population of students may create accessibility barriers for others (*e.g.*, graphic features may not be accessible to students with visual disabilities, hyper-linked resources or graphic organizers may increase cognitive demands and thus create barriers for students with cognitive disabilities). Finally, the effectiveness of electronic text in widespread use in typical educational environments has not been fully explored.

Priority

This priority supports one cooperative agreement for a Center to conduct a systematic program of research on the use of electronic text to advance the principles of universal design (*i.e.*, design of products that will be usable by all people, to the greatest extent possible, with minimal need for additional adaptations and accommodations) related to the development of curriculum and instructional materials that are accessible to all students with disabilities, in order to improve access to and progress in the general curriculum for students with disabilities.

Applicants must:

(a) Propose an operational definition of electronic text to be used in a program of research. This definition must incorporate at least five of the eight types of resources discussed in the *Background* section, and can include additional types of resources.

(b) Demonstrate that they have access to existing electronic text materials so that research can proceed quickly with minimal time devoted to additional development.

(c) Demonstrate knowledge of the state of practice in terms of use of products, sources of products, and research on electronic text.

(d) Present a plan for conducting a program of research to answer the following questions: (1) Does electronic text improve learning of academic content in actual educational settings with typical resources and levels of teacher support? (2) What characteristics of electronic text facilitate or impede access to and learning of academic content? (3) What student characteristics (*e.g.*, disability, technology skills) and contextual factors (*e.g.*, teacher training, hardware resources, student groupings) influence the effectiveness of electronic text?

This plan may focus on specific academic content areas, student ages, and implementations of electronic text, but, at a minimum, must address each of the three research questions separately for each of these populations: Students with learning disabilities, students with mental retardation, students with visual impairments or blindness, students with hearing impairments or deafness, and students with physical disabilities.

These research questions are intended to test causal relationships, and the research must employ rigorous experimental designs using randomized assignment or repeated measures unless a compelling case is made that such designs are not possible and that other designs, such as quasi-experiments with matched groups and statistical controls, can be used to determine treatment effects.

Applicants must fully describe methodologies and must provide documentation that available sample sizes and methodologies are sufficient to produce the statistical power needed to yield conclusive findings. Experimental research may be supplemented with qualitative or non-experimental methodologies, provided sufficient rigor is maintained.

The plan must provide for conducting the majority of research in actual educational environments using typical resources and levels of teacher support.

Once funded, the Center must:

(a) Establish a technical review board to review its operational definition of electronic text and its research plans, and identify any needed improvements.

(b) Revise its operational definition of electronic text and its research plan in accordance with comments from the technical review board and instructions from the U.S. Department of Education.

(c) Conduct the program of research called for in its plan, taking appropriate steps to ensure that the research is rigorous and objective. Toward this end, the Center must maintain communication with the U.S. Department of Education and the technical review board to identify needed corrective actions.

(d) Coordinate and collaborate with the NIMAS Development Center and the NIMAS Technical Assistance Center. This coordination must be designed to minimize duplication of effort and to ensure that the research conducted under this competition supports, to the maximum possible extent, the further development and implementation of NIMAS.

(e) Disseminate findings to appropriate audiences. The Center must submit reports for publication in peer-

[2] MacArthur, C.A., Ferretti, R.P., Okolo, C.M., & Cavalier, A.R. (2001). Technology applications for students with literacy problems: A critical review. The Elementary School Journal, 101(3), 273–301.

reviewed professional journals and for presentation at professional conferences, and must post reports on a Web site that meets a government or industry-recognized standard for accessibility.

(f) Formulate research-based guidelines for the development and use of electronic text to improve access to and progress in the general curriculum for students with disabilities. These guidelines must be designed to reflect, to the maximum possible extent, the implementation and possible further development of NIMAS.

(g) Budget for a two-day Research Project Directors' meeting, a two-day Technology Project Directors' meeting, and a two-day Technical Assistance and Dissemination Project Directors' meeting, each in Washington, DC during each year of the project.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities. However, section 681(d) of the IDEA makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $600,000.

Maximum Award: The Secretary does not intend to fund an application that proposes a budget exceeding $600,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs; public charter schools that are LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

3. *Other: General Requirements*—(a) The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (*see* section 606 of the IDEA).

(b) Applicants and grant recipients funded under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the projects (see section 682(a)(1)(A) of the IDEA).

IV. Application and Submission Information

1. *Address To Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.327R.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team listed in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 70 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, the letters of support, or the appendix. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: March 4, 2005.

Deadline for Transmittal of Applications: April 15, 2005.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 14, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.* We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new government wide Grants.gov Apply site in FY 2005. Research on Technology Effectiveness and Implementation for Children With

Disabilities—CFDA Number 84.327R is one of the competitions included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (*http://www.grants.gov*). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for the Research on Technology Effectiveness and Implementation for Children with Disabilities—CFDA Number 84.327R competition at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.
- If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that your application is submitted timely to the Grants.gov system.
- To use Grants.gov, you, as the applicant, must have a D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.* If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327R), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.327R), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327R), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department: (1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), the Department is currently developing measures that will yield information on various aspects of the quality of the Technology and Media Services to Improve Services and Results for Children with Disabilities program (*e.g.*, the extent to which projects are of high quality and are relevant to the needs of children with disabilities). Data on these measures will be collected from the projects funded under this competition.

Grantees will also be required to report information on their projects' performance in annual reports to the Department (34 CFR 75.590).

We will notify grantees of the performance measures once they are developed.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Dave Malouf, U.S. Department of Education, 400 Maryland Avenue, SW., room 4078, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7427.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request by contacting the following office: The Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: February 24, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–4103 Filed 3–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—State and Federal Policy Forum for Program Improvement; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326F.

DATES: *Applications Available:* March 4, 2005.

Deadline for Transmittal of Applications: April 15, 2005.

Deadline for Intergovernmental Review: June 14, 2005.

Eligible Applicants: State educational agencies (SEAs), local educational agencies (LEAs) public charter schools that are LEAs under State law, institutions of higher education (IHEs), other public agencies, private nonprofit organizations, for-profit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

Estimated Available Funds: $450,000.

Maximum Award: The Secretary does not intend to fund an application that proposes a budget exceeding $450,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide technical assistance and dissemination of useful information to improve services to children with disabilities by applying scientifically based findings to facilitate systemic changes in policy, procedure, practice and the training and use of personnel. Specifically, the program authorizes activities including those that assist States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational and transitional results for children with disabilities.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663(b), 663(c), and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2005 this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—State and Federal Policy Forum for Program Improvement.

Background: Access to information is critical for decision makers and policy officials to ensure that appropriate and effective education is available for all eligible children with disabilities, and early intervention services are available to all eligible infants and toddlers with disabilities. State and Federal decision makers responsible for the implementation of IDEA must have access to valid statistics, research findings, policy analyses, and current information on trends in the provision of special education and related services and early intervention services.

The Office of Special Education Programs (OSEP), within the Office of

Special Education and Rehabilitative Services (OSERS), is the principal agency within the Department of Education responsible for Federal administration of IDEA. SEAs, and certain other designated State agencies under Part C of IDEA oversee the administration of IDEA at State and local levels. The project funded under this competition will provide access to and analysis of administrative and policy information generated by the States and other jurisdictions, and will facilitate coordination between OSEP and State and local administrators of IDEA.

Priority: The Assistant Secretary establishes a priority to facilitate communication between OSEP and State and local administrators of IDEA, and to synthesize national program information that will improve the management, administration, delivery, and effectiveness of programs and services provided under IDEA. The cooperative agreement funded under this priority will provide OSEP with a mechanism and resources for analyzing policies and emerging issues that are of significant national concern.

In order to meet the requirements of this priority, the project must—

(a) Identify national and State needs for program improvement information through contact with experts, research reviews, regular communication with State and local policy officials and other types of needs assessments, and in conjunction with OSEP staff. Such information is critical to obtain better results for infants, toddlers, children, and youth with disabilities;

(b) Collect, organize, synthesize, interpret and integrate information needed for program improvement using a variety of methods and formats, consistent with the nature of the data and the types of entities performing the specific tasks. Specifically, such information may be gathered through activities such as surveys, interviews, brief case examinations, and meetings among special education administrators, outside experts, representatives of students with disabilities and their families, and others;

(c) Analyze emerging policy or program issues regarding the administration of special education, early intervention, and related services at the Federal, State, and local levels. Review, plan, and provide leadership in recommending multi-level actions that respond to emerging issues;

(d) Facilitate the flow of information at the Federal, State, and local levels related to program improvement for infants, toddlers, children, and youth with disabilities, through various resources, including the Regional Resource Centers, Regional Parent Technical Assistance Centers, other OSEP-supported technical assistance efforts, and OSEP-affiliated communities of practice;

(e) Communicate, collaborate, and form partnerships as appropriate and as directed by OSEP, with technical assistance providers at the national and regional levels, including those that are part of the OSEP-supported special education technical assistance and dissemination network;

(f) Maintain a Web site, with a dedicated URL, on which all anticipated, ongoing, and completed products, as well as related information, are available in a form that meets a government or industry-recognized standard for accessibility;

(g) Organize, coordinate, maintain, and promote access to a database of laws, policies, and regulations that govern special education and early intervention within the States and other jurisdictions;

(h) Communicate regularly with OSEP to provide and receive information that may assist OSEP in improving its efficiency and effectiveness in administering IDEA; and

(i) Budget for an annual two-day Project Directors' meeting in Washington, DC during each year of the project and another annual two-day trip to Washington, DC during each year of the project to meet and collaborate with the OSEP project officer, other OSEP staff, and other funded projects for purposes of cross-project collaboration and information exchange.

In deciding whether to continue this project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(1) The recommendation of a review team consisting of experts selected by the Secretary. The review will be conducted in Washington, DC during the last half of the project's second year. Projects must budget for the travel associated with this one-day intensive review; and

(2) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(3) The degree to which the project's design and technical strategies demonstrate the potential for disseminating significant new knowledge.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on a proposed priority. However, section 681(d) of IDEA makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $450,000.

Maximum Award: The Secretary does not intend to fund an application that proposes a budget exceeding $450,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs, LEAs public charter schools that are LEAs under State law, IHEs, other public agencies, private nonprofit organizations, for-profit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

3. *Other: General Requirements*—(a) The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (*see* section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the projects (*see* section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If

you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326F.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 70 pages, using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:* Applications Available: March 4, 2005.

Deadline for Transmittal of Applications: April 15, 2005.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (*Grants.gov*), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 14, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.* We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new governmentwide Grants.gov Apply site in FY 2005. The State and Federal Policy Forum for Program Improvement—(CFDA Number 84.326F) competition is one of the competitions included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (*http://www.grants.gov*). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for the State and Federal Policy Forum for Program Improvement—(CFDA Number 84.326F) competition at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

• Your participation in Grants.gov is voluntary.

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.

• If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that your application is submitted timely to the Grants.gov system.

• To use Grants.gov, you, as the applicant, must have a D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.* If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326F), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.326F), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326F), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), the Department is currently developing measures that will yield information on various aspects of the quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These are: the extent to which projects provide high quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice. Data on these measures will be collected from any project funded under this competition.

The grantee will also be required to report information on its project's performance in annual reports to the Department (34 CFR 75.590).

We will notify grantees of the performance measures once they are developed.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Patricia Gonzalez, U.S. Department of Education, 400 Maryland Avenue, SW., room 4057, Potomac Center Plaza, Washington, DC 20202–2600. Telephone: (202) 245–7355.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request by contacting the following office: The Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–

888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: Feburary 14, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–4104 Filed 3–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes one funding priority for the National Institute on Disability and Rehabilitation Research's (NIDRR) Disability and Rehabilitation Research Projects and Centers Program, Rehabilitation Research and Training Centers (RRTC) program. This priority may be used for competitions in fiscal year (FY) 2005 and later years. We take this action to focus research attention on areas of national need. We intend this priority to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before April 4, 2005.

ADDRESSES: Address all comments about this proposed priority to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20204–2700. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov*.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 245–7462.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding this proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 6030, 550 12th Street, SW., Potomac Center Plaza, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom*.

The proposed priority is in concert with NIDRR's Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support potential research to be conducted under the proposed priority, a specific reference is included for the priority presented in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html*.

Through the implementation of the NFI and the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Rehabilitation Research and Training Centers

RRTCs conduct coordinated and integrated advanced programs of research targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disability conditions, or promote maximum social and economic independence for persons with disabilities. Additional information on the RRTC program can be found at: *http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC*.

General Requirements of Rehabilitation Research and Training Centers

RRTCs must—

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Identify anticipated outcomes of RRTC activities that are linked to stated RRTC objectives;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties; and
- Serve as centers for national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the RRTC. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment of approved grant objectives.

Priority

Background

In April 2002, President George W. Bush announced the creation of the New Freedom Commission on Mental Health. He charged the Commission with studying the mental health care system in the United States and making recommendations that would enable adults with serious mental illness and children with serious emotional disturbance to live, work, learn, and participate fully in their communities. The Commission Report, ''Achieving the Promise: Transforming Mental Health Care in America'' (July 2003), along with reports from the Surgeon General and numerous other public and private entities, offer consensus on a number of findings addressed in the proposed priority. These include the importance of enhancing self-determination; consumer-driven, community-based interventions; collaboration within the mental health service system; workforce development; and culturally competent care.

One promising area noted in ''Achieving the Promise: Transforming Mental Health Care in America'' is consumer-operated services. Such services are common: A national survey of the mental health self-help sector conducted by the U.S. Substance Abuse Mental Health Administration's Center for Mental Health Services shows that mental health support groups and self-help organizations run by and for mental health consumers and their families now outnumber traditional mental health organizations by almost two to one (Goldstrom, I., Campbell, J., Rogers, J., Lambert, D., Blacklow, B., Manderscheid, R., and Henderson, M. (Forthcoming). National estimates of mental health mutual support groups, self-help organizations, and consumer-operated services. Administration and Policy in Mental Health).

The Surgeon General's Report on Mental Health estimated that about one in five Americans experience a mental disorder in a given year (U.S. Department of Health and Human Services, 1999. Mental Health: Report of the Surgeon General. Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, National Institute of Mental Health. Available on-line: *http: //www.surgeongeneral.gov/library/mentalhealth/home.html*). Serious mental illness can interfere with the ability to work, attend school, or manage day-to-day activities. For example, labor force participation and employment rates are substantially lower for people with mental health disabilities than for people with other disabilities or with no disability (Jans, L., Stoddard, S. & Kraus, L., 2004. Chartbook on Mental Health and Disability in the United States. An InfoUse Report. Washington, DC: U.S. Department of Education, National Institute on Disability and Rehabilitation Research). As cited in the final report of the President's New Freedom Commission on Mental Health, the ''annual indirect cost of mental illnesses is estimated to be $79 billion.'' (New Freedom Commission on Mental Health, 2003. Achieving the Promise: Transforming Mental Health Care in America. Final Report. DHHS Pub. No. SMA–03–3832. Rockville, MD.)

NIDRR, in collaboration with the U.S. Substance Abuse Mental Health Service Administration, proposes a priority for an RRTC on promoting access to effective consumer-centered and community-based practices and supports for adults with serious mental illness. This priority focuses on outcomes rather than activities. The overall outcome for this proposed priority mirrors the President's charge: To work towards enabling adults with serious mental illness to live, work, learn, and participate fully in their communities.

Proposed Priority

The Assistant Secretary proposes a priority for one RRTC which must focus on promoting access to effective consumer-centered and community-based practices and supports for adults with serious mental illness.

The RRTC must—

(1) Identify or develop and evaluate models, methods, and measures for improving the quality of mental health outcomes through transformation of the service delivery system in a manner that reflects and embodies consumer choice. These models, methods, and measures may focus on, but are not limited to self-determination, consumer-centered services, consumer choice, and coordination across service systems. All of these efforts must be culturally competent and appropriate for targeted populations;

(2) Identify or develop and then evaluate strategies for translating evidence-based mental health research findings and best practices into effective interventions, including the development of tools and supports for providers of mental health or other adjunctive services that reflect consumer choice; and

(3) Identify or develop and evaluate interventions, such as peer support services, that help to improve workforce capacity and choice for adults with serious mental illness.

In addition to the activities proposed by the applicant, the RRTC must—

- Conduct a state-of-the-science conference on its respective area of research in the third year of the grant cycle and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant cycle. This conference must include materials from experts internal and external to the RRTC;
- Coordinate on research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer;
- Involve individuals with disabilities in planning and implementing its research, training, and dissemination activities, and in evaluating the RRTC; and

• Demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

Executive Order 12866

This notice of proposed priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priority are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priority, we have determined that the benefits of this proposed priority justify the costs.

Summary of potential costs and benefits: The potential costs associated with this proposed priority are minimal while the benefits are significant. Grantees may anticipate costs associated with completing the application process in terms of staff time, copying, and mailing or delivery. The use of e-Application technology reduces mailing and copying costs significantly.

The benefits of the RRTC Program have been well established over the years in that similar projects have been completed successfully. This proposed priority will generate new knowledge and technologies through research, development, dissemination, utilization, and technical assistance projects.

Another benefit of this proposed priority also will be the establishment of a new RRTC that supports the President's NFI and will improve the lives of persons with disabilities. This new RRTC will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to perform regular activities in the community.

Applicable Program Regulations: 34 CFR part 350.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number: 84.133B, Rehabilitation Research and Training Centers Program)

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Dated: February 25, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–4105 Filed 3–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; State Personnel Development Grants Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004 (To Be Awarded in FY 2005)

Catalog of Federal Domestic Assistance (CFDA) Number: 84.323A.

Dates: Applications Available: March 4, 2005. Deadline for Transmittal of Applications: April 15, 2005. Deadline for Intergovernmental Review: June 14, 2005.

Eligible Applicants: A State educational agency (SEA) of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Current State Program Improvement Grant grantees with multi-year awards who wish to apply for a grant under the State Personnel Development Program may do so, subject to section 651(e) of the Individuals with Disabilities Education Act (IDEA), which prohibits a State requesting to receive a continuation award under the State Improvement Grant Program, as in effect prior to December 3, 2004, from receiving any other award under this program authority for that fiscal year.

Estimated Available Funds: $8,350,992.

Estimated Range of Awards: In the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, award amounts will be not less than $500,000, nor more than $4,000,000. In the case of an outlying area, awards will be not less than $80,000.

Note: Consistent with 34 CFR 75.104(b) of the Education Department General Administrative Regulations (EDGAR), we will reject, without consideration or evaluation, any application that proposes a project funding level for any fiscal year that exceeds the stated maximum award amount for that fiscal year.

We will set the amount of each grant after considering—

(1) The amount of funds available for making the grants;

(2) The relative population of the State or outlying area;

(3) The types of activities proposed by the State or outlying area;

(4) The alignment of proposed activities with section 612(a)(14) of the Individuals with Disabilities Education Act (IDEA);

(5) The alignment of proposed activities with State plans and applications submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965, as amended (ESEA); and

(6) The use, as appropriate, of scientifically based research activities.

Estimated Average Size of Awards: $927,888, excluding outlying areas.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Not less than one year and not more than five years.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program, authorized under the IDEA, is to assist SEAs in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

Priorities: In accordance with 34 CFR 75.105(b)(2)(v) these priorities are from allowable activities specified in the statute. (*See* sections 651–655 of the IDEA).

Absolute Priority: For FY 2005 this priority is an absolute priority. Under section 653 of the IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

Background of Priority: States have been successful in improving educational and transition services and results for children with disabilities in response to growing demands imposed by factors, such as demographics, social policies, and labor and economic markets. In order for States to address

such demands and to facilitate lasting systemic change that is of benefit to all students, including children with disabilities, States must involve local educational agencies (LEAs), parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations in carrying out comprehensive strategies to improve results for children with disabilities. SEAs, in partnership with LEAs, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their unique needs.

The Improving Teacher Quality State Grants Program contained in title II, part A of the No Child Left Behind Act of 2001 (NCLB), is designed to increase student achievement by elevating teacher and principal quality through recruitment, hiring, and retention strategies. SEAs receiving assistance under this program must develop a plan for coordinating title II professional development activities with professional development activities funded through other Federal, State, and local programs. States must develop these activities in a collaborative fashion and seek the input of teachers, principals, parents, administrators, paraprofessionals, and other school personnel.

Section 653 of the IDEA requires that the State Personnel Development Plan be integrated and aligned, to the maximum extent possible, with State plans under the ESEA. A State receiving support under this priority must coordinate with the State's Title II, part A Grant in conducting its analysis of State and local needs for professional development for personnel to serve children with disabilities, and in developing its improvement strategies.

Priority: This priority supports projects that assist SEAs in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

State Personnel Development Plan

Applicants must submit a State Personnel Development Plan that identifies and addresses the State and local needs for personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

(a) Is designed to enable the State to meet the requirements of section 612(a)(14) and section 635(a) (8) and (9) of the IDEA;

(b) Is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

(i) Current and anticipated personnel vacancies and shortages; and

(ii) The number of preservice and inservice programs; and

(c) Is integrated and aligned, to the maximum extent possible, with State plans and activities under the ESEA, the Rehabilitation Act of 1973, as amended and the Higher Education Act of 1965, as amended (HEA);

(d) Describes a partnership agreement that is in effect for the period of the grant, which agreement shall specify—

(i) The nature and extent of the partnership described in accordance with section 652(b) of the IDEA and the respective roles of each member of the partnership, including, if applicable, an individual, entity, or agency other than the SEA that has the responsibility under State law for teacher preparation and certification; and

(ii) How the SEA will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

(e) Describes how the strategies and activities the SEA uses to address identified professional development and personnel needs will be coordinated with activities supported with other public resources (including funds provided under part B and part C of the IDEA and retained for use at the State level for personnel and professional development purposes) and private resources;

(f) Describes how the SEA will align its personnel development plan with the plan and application submitted under sections 1111 and 2112, respectively, of the ESEA;

(g) Describes those strategies the SEA will use to address the identified professional development and personnel needs and how such strategies will be implemented, including—

(i) A description of the programs and activities that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of infants, toddlers, preschoolers, and children with disabilities; and

(ii) How such strategies will be integrated, to the maximum extent possible, with other activities supported by grants funded under section 662 of the IDEA;

(h) Provides an assurance that the SEA will provide technical assistance to LEAs to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;

(i) Provides an assurance that the SEA will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving those children;

(j) Describes how the SEA will recruit and retain highly qualified teachers and other qualified personnel in geographic areas of greatest need;

(k) Describes the steps the SEA will take to ensure that economically disadvantaged and minority children are not taught at higher rates by teachers who are not highly qualified; and

(l) Describes how the SEA will assess, on a regular basis, the extent to which the strategies implemented have been effective in meeting the performance goals described in section 612(a)(15) of the IDEA (effective as of July 1, 2005).

Partnerships

Required Partners

Applicants shall establish a partnership with LEAs and other State agencies involved in, or concerned with, the education of children with disabilities, including—

(a) Not less than one institution of higher education; and;

(b) The State agencies responsible for administering part C of the IDEA, early education, child care, and vocational rehabilitation programs.

Other Partners

An SEA shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

(a) The Governor;

(b) Parents of children with disabilities ages birth through 26;

(c) Parents of nondisabled children ages birth through 26;

(d) Individuals with disabilities;

(e) Parent training and information centers or community parent resource centers funded under sections 671 and 672, respectively, of the IDEA;

(f) Community-based and other nonprofit organizations involved in the

education and employment of individuals with disabilities;

(g) Personnel as defined in section 651(b) of the IDEA;

(h) The State advisory panel established under part B of the IDEA;

(i) The State interagency coordinating council established under part C of the IDEA;

(j) Individuals knowledgeable about vocational education;

(k) The State agency for higher education;

(l) Noneducational public agencies with jurisdiction in the areas of health, mental health, social services and juvenile justice;

(m) Other providers of professional development who work with infants, toddlers, preschoolers, and children with disabilities;

(n) Other individuals; and

(o) In cases where the SEA is not responsible for teacher certification, an individual, entity, or agency responsible for teacher certification as defined in section 652(b)(3) of the IDEA.

Use of Funds

(a) *Professional Development Activities*—Each SEA that receives a State Personnel Development Grant under this program shall use the grant funds to support activities in accordance with the State's Personnel Development Plan, including one or more of the following:

(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—

(i) Provide teacher mentoring, team teaching, reduced class schedules and case loads, and intensive professional development;

(ii) Use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement and functional standards and with the requirements for professional development, as defined in section 9101 of the ESEA; and

(iii) Encourage collaborative and consultative models of providing early intervention, special education, and related services.

(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—

(i) Into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decision-making, school improvement efforts, and accountability;

(ii) To enhance learning by children with disabilities; and

(iii) To effectively communicate with parents.

(3) Providing professional development activities that—

(i) Improve the knowledge of special education and regular education teachers concerning—

(A) The academic and developmental or functional needs of students with disabilities; or

(B) Effective instructional strategies, methods, and skills, and the use of State academic content standards and student academic achievement and functional standards, and State assessments, to improve teaching practices and student academic achievement;

(ii) Improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices, and that—

(A) Provide training in how to teach and address the needs of children with different learning styles and children who are limited English proficient;

(B) Involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;

(C) Provide training in methods of—

(I) Positive behavioral interventions and supports to improve student behavior in the classroom;

(II) Scientifically based reading instruction, including early literacy instruction;

(III) Early and appropriate interventions to identify and help children with disabilities;

(IV) Effective instruction for children with low incidence disabilities;

(V) Successful transitioning to postsecondary opportunities; and

(VI) Using classroom-based techniques to assist children prior to referral for special education;

(D) Provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities;

(E) Provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate individualized education programs (IEPs); and

(F) Provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving those students;

(iii) Train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and

(iv) Train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.

(4) Developing and implementing initiatives to promote the recruitment and retention of highly qualified special education teachers, particularly initiatives that have been proven effective in recruiting and retaining highly qualified teachers, including programs that provide—

(i) Teacher mentoring from exemplary special education teachers, principals, or superintendents;

(ii) Induction and support for special education teachers during their first three years of employment as teachers; or

(iii) Incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—

(i) Innovative professional development programs (which may be provided through partnerships that include institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, which professional development shall be consistent with the definition of professional development in section 9101 of the ESEA; and

(ii) The development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—

(i) Professional development programs to improve the delivery of early intervention services;

(ii) Initiatives to promote the recruitment and retention of early intervention personnel; and

(iii) Interagency activities to ensure that early intervention personnel are adequately prepared and trained.

(b) *Other Activities*—Each SEA that receives a State Personnel Development Grant under this program shall use the grant funds to support activities in accordance with the State's Personnel Development Plan, including one or more of the following:

(1) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

(i) Special education and regular education teachers have—

(A) The training and information necessary to address the full range of needs of children with disabilities across disability categories; and

(B) The necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(ii) Special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

(iii) Special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement and functional standards.

(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.

(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(4) Developing and implementing mechanisms to assist LEAs and schools in effectively recruiting and retaining highly qualified special education teachers.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with Title II of the HEA.

(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this priority may lead to the weakening of any State teacher certification or licensing requirement.

(7) Assisting LEAs to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(8) Developing, or assisting LEAs in developing, merit based performance systems, and strategies that provide differential and bonus pay for special education teachers.

(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement and functional standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.

(10) When applicable, coordinating with, and expanding centers established under, section 2113(c)(18) of the ESEA to benefit special education teachers.

(c) *Contracts and Subgrants*—An SEA that receives a grant under this priority—

(1) Shall award contracts or subgrants to LEAs, institutions of higher education, parent training and information centers, or community parent resource centers, as appropriate, to carry out the State plan; and

(2) May award contracts and subgrants to other public and private entities, including the lead agency under Part C of the IDEA, to carry out the State plan.

(d) *Use of Funds for Professional Development*—An SEA that receives a grant under this priority shall use—

(1) Not less than 90 percent of the funds the SEA receives under the grant for any fiscal year for the Professional Development Activities described in paragraph (a); and

(2) Not more than 10 percent of the funds the SEA receives under the grant for any fiscal year for the Other Activities described in paragraph (b).

(e) *Grants to Outlying Areas*—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this program authority.

Projects funded under this priority must also:

(a) Budget for a two-day Project Directors' meeting in Washington, DC during each year of the project;

(b) Budget $4,000 for support of the State Personnel Development Program Web site (*http://www.signetwork.org*); and

(c) If a project receiving assistance under this program authority maintains a Web site, include relevant information and documents in a form that meets a government or industry-recognized standard for accessibility.

Waiver of Proposed Rulemaking: Under Administrative Procedures Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities, selection criteria, and other non-statutory requirements. Section 437(d)(1) of the General Education Provisions Act (20 U.S.C. 1232(d)(1)), however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under the Individuals with Disabilities Education Improvement Act of 2004 and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on certain requirements in the absolute priority under section 437(d)(1). This absolute priority will apply to the FY 2005 grant competition only.

Program Authority: 20 U.S.C. 1451.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Range of Awards: In the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, award amounts will be not less than $500,000, nor more than $4,000,000. In the case of an outlying area awards will be not less than $80,000.

Note: Consistent with 34 CFR 75.104(b) of EDGAR, we will reject without further consideration or evaluation any application that proposes a project funding level for any fiscal year that exceeds the stated maximum award amount for that fiscal year.

We will set the amount of each grant after considering—

(1) The amount of funds available for making the grants;

(2) The relative population of the State or outlying area;

(3) The types of activities proposed by the State or outlying area;

(4) The alignment of proposed activities with section 612(a)(14) of the IDEA;

(5) The alignment of proposed activities with State plans and applications submitted under sections

1111 and 2112, respectively, of the ESEA; and

(6) The use, as appropriate, of scientifically based research activities.

Estimated Average Size of Awards: $927,888, excluding outlying areas.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Not less than one year and not more than five years.

III. Eligibility Information

1. *Eligible Applicants:* An SEA of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). Current State Program Improvement Grant grantees with multi-year awards who wish to apply for a grant under the State Personnel Development Program may do so, subject to section 651(e) of the Individuals with Disabilities Education Act, as amended (IDEA), which prohibits a State requesting to receive a continuation award under the State Improvement Grant Program, as in effect prior to December 3, 2004, from receiving any other award under this program authority for that fiscal year.

2. *Cost Sharing or Matching:* This competition does not involve cost sharing or matching.

3. *Other: General Requirements*—The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of the IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.323A.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 100 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: March 4, 2005.

Deadline for Transmittal of Applications: April 15, 2005.

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: June 14, 2005.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

We have been accepting applications electronically through the Department's e-Application system since FY 2000. In order to expand on those efforts and comply with the President's Management Agenda, we are continuing to participate as a partner in the new governmentwide Grants.gov Apply site in FY 2005. The State Personnel Development Grants Program—CFDA Number 84.323A is one of the competitions included in this project.

If you choose to submit your application electronically, you must use the Grants.gov Apply site (Grants.gov). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us. We request your participation in Grants.gov.

You may access the electronic grant application for the State Personnel Development Grants Program—CFDA Number 84.323A at: *http://www.grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted with a date/time received by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. We will not consider your application if it was received by the Grants.gov system later than 4:30 p.m. on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was submitted after 4:30 p.m. on the application deadline date.

• If you experience technical difficulties on the application deadline date and are unable to meet the 4:30 p.m., Washington, DC time, deadline, print out your application and follow the instructions in this notice for the submission of paper applications by mail or hand delivery.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that your application is submitted timely to the Grants.gov system.

• To use Grants.gov, you, as the applicant, must have a D–U–N–S Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five business days to complete the CCR registration.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You may submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Any narrative sections of your application should be attached as files in a .DOC (document), .RTF (rich text) or .PDF (Portable Document) format.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.323A), 400 Maryland Avenue, SW., Washington, DC 20202–4260.

or

By mail through a commercial carrier:

U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.323A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.323A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260. The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays. Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The goal of the State Personnel Development Grants Program is to reform and improve State systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

Under the Government Performance and Results Act (GPRA), the Department is currently working to develop

measures that will yield information on various aspects of performance consistent with the program's purpose. When implemented, each grantee will be required to submit data documenting its performance on these measures.

In addition, the applicant's proposed project evaluation must describe the extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data on the project's contribution to the reform and improvement of such systems.

If funded, the applicant will be expected to report such data in the projects' annual performance reports (34 CFR 75.590). Data should reflect how States have used State Personnel Development Grant funding, in addition to State resources, to reform and improve their systems for personnel preparation and professional development.

We will notify grantees of the performance measures once they are developed.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Larry Wexler, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4019, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7571.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request by contacting the following office: The Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: February 25, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–4150 Filed 3–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 30, 2005, 1 p.m.–8:30 p.m.

ADDRESSES: Cities of Gold Hotel, 10–A Cities of Gold Road,Pojoaque, NM.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1 p.m. Call to Order by Ted Taylor, Deputy Designated Federal Officer (DDFO)
Establishment of a Quorum
Welcome and Introductions by Chairman, Tim DeLong
Approval of Agenda
Approval of Minutes of January 19, 2005
1:15 p.m. Board Business
A. Report from Chairman, Tim DeLong
B. Report from Department of Energy, Ted Taylor, DDFO
C. Report from Executive Director, Menice S. Manzanares
—Request for Agenda Items for Annual Retreat
D. New Business
2 p.m. Break
2:15 p.m. Reports
A. Waste Management Committee, Jim Brannon
—Introduction of Letter to Ed Wilmot, Re: Scrap Metals EIS
B. Environmental Monitoring, Surveillance and Remediation Committee, Chris Timm
—Introduction of Recommendation 2005–2 (Withdrawn by the Committee at the January 19, 2005 meeting)
—Introduction of Board Recommendation 2005–3
—Introduction of Board Recommendation 2005–4
C. Community Involvement Committee, Grace Perez
D. Comments from Ex-Officio Members
5 p.m. Dinner Break
6 p.m. Public Comment
6:15 p.m. Consideration and Action on Board Recommendation 2005–02
Consideration and Action on Board Recommendation 2005–03
Consideration and Action on Board Recommendation 2005–04
Thank you to Dorothy Hoard, retiring NNMCAB Member
6:45 p.m. Key NNMCAB Issues for National Chairs' Meeting, Tim DeLong
7 p.m. Area G Forum Update, Jim Brannon
7:10 p.m. Viewing of The Manhattan Project, from the Oak Ridge SSAB's Stewardship Education Resource Kit
8 p.m. Comments from Board Members and Recap of Meeting
8:15 p.m. Press Releases, Editorials or other follow-up from this meeting
8:30 p.m. Adjourn

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC, on February 25, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–4115 Filed 3–2–05; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Fernald. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Saturday, March 12, 2005, 8:30 a.m.–12 noon.

ADDRESSES: Ross Township Firehouse, 2565 Cincinnati-Brookville Road, Ross Township, Ohio 45061.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, The Perspectives Group, Inc., 1055 North Fairfax Street, Suite 204, Alexandria, VA 22314, at (703) 837–1197, or e-mail *djsarno@theperspectivesgroup.com.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

8:30 a.m. Call to Order
8:35 a.m. Updates and Announcements
—Projects and Updates
—Silos and Critical Analysis Team
—Environmental Management Budget
—Ex-Officio Updates
9 a.m. Legacy Management Updates
9:45 a.m. FCAB History Project
—Structure
—Examples
10:30 a.m. Break
10:45 a.m. Workshop Plans
—History Roundtable
—Educators Workshop
11:30 a.m. Preparation for April SSAB Chairs Meeting
11:50 a.m. Public Comment
12 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to the Fernald Citizens' Advisory Board, Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued in Washington, DC, on February 28, 2005.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–4117 Filed 3–2–05; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–73–000]

Northern Natural Gas Company; Notice of Application

February 25, 2005.

Take notice that on February 18, 2005, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed an application in Docket No. CP05–73–000 pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157(A) of the Commission's Regulations, for authorization to construct and operate two pig launchers, with appurtances, located in Carver County, Minnesota, 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, please contact FERCOnline Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

The pig launchers would be attached to the Waconia branch lines, which would allow Northern to run an in-line inspection tool to gather data on the condition of the pipeline. These facilities are required in order for Northern to perform duties in compliance with the Pipeline Safety Improvement Act of 2002 and the Department of Transportation Final Integrity management Rule for High Consequence Areas. The proposed installation and operation of the pig launchers will not impact capacity on the Waconia branch lines. Northern has used section 2.55(a) of the Commission's Regulations to install pig launchers in the past, but that, under section 2.55(a) pipelines are not authorized to acquire needed easements for property by exercise of eminent domain. Northern is filing this 7(c) application in order to receive authority from the Commission to install pig launchers and to be allowed to exercise the power of eminent domain to acquire the necessary easements to install the required facilities. Northern has estimated the capital cost for the pig launchers at $386,159.

Any questions regarding this application should be directed to Michael T. Loeffler, Director of Certificates for Northern, 111 South 103rd Street, Omaha, Nebraska 68124, at (402) 398–7103, or Bret Fritch, Senior Regulatory Analyst, at (402) 398–7140.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made 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.

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: March 18, 2005.

Magalie Salas,

Secretary.

[FR Doc. E5–889 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC05–51–000, et al.]

American Ref-Fuel Holdings Corp., et al.; Electric Rate and Corporate Filings

February 23, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. American Ref-Fuel Holdings Corp.; American Ref-Fuel Company of Delaware Valley, L.P.; American Ref-Fuel Company of Essex County; American Ref-Fuel Company of Hempstead; American Ref-Fuel Company of Niagara, L.P.; SEMASS Partnership; Danielson Holding Corporation

[Docket No. EC05–51–000]

Take notice that on February 16, 2005, as supplemented on February 18, 2005, American Ref-Fuel Holdings Corp. (Ref-Fuel Holdings Corp.), American Ref-Fuel Company of Delaware Valley, L.P., American Ref-Fuel Company of Essex County, American Ref-Fuel Company of Hempstead, American Ref-Fuel Company of Niagara, L.P., SEMASS Partnership and Danielson Holding Corporation (Danielson) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Danielson would acquire the outstanding common stock of Ref-Fuel Holdings Corp. and would thereby obtain indirect ownership of the American Ref-Fuel Company of Essex County, American Ref-Fuel Company of Hempstead, American Ref-Fuel Company of Delaware Valley, L.P. and the SEMASS Partnership.

Comment Date: 5 p.m. eastern time on March 11, 2005.

2. AEP Power Marketing, Inc.; AEP Service Corporation; CSW Power Marketing, Inc.; CSW Energy Services, Inc.; Central and South West Services, Inc.

[Docket Nos. ER96–2495–026, ER97–4143–014, ER97–1238–021, ER98–2075–020, ER98–542–016]

Take notice that on February 15, 2005, as supplemented on February 17, 2005, American Electric Power Service Corporation, on behalf of the AEP operating companies, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc., and Central and South West Services, Inc., submitted revisions to its market-based rate tariffs providing for cost-based rate caps applicable to sales of electric power at wholesale that sink within the AEP control area in the Southwest Power Pool, Inc. AEP states that the filing is submitted in response to the Commission's order issued December 17, 2004 in Docket No. ER96–2495–020, et al., 109 FERC ¶ 61,276 (2004).

AEP states that copies of the filing were served on the state regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia, West Virginia and the parties on the official service lists in these proceedings.

Comment Date: 5 p.m. eastern time on March 10, 2005.

3. AmerGen Energy Company, LLC; Commonwealth Edison Company; Exelon Energy Company; Exelon Framingham LLC; Exelon Generation Company, L.L.C.; Exelon New England Power Marketing, L.P.; PECO Energy Company; Unicom Power Marketing, Inc.

[Docket Nos. ER99–754–010, ER98–1734–008, ER97–3954–018, ER01–513–009, ER00–3251–008, ER99–2404–006, ER99–1872–009, ER01–1919–005]

Take notice that on January 26, 2005, and February 14, 2005, Exelon Corporation, on its behalf and that of the Applicants in this proceeding, filed responses to the Commission's deficiency letter issued January 5, 2005, in Docket No. ER99–754–009, et al., regarding the updated market power analyses filed on September 27, 2004, as supplemented on October 13, 2004.

Comment Date: 5 p.m. eastern time on March 7, 2005.

4. ISO New England Inc.

[Docket Nos. ER02–2153–010 and ER05–608–000]

Take notice that on February 14, 2005, ISO New England Inc. (ISO) submitted its Capital Projects Report for the quarter ending December 31, 2004, and its Unamortized Costs Schedule of Funded Capital Expenditures for the same period.

The ISO states that copies of the filing were sent to the New England state governors and regulatory agencies and electronically to the ISO's Governance Participants. The ISO also states that copies of the filing were sent to parties on the official service list for Docket No. ER02–2153–000.

Comment Date: 5 p.m. eastern time on March 7, 2005.

5. San Diego Gas & Electric Company

[Docket No. ER05–411–001]

Take notice that on February 17, 2005, San Diego Gas & Electric Company (SDG&E) tendered for filing an errata to its December 28, 2004, filing of a rate change for the Transmission Revenue Balancing Account Adjustment and its Transmission Access Charge Balancing Account Adjustment set forth in its Transmission Owner Tariff. SDG&E states that the errata would slightly increase the rates set forth in the December 28 filing for jurisdictional transmission service utilizing that portion of the California Independent System Operator-controlled grid owned by SDG&E. SDG&E requests an effective date of January 1, 2005.

Comment Date: 5 p.m. eastern time on March 10, 2005.

6. New England Power Pool

[Docket No. ER05–588–000]

Take notice that on February 17, 2005, the New England Power Pool (NEPOOL) Participants Committee submitted the One Hundred Fourteenth Agreement Amending New England Power Pool Agreement which modifies section 11.2 of the Second Restated NEPOOL Agreement to provide that the NEPOOL Review Board may be constituted of between three and five members, rather than between four and five members as presently provided for in section 11.2. NEPOOL requests an effective date of February 1, 2005.

The Participants Committee states that copies of the filing were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: 5 p.m. eastern time on March 10, 2005.

7. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05–589–000]

Take notice that on February 17, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), the Midwest ISO Transmission Owners and the Midwest Stand Alone Transmission Companies (collectively, Filing Parties) submitted for filing proposed revisions to the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (Midwest ISO Agreement) to accommodate the Stipulation and Agreement approved by the Commission on December 10, 2004, in Docket No. ER04–779–000 and revisions to the Midwest ISO Agreement to reconcile the Stipulation and Agreement and previous amendments to include Illinois Power Company and Great River Energy as new transmission-owning members of the Midwest ISO. The Filing Parties also propose conforming revisions to the Table of Contents of the Midwest ISO Agreement. The Filing Parties requested an effective date of December 20, 2004.

The Filing Parties state that Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO members, member representatives of transmission owners and non-transmission owners, as well as all state commissions within the regions. The Filing Parties also state that the filing has been posted on Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' and that Midwest ISO will provide hard copies to any interested party upon request.

Comment Date: 5 p.m. eastern time on March 10, 2005.

8. Duke Energy Corporation

[Docket No. ER05–591–000]

Take notice that on February 17, 2005, Duke Energy Corporation (Duke) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Duke states that copies of the filing were served on its state commissions.

Comment Date: 5 p.m. eastern time on March 10, 2005.

9. Maine Public Service Company

[Docket No. ER05–592–000]

Take notice that on February 17, 2005, Maine Public Service Company (MPS) filed proposed revisions to its FERC Open Access Transmission Tariff reflecting minor modifications to the form of large generator interconnection agreement. MPS requests an effective date of April 18, 2005.

MPS states that copies of the filing were served on MPS's jurisdictional customers, the Maine Public Utilities Commission, and the Maine Public Advocate.

Comment Date: 5 p.m. eastern time on March 10, 2005.

10. Southern California Edison Company

[Docket No. ER05-593-000]

Take notice that on February 17, 2005, Southern California Edison (SCE) submitted for filing a service agreement for wholesale distribution service between SCE and the City of Azusa designated as Fourth Revised Service Agreement No. 2, under SCE's Wholesale Distribution Access Tariff, FERC Electric Tariff, First Revised Volume No. 5. SCE requests an effective date of April 8, 2005.

SCE states that copies of the filing were served on the Public Utilities Commission of the State of California, the City of Azusa and all of the parties on the official service list in Docket No. ER05-80-000.

Comment Date: 5 p.m. eastern time on March 10, 2005.

11. New England Power Pool

[Docket No. ER05–594–000]

Take notice that on February 17, 2005, the New England Power Pool (NEPOOL) Participants Committee submitted the One Hundred Thirteenth Agreement Amending New England Power Pool Agreement which reflects a limited transitional modification to the Second Restated NEPOOL Agreement to permit compensation of $63,279.87 to USGen New England, Inc. for following dispatch instructions ISO New England Inc. (ISO–NE). NEPOOL requests an effective date of May 1, 2005.

The Participants Committee states that copies of the filing were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: 5 p.m. eastern time on March 10, 2005.

12. California Independent System Operator Corporation

[Docket No. ER05–595–000]

Take notice that on February 17, 2005, the California Independent System Operator Corporation (ISO) submitted an amendment to the ISO tariff (Amendment No. 65) to establish an additional criterion governing when the off-based methodology should be used to calculate decremental reference levels.

The ISO states that this filing has been served on the California Public Utilities Commission, the California Energy Commission, the California Electricity Oversight Board, all parties with effective scheduling coordinator service agreements under the ISO tariff, and all parties to the proceedings in Docket No. ER03–683–000. In addition, the ISO states that it has posted the filing on the ISO home page.

Comment Date: 5 p.m. eastern time on March 10, 2005.

13. Entergy Atlantic, LLC

[Docket No. ER05–596–000]

Take notice that on February 17, 2005, Energy Atlantic, LLC (Energy Atlantic) submitted a notice of cancellation of its market-based rate schedule, First

Revised FERC Electric Rate Schedule No. 1. Energy Atlantic requests an effective date of April 18, 2005.

Energy Atlantic states that copies of the filing were served on the Maine Public Utilities Commission and the Maine Office of Public Advocate.

Comment Date: 5 p.m. eastern time on March 10, 2005.

14. Wayne-White Counties Electric Cooperative

[Docket No. ER05–597–000]

Take notice that on February 17, 2005, Wayne-White Counties Electric Cooperative (Wayne-White) submitted Wayne-White Counties Electric Cooperative FERC Electric Tariff, First Revised Volume No. 1, proposing rate increases for its Open Access Transmission Tariff for Schedules 7 and 8 and Attachment H and certain non-rate modifications to section 28.5, Schedules 1, 2, and 3 and Attachments E and I. Wayne-White requests an effective date of April 18, 2005.

Wayne-White states that copies of the filing were served on Wayne-White's jurisdictional customers, Illinois Power Company, Constellation Energy Commodities Group and the Illinois Commerce Commission.

Comment Date: 5 p.m. eastern time on March 10, 2005.

15. Dartmouth PPA Holdings LLC; Dartmouth Power Associates L.P.

[Docket Nos. ER05–598–000, ER05–599–000]

Take notice that on February 17, 2005, Dartmouth PPA Holdings LLC (Dartmouth PPA) and Dartmouth Power Associates Limited Partnership (Dartmouth Power) submitted an application for Dartmouth PPA to obtain market-based rate authorization to sell energy, capacity, and ancillary services, and reassign transmission capacity and resell firm transmission rights. Dartmouth PPA also requested the waivers and exemptions typically granted to the holders of market-based rate authorization. Dartmouth Power requested the revision of a provision of Dartmouth Power's rate schedule which will permit Dartmouth PPA to step into an existing Dartmouth Power electricity sales contract. Dartmouth PPA and Dartmouth Power request a March 23, 2005, effective date.

Comment Date: 5 p.m. eastern time on March 10, 2005.

16. Maine Public Service Company

[Docket No. ER05–600–000]

Take notice that on February 17, 2005, Maine Public Service Company (MPS) filed proposed revisions to its FERC Open Access Transmission Tariff pursuant to Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* incorporating Order No. 2003–B's revisions to the Commission's *pro forma* Standard Large Generator Interconnection Procedures and Standard Large Generator Interconnection Agreement. MPS requests an effective date of January 19, 2005.

MPS states that copies of the filing were served on MPS's jurisdictional customers, the Maine Public Utilities Commission, and the Maine Public Advocate.

Comment Date: 5 p.m. eastern time on March 10, 2005.

17. Fitchburg Gas and Electric Light Company

[Docket No. ER05–620–000]

Take notice that on February 17, 2005, Fitchburg Gas and Electric Light Company (Fitchburg) submitted an amendment to the agreement for network integration transmission service between Fitchburg and the Massachusetts Bay Transportation Authority under ISO New England, Inc., FERC Electric Tariff No. 3. Fitchburg states that the amendment reflects an extension of the term of the agreement through July 1, 2006, with a one-year automatic renewal each year unless the agreement is terminated by either party by written notice 60 days prior to the date of automatic renewal.

Fitchburg states that copies of the filing were served on Massachusetts Bay Transportation Authority and the Massachusetts Department of Telecommunications and Energy.

Comment Date: 5 p.m. eastern time on March 9, 2005.

18. Old Dominion Electric Cooperative

[Docket No. ES05–18–000]

Take notice that on February 9, 2005, Old Dominion Electric Cooperative submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term, secured or unsecured debt in an amount not to exceed $501 million.

Comment Date: 5 p.m. eastern time on March 16, 2005.

19. Mid-American Energy Company

[Docket No. ES05-19–000]

Take notice that on February 10, 2005, Mid-American Energy Company (Mid-American) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue promissory notes and other evidences of short-term, unsecured indebtedness, in an amount not to exceed $500 million.

Comment Date: 5 p.m. eastern time on March 16, 2005.

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, 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,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–834 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–529–001, et al.]

New England Power Company, et al.; Electric Rate and Corporate Filings

February 25, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. New England Power Company

[Docket No. ER05–529–001]

Take notice that on February 22, 2005, New England Power Company (NEP) filed an amendment to its January 31, 2005, filing in Docket No. ER05–529–000. NEP states that the amendment consists of a substitute Second Revised Service Agreement No. 116 for network integration transmission service under NEP's Open Access Transmission Tariff, Second Revised Volume No. 9 between NEP and USGen New England, Inc. (USGen). NEP request an effective date of January 1, 2005.

NEP states that copies of this filing have been served on USGen and regulators in the States of Massachusetts and Rhode Island.

Comment Date: 5 p.m. eastern time on March 15, 2005.

2. MidAmerican Energy Company

[Docket No. ER05–624–000]

Take notice that on February 22, 2005, MidAmerican Energy Company (MidAmerican), refiled with the Commission an amended Network Integration Transmission Service Agreement between MidAmerican and the City of Sergeant Bluff, Iowa, dated December 13, 2004, to correct a typographical error in the header of the agreement.

MidAmerican has served a copy of the filing on Sergeant Bluff, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment Date: 5 p.m. eastern time on March 7, 2005.

3. Texas-New Mexico Power Company

[Docket No. ER05–625–000]

Take notice that on February 22, 2005, Texas-New Mexico Power Company (TNMP) filed new and revised tariff sheets to its open access transmission tariff (OATT) incorporating the changes directed by the Commission in Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures*, 109 FERC¶ 61,287 (2004).

TNMP states that a copy of the filing has been mailed to its OATT customers as well as the New Mexico Public Regulation Commission.

Comment Date: 5 p.m. eastern time on March 15, 2005.

4. Cogentrix Lawrence County, LLC

[Docket No. ER05–630–000]

Take notice that on February 22, 2005, Cogentrix Lawrence County, LLC (Cogentrix Lawrence) filed a Notice of Cancellation of its market-based rate electric tariff, FERC Electric Tariff, Original Volume No. 1, effective February 22, 2005.

Comment Date: 5 p.m. eastern time on March 15, 2005.

5. Pataula Electric Membership Corporation

[Docket No. ER05–631–000]

Take notice that on February 22, 2005, Pataula Electric Membership Corporation (Pataula) submitted for filing with the Federal Energy Regulatory Commission a petition for authority to sell power at market-based rates, acceptance of proposed rate schedule, and granting of certain waivers. Pataula requests an effective date for its proposed rate schedule that would be 60 days from the date of filing of the petition or the date of the order accepting Pataula's rate schedule for filing.

Comment Date: 5 p.m. eastern time on March 15, 2005.

6. Complete Energy Services, Inc.

[Docket No. ER05–632–000]

Take notice that on February 22, 2005, Complete Energy Services, Inc. tendered for filing a Notice of Cancellation of market-based rate authority, Rate Schedule FERC No. 1 as authorized in Docket No. ER99–3033–000 on August 5, 1999.

Comment Date: 5 p.m. eastern time on March 15, 2005.

7. The Dayton Power and Light Company; DPL Energy, Inc.

[Docket Nos. ER05–633–000, ER96–2602–008, and ER96–2601–019]

Take notice that, on February 22, 2005, The Dayton Power and Light Company and DPL Energy, Inc. (collectively, Dayton) submitted a compliance filing pursuant to the Commission's Order in *Dayton Power and Light Company*, 109 FERC ¶ 61,268 (2004).

Dayton states that copies of the filing were served on parties on the official service list in the above-captioned dockets.

Comment Date: 5 p.m. eastern time on March 15, 2005.

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, 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*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–835 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–23–006, et al.]

Consolidated Edison Company of New York Inc., et al.; Electric Rate and Corporate Filings

February 24, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Consolidated Edison Company of New York Inc.

[Docket No. EL02–23–006]

Take notice that on February 18, 2005, the New York Independent System Operator, Inc., PJM Interconnection, L.L.C. and Public Service Electric and Gas Company (Filing Parties) submitted a joint compliance filing pursuant to the Commission's August 2, 2004, Opinion No. 476 in Docket No. EL02–23–000 and the Presiding Administrative Law Judge's January 24, 2005, Order Establishing Procedures, in Docket No. El02–23–003.

The Filing Parties state that copies of the filing were served on the parties on the official service list in Docket No. EL02–23–000, the New York State Public Service Commission, and all utility regulatory commissions in the PJM region.

Comment Date: 5 p.m. eastern time on March 11, 2005.

2. California Independent System Operator System, Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison Company

[Docket Nos. ER04–445–007, ER04–435–009, ER04–441–006, ER04–443–006]

Take notice that on February 18, 2005, the California Independent System Operator Corporation, Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company (collectively the Filing Parties) jointly submitted for filing a Standard Large Generator Interconnection Agreement in compliance with Order No. 2003–B, 109 FERC ¶ 61,287 (2004). The Filing Parties state that the Standard Large Generator Interconnection Agreement is intended to function as a stand alone *pro forma* agreement and is not intended to be incorporated into the tariffs of any of the Filing Parities.

Comment Date: 5 p.m. eastern time on March 11, 2005.

3. California Independent System Operator Corporation

[Docket No. ER04–445–008]

Take notice that on February 18, 2005, the California Independent System Operator Corporation (ISO), pursuant to Order No. 2003–B, 109 FERC ¶ 61,287 (2004) submitted for filing Standard Large Generator Interconnection Procedures for incorporation into the ISO Tariff.

Comment Date: 5 p.m. eastern time on March 11, 2005.

4. PPL Electric Utilities Corporation

[Docket No. ER05–104–001]

Take notice that on February 18, 2005, PPL Electric Utilities Corporation (PPL Electric) submitted a response to the Commission's deficiency letter issued on December 22, 2004, regarding PPL Electric's October 29, 2004, filing of A Second Revised Service Agreement between PPL Electric and Metropolitan Edison Company.

PPL states that copies of the filing were served upon parties on the official service list.

Comment Date: 5 p.m. eastern time on March 11, 2005.

5. Mirant Delta, LLC and Mirant Potrero, LLC

[Docket No. ER05–343–002]

Take notice that, on February 18, 2005, Mirant Delta, LLC and Mirant Potrero, LLC (Mirant) submitted revised tariff sheets in compliance with the Commission's Order in *Mirant Delta, LLC and Mirant Potrero, LLC,* 110 FERC ¶ 61,136 (2005) in Docket Nos. ER05–343–000 and ER05–343–001.

Mirant 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 March 11, 2005.

6. Northeast Utilities Service Company

[Docket No. ER05–385–001]

Take notice that on February 18, 2005, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company and Public Service Company of New Hampshire, submitted a revised Notice of Cancellation of the rate schedules for sales of electricity to the Town of Danvers Electric Division, Littleton Electric Light Department, Mansfield Municipal Electric Department, and UNITIL Power Corporation, originally filed on December 28, 2004.

Comment Date: 5 p.m. eastern time on March 11, 2005.

7. Tampa Electric Company

[Docket No. ER05–602–000]

Take notice that on February 18, 2005, Tampa Electric Company (Tampa Electric) submitted tariff sheets for inclusion in its open access transmission tariff revising the Large Generator Interconnection Procedures and the Large Generator Interconnection Agreement in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004). Tampa Electric requests an effective date of January 19, 2005.

Tampa Electric states that copies of the filing have been served on the customers under Tampa Electric's open access transmission tariff and the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on March 11, 2005.

8. Entergy Service, Inc.

[Docket No. ER05–603–000]

Take notice that on February 18, 2005, Entergy Services, Inc. (Entergy) on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., submitted tariff sheets reflecting the revisions to the *pro forma* Standard Large Generator Interconnection Procedures and the Standard Large Generator Interconnection Agreement set out in the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Comment Date: 5 p.m. eastern time on March 11, 2005.

9. Southwest Power Pool, Inc.

[Docket No. ER05–604–000]

Take notice that on February 18, 2005, Southwest Power Pool, Inc. (SPP) submitted tariff sheets to its open access transmission tariff incorporating the changes directed by the Commission in Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004). SPP requests an effective date of January 19, 2005.

SPP states that copies of the filing have been served on the parties on the official service list in Docket no. ER04–434–000, and on all SPP members, customers, and state commissions within the region. In addition, SPP states that the filing has been posted electronically on its Web site at *http://www.spp.org* and that it will provide hard copies upon request.

Comment Date: 5 p.m. eastern time on March 11, 2005.

10. PJM Interconnection, L.L.C.

[Docket No. ER05–605–000]

Take notice that on February 18, 2005, PJM Interconnection, L.L.C. (PJM) submitted for filing an executed interconnection service agreement and an executed construction service agreement among PJM, Pine Hurst Acres, and PPL Electric Utilities. PJM requests a January 20, 2005, effective date.

PJM states that copies of the filing were served on the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: 5 p.m. eastern time on March 11, 2005.

11. Idaho Power Company

[Docket No. ER05–606–000]

Take notice that on February 18, 2005, Idaho Power Company submitted tariff sheets to its open access transmission tariff incorporating the changes directed by the Commission in Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Comment Date: 5 p.m. eastern time on March 11, 2005.

12. Valley Electric Association, Inc.

[Docket No. ER05–607–000]

Take notice that on February 18, 2005, Valley Electric Association, Inc. submitted revised tariff sheets to its open access transmission tariff incorporating the changes directed by the Commission in Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Comment Date: 5 p.m. eastern time on March 11, 2005.

13. Tuscon Electric Power Company and UNS Electric, Inc.

[Docket No. ER05–610–000]

Take notice that on February 18, 2005, Tuscon Electric Power Company and UNS Electric, Inc. submitted revised tariff sheets to its open access transmission tariff incorporating the changes directed by the Commission in Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Comment Date: 5 p.m. eastern time on March 11, 2005.

14. Bridgeport Energy LLC

[Docket No. ER05–611–000]

Take notice that on February 18, 2005, Bridgeport Energy, LLC (Bridgeport) tendered for filing its proposed FERC Electric Tariff, Original Volume No. 2 and supporting costs data for Bridgeport's cost-of-service agreement with ISO–New England, Inc. (ISO–NE) in order to receive compensation for the provision of reliability services.

Bridgeport states that a copy of the filing has been served on ISO–NE.

Comment Date: 5 p.m. eastern time on March 11, 2005.

15. Southern California Edison Company

[Docket No. ER05–612–000]

Take notice that on February 18, 2005, Southern California Edison Company (SCE) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

SCE states that copies of the filing were served on the parties on the official service list for Docket No. ER04–435–000.

Comment Date: 5 p.m. eastern time on March 11, 2005.

16. Southern Company Services, Inc.

[Docket No. ER05-613-000]

Take notice that on February 18, 2005, Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively Southern Companies) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

SCS states that this filing is posted on Southern Companies' OASIS for download by any person and that Southern Companies will provide copies of the filing upon request.

Comment Date: 5 p.m. eastern time on March 11, 2005.

17. El Paso Electric Company

[Docket No. ER05–614–000]

Take notice that on February 18, 2005, El Paso Electric Company (EPE) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

EPE states that copies of the filing were served on all persons on the service list for Docket No. ER04–448–000, the Public Utility Commission of Texas and the New Mexico Public Regulation Commission.

Comment Date: 5 p.m. eastern Time on March 11, 2005.

18. Southern California Edison Company

[Docket No. ER05–615–000]

Take notice that on February 18, 2005, Southern California Edison Company (SCE) tendered for filing revisions to the facilities charges under the interconnection facilities agreement, FERC Electric Tariff, First Revised Volume No. 5, Service Agreement No. 109 and service agreement for wholesale distribution service, FERC Electric Tariff, First Revised Volume No. 5, Service Agreement No. 110 between SCE and FPL Energy Green Power Wind LLC.

SCE states that copies of the filing were served on the Public Utilities Commission of the State of California and FPL Energy Green Power Wind LLC.

Comment Date: 5 p.m. eastern time on March 11, 2005.

19. Xcel Energy Services Inc.

[Docket No. ER05–616–000]

Take notice that on February 18, 2005, Xcel Energy Services Inc. submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Comment Date: 5 p.m. eastern time on March 11, 2005.

20. El Segundo Power, LLC

[Docket No. ER05–617–000]

Take notice that on February 18, 2005, El Segundo Power, LLC (El Segundo) tendered for filing an amendment to its Rate Schedule FERC No. 2, a reliability must-run agreement between El Segundo and the California Independent System Operator Corporation (CAISO). El Segundo requests an effective date of April 15, 2005.

El Segundo states that copies of the filing were served on CAISO, Southern California Edison Company, the California Electricity Oversight Board, and the California Public Utilities Commission.

Comment Date: 5 p.m. eastern time on March 11, 2005.

21. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05–618–000]

Take notice that on February 18, 2005, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

The Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO members, member representatives of transmission owners and non-transmission owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the regions. The Midwest ISO also states that the filing has been posted on Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC.''

Comment Date: 5 p.m. eastern time on March 11, 2005.

22. Black Hills Power, Inc.; Basin Electric Power Cooperative; Powder River Energy Corporation

[Docket No. ER05–619–000]

Take notice that on February 18, 2005, Black Hills Power, Inc. on behalf of itself, Basin Electric Power Cooperative, and Powder River Energy Corporation submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

Comment Date: 5 p.m. eastern time on March 11, 2005.

23. Ohio Valley Electric Corporation

[Docket No. ER05–621–000]

Take notice that on February 18, 2005, Ohio Valley Electric Corporation (OVEC) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

OVEC states that a copy of the filing has been mailed to its jurisdictional customers and to each state public service commission that has retail jurisdiction over such customers.

Comment Date: 5 p.m. eastern time on March 11, 2005.

24. Carolina Power & Light Company, Florida Power Corporation

[Docket No. ER05–622–000]

Take notice that on February 18, 2005, Carolina Power & Light Company (CP&L) and Florida Power Corporation (FPC) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

CP&L and FPC state that a copy of the filing was served on their transmission customers, the North Carolina Utilities Commission, the Public Service Commission of South Carolina and the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on March 11, 2005.

25. Duke Energy Washington, LLC

[Docket No. ER05–623–000]

Take notice that on February 18, 2005, Duke Energy Washington, LLC (Duke Washington) tendered for filing proposed tariff and supporting cost data for its monthly revenue requirement for reactive supply and voltage control from generation sources service provided to PJM Interconnection, L.L.C.(PJM). Duke Washington requests an effective date of March 1, 2005.

Duke Washington states that it has served a copy of the filing on PJM.

Comment Date: 5 p.m. eastern time on March 11, 2005.

26. PJM Interconnection, L.L.C.

[Docket No. ER05–626–000]

Take notice that on February 18, 2005, PJM Interconnection, L.L.C. (PJM) submitted revised tariff sheets in compliance with the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004). PJM states that the revisions have an effective date of February 18, 2005.

PJM states that copies of the filing have been served on all PJM members and the utility regulatory commissions in the PJM region.

Comment Date: 5 p.m. eastern time on March 11, 2005.

27. FPL Energy Oklahoma Wind, LLC

[Docket No. ER05–628–000]

Take notice that on February 18, 2005, FPL Energy Oklahoma Wind, LLC (Oklahoma Wind) submitted a shared facilities agreement between Oklahoma Wind and FPL Energy Sooner Wind, LLC designated as Rate Schedule FERC No. 1. Oklahoma Wind requests an effective date of September 26, 2003.

Oklahoma Wind states that copies of the filing were served on Oklahoma Wind's jurisdiction customer and the Oklahoma Corporation Commission.

Comment Date: 5 p.m. eastern time on March 11, 2005.

28. New York Independent System Operator, Inc.

[Docket No. ER05–629–000]

Take notice that on February 18, 2005, the New York Independent System Operator, Inc. (NYISO) and the New York Transmission Owners filed a joint compliance filing pursuant to the Commission's Order No. 2003–B, *Standardization of Generator Interconnection Agreements and Procedures,* 109 FERC ¶ 61,287 (2004).

The NYISO states that copies of the filing have been served on the parties in Docket No. ER04–449–000 and has been electronically served on the official representatives of each of its customers, each participant in its stakeholder committees, on the New York State Pubic Commission and on the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: 5 p.m. eastern time on March 11, 2005.

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, 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,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–836 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–413–000]

Entrega Gas Pipeline Inc.; Notice of Availability, Route Inspection, and Public Comment Meetings on the Draft Environmental Impact Statement for the Entrega Pipeline Project

February 25, 2005.

The environmental staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft Environmental Impact Statement (EIS) on the interstate natural gas pipeline transmission facilities proposed by Entrega Gas Pipeline Inc. (Entrega) in the above-referenced dockets.

The draft EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). Its purpose is to inform the Commission, the public, and other permitting agencies about the potential adverse and beneficial environmental impacts associated with the proposed project and its alternatives, and to recommend practical, reasonable, and appropriate mitigation measures which would avoid or reduce any significant adverse impacts to the maximum extent practicable and, where feasible, to less than significant levels. The draft EIS

concludes that the proposed project, with the potential exception of two route segments (the Piceance Basin Expansion Route Alternative and the Cheyenne Hub Variations), and with appropriate mitigating measures as recommended, would have limited adverse environmental impact. Additional public input is specifically being sought on these two segments to complete the routing analysis for the final EIS.

The U.S. Department of Interior, Bureau of Land Management (BLM) participated as a cooperating agency in the preparation of the draft EIS because the project would cross Federal lands under BLM administration in Wyoming and Colorado. The draft EIS will be used by the BLM to consider the issuance of a right-of-way (ROW) grant for the portion of the project on Federal lands. While the conclusions and recommendations presented in the draft EIS were developed with input from the BLM as a cooperating agency, the BLM will present its own conclusions and recommendations in its Record of Decision for the project.

Proposed Project

The Entrega Pipeline Project involves the construction and operation of a new interstate natural gas pipeline system that would extend between a proposed Meeker Hub in Rio Blanco County, Colorado; Wamsutter, in Sweetwater County, Wyoming; and the Cheyenne Hub in Weld County, Colorado. The draft EIS assesses the potential environmental effects of the construction and operation of the following facilities in Colorado and Wyoming:

- About 327.5 miles of new 36- and 42-inch-diameter pipeline—

—136.0 miles of 36-inch-diameter pipeline, with 86.2 miles in Colorado (Rio Blanco and Moffat Counties) and 49.8 miles in Wyoming (Sweetwater County); and

—191.5 miles of 42-inch-diameter pipeline, with 183.0 miles in Wyoming (Sweetwater, Carbon, Albany, and Laramie Counties) and 8.5 miles in Colorado (Larimer and Weld Counties);

- Three new compressor stations (the Meeker Hub and Bighole Compressor Stations in Colorado, the Wamsutter Compressor Station in Wyoming);
- Seven meters at interconnections with other pipeline systems (three associated with the new compressor stations, four at the new Cheyenne Hub Metering Station in Wyoming);
- Four pig launchers and four pig receivers (six associated with compressor and metering stations, one launcher and one receiver at the new Arlington Pigging Station in Wyoming);
- 22 mainline valves (5 valves at compressor and metering stations, 17 valves along the pipeline ROW); and
- Other associated facilities, such as access roads and powerlines.

The proposed project would be capable of transporting up to 1.5 billion cubic feet of natural gas per day from the Meeker Hub Compressor Station to interconnections at:

- Wamsutter, Wyoming with the Colorado Interstate Gas Company (CIG) and Wyoming Interstate Company, Ltd. transmission systems that serve markets east and west of Wamsutter; and
- The Cheyenne Hub (Weld County, Colorado) with CIG, Cheyenne Plains Gas Pipeline Company, Trailblazer Pipeline Company, and Public Service Company of Colorado. These systems would transport gas to markets in the Midwest and Central U.S. and the Eastern Slope south of the Cheyenne Hub.

Comment Procedures and Public Meetings

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that we [1] receive your comments before the date specified below. Please follow these instructions carefully to ensure that your comments are received in time and are properly recorded:

- Send an original and two copies of your comments to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Reference Docket Nos. CP04–413–000;
- Label one copy of your comments for the attention of Gas Branch 1, PJ–11.1; and
- Mail your comments so that they will be received in Washington DC on or before April 18, 2005.

The Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 Code of Federal Regulations (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 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 a free account, which can be created by clicking on ''Login to File'' and then ''New User Account.''

In addition to or in lieu of sending written comments, the Commission invites you to attend a public comment meeting in the project area. Meetings are scheduled as shown on the following page.

Interested groups and individuals are encouraged to attend and present oral comments on the draft EIS. Transcripts of the meetings will be prepared.

SCHEDULE FOR PUBLIC COMMENT MEETINGS

Date and time	Location
Monday, April 11, 2005, at 7 p.m. (MST)	Best Western Hitching Post, 1700 West Lincolnway, Cheyenne, WY.
Tuesday, April 12, 2005, at 7 p.m. (MST)	Hungry Miner Restaurant, 2300 West Spruce, Rawlins, WY.
Wednesday, April 13, 2005, at 7 p.m. (MST)	Moffat County Extension Office—CSU, 539 Barclay Street, Craig, CO.
Thursday, April 14, 2005, at 7 p.m. (MST)	CSU Extension, 779 Sulfur Creek Road, Meeker, CO.

After these comments are reviewed and considered, modifications will be made to the draft EIS and it will be published and distributed as a final EIS. The final EIS will contain responses to timely comments filed on the draft EIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision.

Anyone may intervene in this proceeding based on the draft EIS. You must file your request to intervene as specified above. You do not need intervenor status to have your comments considered.

The draft EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426; (202) 502–8371.

A limited number of copies are available from the FERC's Public Reference Room identified above. In addition, copies of the draft EIS have been mailed to Federal, state, and local agencies; public interest groups; individuals and affected landowners who have requested the draft EIS; libraries and newspapers in the project area; and parties to this proceeding.

Route Inspection

From April 11–14, we will also be conducting an inspection of select areas along the route and locations of aboveground facilities associated with Entrega's proposal. Anyone interested in participating in the inspection activities may contact the FERC's Office of External Affairs (identified below) for more details and must provide their own transportation.

Questions?

Additional information about the proposed project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits (*i.e.*, CP04–413) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. 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 rulemakings.

In addition, the Commission now offers a free service called eSubscription which 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. Go to the eSubscription link on the FERC Internet Web site.

Information concerning the involvement of the BLM is available from Tom Hurshman, BLM Project Manager, at (970) 240–5345.

Magalie R. Salas,

Secretary.

[FR Doc. E5–892 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2710–035]

PPL Maine, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

February 25, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent license.

b. *Project No.:* P–2710–035.

c. *Date filed:* June 25, 2004.

d. *Applicant:* PPL Maine, LLC.

e. *Name of Project:* Orono Hydroelectric Project.

f. *Location:* On the Stillwater Branch of the Penobscot River, near the town of Buxton, Penobscot County, Maine. This project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Scott Hall, PPL Maine, LLC, Davenport Street, PO Box 276, Milford, Maine 04461, (207) 827–5364.

i. *FERC Contact:* Patrick Murphy, (202) 502–8755, *patrick.murphy@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* April 25, 2005.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The Orono Hydroelectric Project, as proposed, would consist of the following facilities: (1) The existing 1,174-foot-long by 15-foot-high dam with 2.4-foot-high flashboards; (2) a 2.3-mile-long reservoir, which has a surface area of 175 acres at the normal full pond elevation of 72.4 feet above mean sea level; (3) three new 10-foot-diameter penstocks; (4) a new restored powerhouse containing four generating units with total installed generating capacity of 2.3 megawatts (MW); and (4) appurtenant facilities. The restored project would have an average annual generation of 17,821 megawatt-hours. The dam and existing project facilities are owned by the applicant.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link—select ''Docket #'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676 or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the

application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Magalie R. Salas,

Secretary.

[FR Doc. E5–888 Filed 3–2–05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Protests, and Motions To Intervene

February 25, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to license article 105.

b. *Project Number:* P–11077–059.

c. *Date Filed:* December 10, 2004.

d. *Applicant:* Goat Lake Hydro, Inc. (Goat Lake).

e. *Name of Project:* Goat Lake Hydroelectric Project.

f. *Location:* The project is located on Pitchfork Falls in Skagway, Alaska. The project occupies lands within the Tongass National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Glen Martin, Goat Lake Hydro, Inc., PO Box 459, Skagway, AK 99840; phone: (907) 983–2808.

i. *FERC Contact:* Any questions on this notice should be addressed to Steve Naugle at (202) 502–6061, or by e-mail: *steven.naugle@ferc.fed.gov.*

j. *Deadline for filing comments and or motions:* March 18, 2005.

k. *Description of the Application:* Goat Lake requests that article 105 be amended to: (1) Reduce the minimum flow required over Pitchfork Falls between May 15 and September 30, annually, from 13 to 8.5 cubic feet per second; and (2) change the present violation criteria for meeting this minimum flow requirement from ''any time flows drop below the required minimum flow'' to ''flows below the required minimum flow for more than two consecutive hours'' and that such occurrences be considered a reportable violation only if there are more than three such occurrences in any given month.

l. *Location 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 excluding the last three digits 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,* or for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers (P–1494–269). All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E5–890 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing, Soliciting Motions To Intervene And Protests

February 25, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New major license.

b. *Project No.:* 11882–002.

c. *Date filed:* May 27, 2004.

d. *Applicant:* Fall River Rural Electric Cooperative, Inc. (Fall River/Applicant).

e. *Name of Project:* Hebgen Dam Hydroelectric Project.

f. *Location:* On the Madison River, near the town of West Yellowstone, Gallatin County, Montana. The project is located in the Gallatin National Forest and is within close proximity to Yellowstone National Park.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Brent L. Smith, Northwest Power Services, Inc. PO Box 535, Rigby, Idaho 83442, (208) 745–0834 or by e-mail to *bsmith@nwpwrservices.com.*

i. *FERC Contact:* Kim Nguyen, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426; telephone (202) 502–6105 or by e-mail at *kim.nguyen@ferc.gov.*

j. Deadline for filing motions to intervene and protests is 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments

or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. The Hebgen Dam Project will consist of a powerhouse with a single turbine generator unit of approximately 6.7 megawatt capacity at the area downstream of the dam and immediately north of the present outlet discharge. The Applicant also proposes to install a new 9.4-mile, 25-kilovolt underground power transmission line to connect the powerhouse with the existing Fall River Rural Electric Cooperative's Hebgen substation located near Grayline, Montana. The Applicant proposes to utilize the existing Hebgen Dam, Hebgen Reservoir, outlet works, and spillway, currently owned and operated by Pennsylvania Power and Light Montana, LLC (PPL Montana) as a regulating reservoir under the Missouri-Madison Hydroelectric Project, FERC No. 2188.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit 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.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E5–891 Filed 3–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project, Pacific Northwest-Pacific Southwest Intertie Project, and the Central Arizona Project—Rate Order No. WAPA–114

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension of multi-system transmission rate process.

SUMMARY: The Western Area Power Administration (Western) initiated a rate adjustment process for a multi-system transmission rate (MSTR) which would have applied to the Parker-Davis Project (P-DP), the Pacific Northwest-Pacific Southwest Intertie Project (Intertie), and the Central Arizona Project (CAP). Western is extending the rate process to allow sufficient time to propose a methodology for the MSTR allowing customers to choose between a single system transmission service and a multi-system transmission service (customer choice model). Western will hold an additional Public Information Forum and Public Comment Forum.

DATES: The consultation and comment period begins today and will end June 1, 2005. A Public Information Forum will be held on March 29, 2005 beginning at 10 a.m. MST, in Phoenix, AZ. A Public Comment Forum will be held April 6, 2005 beginning at 1 p.m. MST in Phoenix, AZ. Western will accept written comments any time during the consultation and comment period.

ADDRESSES: Send written comments to J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, e-mail *carlson@wapa.gov.* Western will post information about the rate process on its Web site at *http://www.wapa.gov/dsw/pwrmkt/MSTRP/MSTRP.htm.* Western must receive written comments by the end of the consultation and comment period to ensure they are considered in Western's decision process. The Public Information Forum and Public Comment Forum will be held at: Desert Southwest Customer Service Regional Office, located at 615 South 43rd Avenue, Phoenix, Arizona.

FOR FURTHER INFORMATION CONTACT: Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, telephone (602) 605–2453, e-mail address *carlson@wapa.gov,* or Mr. Jack Murray, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, telephone (602) 605–2442, e-mail *jmurray@wapa.gov.*

SUPPLEMENTARY INFORMATION: During the consultation and comment period which this notice extends, Western received comments voicing strong opposition to the proposed methodology and also comments voicing support for the proposed methodology. Western also received requests to change the proposed methodology. The alternative proposal, instead of a mandatory phase-in model for all customers, will be a customer choice model which will allow existing customers to choose either a single system transmission service or a multi-system transmission service.

The initial consultation and comment period ended September 20, 2004. All formally submitted comments, both written and oral, were considered in preparing this notice.

Comments:

Written comments were received from the following organizations: Arizona

Electric Power Cooperative, Arizona Power Authority, Arizona Public Service, Calpine Power Company, Cortaro Water Users' Association, K. R. Saline & Associates, Mohave Electric Cooperative, Navopache Electric Cooperative, Robert S. Lynch and Associates, Salt River Project, Southwest Transmission Cooperative, Welton-Mohawk Irrigation and Drainage District.

Representatives of the following organizations made oral comments: Calpine Power Company, Irrigation & Electrical Districts Association of Arizona, R.W. Beck, Salt River Project.

Western responded to oral comments received during the Public Information and Comment Forums in a letter dated September 2, 2004. Responses in this notice focus primarily on written comments pertinent to a revised customer choice model and Western's authority to develop a MSTR.

Comment: Several comments indicated a preference for the ability to choose whether to remain on a single system rate or elect to have broader system access and pay the MSTR.

Response: Western is extending the public process to allow for consideration and development of a customer choice model for the MSTR.

Comment: Several comments indicated that under the mandatory convergence model Western proposed, they would experience increased costs and would not receive any benefit, while others submitted comments in favor of the proposal because it would have decreased their costs due the elimination of pancaked rates.

Response: Western acknowledges all comments and is extending the public process to develop a customer choice model for firm and non-firm transmission service. A customer choice model will allow those customers who recognize no benefit to remain on a single system rate while those wanting broader transmission system access without pancaked rates can opt for the MSTR.

Comment: Several comments stated that the proposed MSTR constituted a cross-subsidization of one power system to another, and that Western did not have the authority to require that one project be subsidized by another.

Response: The MSTR model referred to in this comment is the Convergence Model which would have applied the MSTR in the fifth year (Fifth Year Convergence). Under this model, each power system would have remained financially independent for accounting and repayment purposes. Each power system would have maintained a separate Power Repayment Study (PRS) and financial reports. The Fifth Year Convergence model would have combined the revenue requirements of three power systems to calculate a firm transmission rate. The total MSTR revenue collected would have been allocated to each power system based on the individual power system's percentage of the total MSTR revenue requirement. It is true that an increase (or decrease) in revenues or expenses on one power system would have an impact on the overall MSTR revenue requirement and therefore a transfer of repayment responsibility under the MSTR would exist.

While Western is revising the MSTR to a customer choice model, it is not prohibited from implementing such a blended rate by either DOE Order RA 6120.2 or project-specific legislation. Western has combined the revenue requirements of multiple projects for rate-setting purposes in its other regional offices.

Comment: Some comments specifically alleged there is a subsidy from the Intertie 230/345-kilovolt system to the Intertie 500-kV system.

Response: From a legislative, power system repayment, and accounting standpoint, both the 230/345-kV and 500-kV components of Intertie are considered one power system. There is one PRS that includes the investments, revenues, and expenses of both components. Western's financial accounting system does not break costs down by a 230/345-kV or 500-kV component class of service and Western does not record costs to one component over the other. However, Western established two rates for the two components in the 1995 Rate Adjustment in response to customer comments.

Comment: A commenter indicated that granting single system credits to the Firm Electric Service (FES) customers discriminated against the other customers because the credits are part of the revenue requirement for the MSTR.

Response: FES customers receive a bundled firm electric service product. This product is firm energy delivered to the customer's point of delivery on the Parker-Davis System including all necessary ancillary services. Although transmission is bundled in the FES contracts, in Rate Order No. WAPA–75, Western defined a generation component and a transmission component equal to the P–DP Firm Transmission rate. This was done in an effort to voluntarily comply with the intent of Federal Energy Regulatory Commission (Commission) Order No. 888, by giving comparable access to other generation. However, the nature of the P–DP FES product was unchanged and Western's customers agreed that FES remains a bundled product, including both the generation and transmission components. Therefore the FES customers that chose to continue to take limited service delivery solely on the P–DP system would receive a credit for the difference between the MSTR and the transmission component of the P–DP bundled Power rate.

The P–DP PRS does not separate the generation and transmission to calculate a P–DP revenue requirement. A second study, the Cost Apportionment Study, was developed in 1995 to calculate this separation with an allocation of costs between the power and transmission customers. The Commission recognizes the existence of bundled power contracts and the special nature of Western's power marketing mission. The MSTR, as proposed in the June 2004 Public Information Forum, would have been put in place strictly for firm transmission service, which represents an entirely different class of service than firm electric service. Western is following generally accepted industry practices to use different pricing methodologies for different classes of service.

Comment: A commenter indicated that granting credits to UNS Electric (UNS) and Central Arizona Water Conservation District (CAWCD) discriminated against the other customers because the credits are part of the revenue requirement for the MSTR.

Response: Western was not proposing to provide credits to either entity. UNS has a contract which identifies a specific rate through 2008. This contract was executed prior to Western establishing a rate for the CAP. The UNS contract does, however, allow for modification to the rate. All other transmission contracts specify that the contractor will pay the rates and charges set forth in the applicable rate schedule. Since UNS does not pay the firm transmission rate as published in the CAP rate schedule, the revenue collected from that contract is classified as ''other revenue'' when calculating the CAP revenue requirement. Other revenue is subtracted from or ''credited'' against the gross revenue requirement to determine the revenue requirement that must be collected from other firm transmission customers.

CAWCD does not receive credit for any part of its transmission use on the CAP system. The CAP transmission system was built to supply power to CAP pumping loads. CAWCD is the project use beneficiary of the CAP and has the financial obligation to repay the entire CAP system. The Desert

Southwest Region (DSW) does not bill CAWCD for transmission service for project use loads on the CAP. In order to include the CAP transmission service revenue paid by others in the MSTR, Western determined a revenue requirement based on the percentage of use on the CAP by CAWCD and subtracted that from the total CAP revenue requirement.

Comment: A commenter indicated there was a discrepancy caused by granting credits to the P–DP FES customers and not to the Salt Lake City Area Integrated Projects (SLCA/IP) FES customers.

Response: DSW approached Western's Colorado River Storage Project (CRSP) Management Center and Rocky Mountain Region (RMR) with several plans to incorporate the SLCA/IP FES into the MSTR. SLCA/IP FES is a bundled product and no acceptable method for breaking out the transmission component could be determined. SLCA/IP FES contracts include Western's obligation to deliver to points on the CRSP system. Deliveries off the CRSP system to the P–DP system require payment at the applicable rate for P–DP Transmission Service. Any methods devised by DSW to include SLCA/IP FES customers resulted in inequities between the SLCA/IP Customers on P–DP and the other SLCA/IP Southern and Northern Division Customers. The CRSP, RMR, and DSW offices agreed that it is not feasible to consider eliminating pancaking among the Regions unless we could combine the transmission service rates of all three Regions.

Comment: A commenter stated that the MSTR does not follow RA 6120.2 and cites paragraphs 7.g., 10.a., and 10.h.

Response: Paragraph 1 of RA 6120.2, which sets forth the purpose of establishing financial and reporting policies, procedures and methodologies for all DOE Power Marketing Administrations, specifically allows for deviations when ''approved by the Secretary, authorized by statute, or identified and explained in a transmittal memorandum or in the footnotes to the reports''.

Paragraph 7.g. defines a power system as ''a system comprised of one project or more than one project hydraulically and/or electrically integrated and therefore treated as one unit for the purpose of establishing rates.'' While a transmission system is not a defined term in RA 6120.2, the key feature of the DSW system is that it is electrically connected and thus fits the requirement for being treated as one system for establishing rates.

Neither paragraph 10.a. nor paragraph 10.h. addresses combining the transmission portions of the revenue requirement of multiple power systems. Paragraph 10 sets forth the general requirements for PRSs. The revenue requirement for the MSTR is a combination of transmission revenue requirements for each power system that has been determined using practices consistent with RA 6120.2. Western has previously combined revenue requirements of separate power systems for rate-making purposes. Western's RMR and Sierra Nevada Region (SNR), as well as the CRSP Management Center, have combined revenue requirements from multiple power systems to calculate one combined rate. They also have a firm transmission rate which is calculated separately from the PRS. Revenue from this service is applied to the appropriate PRS as ''Other Revenue'' similar to what was envisioned for revenue from the MSTR in DSW.

Comment: A commenter questioned the information on the number of customers who benefited from the implementation of the MSTR and those who were disadvantaged and requested additional data.

Response: In a letter dated September 2, 2004, Western provided an impact analysis that listed rates for each year and the total impact by customer. Also included in this data was a listing of reservations by customer for the FY 2005–2009 rate evaluation period. The data is also available on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt/MSTRP/MSTRP.htm.*

Since Western is revising the MSTR proposal to a customer choice model, each customer will be able to make the choice whether it is most beneficial to them to remain on a single system rate or elect the MSTR.

Legal Authority

Western will hold both a public information forum and a public comment forum on a revised customer choice methodology for the proposed MSTR. After review of public comments, and possible amendments or adjustments, Western will either recommend the Deputy Secretary of Energy approve the revised MSTR proposal on an interim basis, continue the public process, or withdraw the proposal.

Western is establishing the proposed MSTR under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Commission. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Western initiates or uses to develop the proposed rates are available for inspection and copying at the Desert Southwest Customer Service Regional Office, Western Area Power Administration, located at 615 South 43rd Avenue, Phoenix, Arizona. Many of these documents and supporting information are also available on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt/MSTRP/MSTRP.htm.*

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. This action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: Feburary 14, 2005.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 05–4118 Filed 3–2–05; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA–05–492]

Fifth Meeting of the Advisory Committee for the 2007 World Radiocommunication Conference (WRC–07 Advisory Committee)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the fifth meeting of the WRC–07 Advisory Committee will be held on April 4, 2005, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2007 World Radiocommunication Conference. The Advisory Committee will consider any preliminary views and draft proposals introduced by the Advisory Committee's Informal Working Groups.

DATES: April 4, 2005; 11 a.m.–12 noon.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexander Roytblat, FCC International Bureau, Strategic Analysis and Negotiations Division, at (202) 418–7501.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (FCC) established the WRC–07 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2007 World Radiocommunication Conference (WRC–07).

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the fifth meeting of the WRC–07 Advisory Committee. The WRC–07 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the fifth meeting is as follows:

Agenda

Fifth Meeting of the WRC–07 Advisory Committee, Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554. April 4, 2005; 11 a.m.–12 noon.

1. Opening Remarks.
2. Approval of Agenda.
3. Approval of the Minutes of the Fourth Meeting.
4. Reports on Recent WRC–07 Preparatory Meetings.
5. NTIA Draft Preliminary Views and Proposals.
6. Informal Working Group Reports and Documents relating to:
   a. Consensus Views and Issues Papers;
   b. Draft Proposals.
7. Future Meetings.
8. Other Business.

Federal Communications Commission.

Don Abelson,

Chief, International Bureau.

[FR Doc. 05–4112 Filed 3–2–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 28, 2005.

A. Federal Reserve Bank of Cleveland (Nadine M. Wallman, Assistant Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Sky Financial Group, Inc., Bowling Green, Ohio: to acquire 100 percent of the voting shares of, and thereby merge with Belmont Bancorp, Inc., Bridgeport, Ohio, and thereby indirectly acquire Belmont National Bank, Wheeling, West Virginia.

2. S&T Bancorp, Indiana, Pennsylvania; to acquire up to 9.9 percent of the voting shares of CBT Financial Corporation, and thereby indirectly acquire Clearfield Bank & Trust Company, both of Clearfield, Pennsylvania.

B. Federal Reserve Bank of Chicago (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Community State Bank Employee Stock Ownership Plan and Trust, Union Grove, Wisconsin; to acquire up to 33.24 percent of the voting shares of Union Bancorporation, Union Grove, Wisconsin, and thereby indirectly acquire Community State Bank, Union Grove, Wisconsin.

2. Great River Financial Group, Inc., Burlington, Iowa; to acquire 100 percent of the voting shares of Two Rivers Bank and Trust (in organization), Johnston, Iowa.

3. Prairieland Bancorp Employee Stock Ownership Plan and Trust, Bushnell, Illinois; to acquire an additional 4.66 percent for a total of 49.69 percent of the voting shares of Prairieland Bancorp, Inc., and thereby indirectly acquire Farmers and Merchants State Bank of Bushnell, both of Bushnell, Illinois.

Board of Governors of the Federal Reserve System, February 25, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–4065 Filed 3–2–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 17, 2005..

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Hylton Wright, Betty Wright, Tamara Thomas, Loudene Riggs, Alease Lambert, and Evelyn Wright, Mounty Airy, North Carolina; as a group acting in concert to acquire voting shares of Surrey Bancorp, Mount Airy, North Carolina, and thereby indirectly acquire voting shares of Surrey Bank & Trust, Mount Airy, North Carolina.

Board of Governors of the Federal Reserve System, February 25, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–4066 Filed 3–2–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 28, 2005.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. SCCB Financial Corp., Columbia, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of South Carolina Community Bank, Columbia, South Carolina.

B. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Saladrigas Holdings, LP, Miami, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Premier American Bank, Miami, Florida.

C. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Security State Bank Holding Company, Jamestown, North Dakota; to acquire 100 percent of the voting shares of CNB, Inc., Walker, Minnesota, and thereby indirectly acquire voting shares of Centennial National Bank, Walker, Minnesota.

D. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Republic Bancorp, Inc., Munden, Kansas; to become a bank holding company by acquiring 99.72 percent of the voting shares of National Family Bank, Munden, Kansas.

Board of Governors of the Federal Reserve System, February 28, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–4154 Filed 3–2–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1214]

Reserve Bank Withdrawal From Noncash Collection Service

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved the withdrawal of the Federal Reserve Banks from the noncash collection service. The noncash collection service involves the collection and processing of definitive municipal bonds and coupons issued by state and local governments. The withdrawal from this service is prompted by the declining volume of definitive municipal securities, the expected underrecovery of costs in future years, and the availability of alternate service providers and substitutable services.

DATES: Items for deposit will be accepted until September 30, 2005, and withdrawal will be completed on December 30, 2005.

FOR FURTHER INFORMATION CONTACT: Kent Owens, Manager (202/728–5848), or Lyndsay Huot, Financial Services Analyst (202/452–5238), Division of Reserve Bank Operations and Payment Systems; for the hearing impaired only: Telecommunications Device for the Deaf, 202/263–4869.

SUPPLEMENTARY INFORMATION

I. Background

The Federal Reserve Banks currently provide a service to depository institutions for the collection of matured or called definitive municipal securities.[1] Definitive municipal securities are registered or bearer bonds that have been issued with interest coupons in certificated, or physical, form by local governments, as well as by states and their political subdivisions and agencies.[2] The Reserve Banks

[1] The Reserve Banks will accept deposits of securities up to 30 days prior to maturity.

[2] Such securities are ''noncash'' items under Regulation J (12 CFR 210.2(k)).

currently accept deposits of matured or called bonds and coupons from depository institutions, identify the appropriate paying agent, and present the items to the paying agent for collection. These services are collectively referred to as the ''noncash collection service.''

On October 19, 2004, the Board requested comment on a proposal for the Reserve Banks to withdraw from the noncash collection service (69 FR 61496). Several factors support the Reserve Banks' proposal to withdraw from this service: (1) The volume, customers, and paying agents in the market for noncash collection services are in decline, (2) the Reserve Bank service is facing future cost-recovery challenges, and (3) the private sector can provide an adequate level of similar or substitutable services to the market.

Municipal bond and coupon volume has been declining since the passage of the Tax Equity and Fiscal Responsibility Act of 1982, which effectively eliminated the issuance of municipal bearer bonds. In recent years, the decline in volume has accelerated due to the increase in called bonds in the low-interest rate environment. In fact, over the past five years volume has decreased by an average of 20 percent annually and is expected to decline by a further one-third in 2005. The noncash collection service has also experienced a decline in customers, and, currently, there are only about 1,000 depository institutions that use the Reserve Banks' service. In addition, consolidation in the market has reduced the number of paying agents to which the Reserve Banks present noncash collection items from roughly 3,500 to about 100.

Although the Reserve Banks have recovered the costs of their noncash collection service over the long run, they project a significant underrecovery of costs beginning in 2005. The declines in volume and customers, described above, have led to a general decline in service revenue. Because the noncash collection service is subject to strict custody control requirements for handling physical securities, its costs are largely fixed. The Reserve Banks believe that the interaction of these factors will lead to underrecovery in 2005 and beyond even if they raise fees significantly.

Depository institutions have a number of options available for the processing of definitive municipal securities. The Depository Trust Company (DTC) and some correspondent banks provide services similar to the Reserve Banks' noncash collection service. Noncash collection customers that are also participants in DTC would be able to use DTC's coupon collection service as an alternative. If a customer is not already a participant in DTC, the benefits of using DTC for its municipal securities processing may not outweigh the cost of becoming a participant.[3] These customers could use a correspondent bank to obtain noncash collection services. These correspondent institutions may, in turn, use DTC services, if they are participants, or they may present directly to the paying agents. These options should supply an adequate level of the same, or similar, services to customers that want to continue to use a service provider for a fee.

In addition to the alternate service providers available, depository institutions have the option of presenting directly to the paying agent for the redemption of their definitive municipal securities. While depository institutions may incur additional internal resource costs to present directly, paying agents do not charge presenters for the redemption of their coupons or bonds. To facilitate the identification of paying agents, the Reserve Banks will make their paying agent database available on the Federal Reserve Financial Services Web site at *http://www.frbservices.org*. This database will include securities descriptions and contact information for the associated paying agents, including phone numbers and addresses. This option should reasonably meet the needs of customers that want to use their own resources to process definitive municipal securities, rather than use a fee-based service provider.

II. Summary of Comments and Analysis

The Board has received four comments in response to this proposal—two from bank trade associations, one from a commercial bank, and one from a Federal Reserve Bank. None of the commenters raised any objection to the proposal. One commenter requested the development of a transition plan for customers of the noncash collection service, including transition planning tools, a paying agent database, and a timeline for withdrawal. One commenter requested that the Reserve Banks begin providing customers with paying agent information on all collected items as they are processed and provide a listing of institutions that offer correspondent municipal coupon and bond collection services.

In response to the request for a transition plan, the Board agrees with the need to provide information to customers to facilitate an orderly transition, and the Reserve Banks plan to provide transition information to their customers via the Federal Reserve Financial Services Web site at *http://www.frbservices.org*. The Reserve Banks will make their existing paying agent database available, in searchable form, to the public via the Web site by approximately midyear 2005 and will also coordinate opportunities for customers to receive training on how to use this database. The Reserve Banks will periodically update the database until they complete withdrawal, at which time the database will remain current as of the last day of the service. Additionally, the Board has specified the final date for acceptance of deposits, September 30, 2005, and the final date of the service, December 30, 2005, to allow depository institutions to begin planning accordingly. The earlier cutoff date for deposits is necessary to allow the Reserve Banks sufficient time to process all items, including any items returned from paying agents, before completing withdrawal.

In response to the request that the Reserve Banks provide customers information on paying agents with each processed item, the Board believes that the midyear availability of the paying agent database will allow customers sufficient time to plan to process their own items and, therefore, does not find it necessary to incur the cost of adjusting business processes in the short term. In response to the request for a listing of correspondent banks that offer a noncash collection service, the Board notes that the Reserve Banks do not have information on the full range of institutions that currently provide this service or those that may choose to enter the market. Therefore, the Board has concluded that it would not be appropriate to provide a partial list, which would discriminate among potential service providers. DTC is identified because of its unique role as a market utility that both processes and safekeeps municipal securities.

III. Competitive Impact Analysis

The Board has established procedures for assessing the competitive impact of changes that have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services, due to differing legal powers or constraints or due to a dominant market position of the Federal

[3] Based on the published 2004 fee schedule, the fee for a DTC participant account is $760 per account per month for the first five accounts.

Reserve deriving from such differences.[4] The withdrawal by the Reserve Banks from the noncash collection service will leave the provision of this service to private-sector providers; therefore, it will have no material, adverse effect on the ability of other service providers to provide similar services.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR part 1320 Appendix A.1), the Board has reviewed the notice under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the notice.

By order of the Board of Governors of the Federal Reserve System, February 28, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 05–4110 Filed 3–2–05; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0235]

General Services Administration Acquisition Regulation; Information Collection; Price Reductions Clause

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding the GSAR Price Reductions Clause.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Nelson, Procurement Analyst, Contract Policy Division, at telephone (202) 501–1900 or via e-mail to *linda.nelson@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0235, Price Reductions Clause, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Price Reductions Clause used in multiple award schedule contracts ensures that the Government maintains its relationship with the contractor's customer or category of customers, upon which the contract is predicated.

B. Annual Reporting Burden

Number of Respondents: 16,680.

Total Annual Responses: 33,360.

Average hours per response: 7.5 hours.

Total Burden Hours: 250,200.

Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0235, Price Reductions Clause, in all correspondence.

Dated: February 25, 2005

Rodney P. Lantier

Director, Contract Policy Division

[FR Doc. 05–4126 Filed 3–2–05; 8:45 am]

BILLING CODE 6820–61–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–12]

Notice of Submission of Proposed Information Collection to OMB; Public Housing Admissions/Occupancy Policies

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

To ensure the low-income character of public housing projects and to ensure sound management practices, Public Housing Agencies (PHAs) which have entered into an Annual Contribution Contract (ACC) with HUD must develop, and keep on file, admission and occupancy policies approved by HUD. The previous requirement for plans for eligibility of police officers is no longer included.

DATES: *Comments Due Date:* April 4, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0220) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

[4] These procedures are described in the Board's policy statement ''The Federal Reserve in the Payments System,'' Federal Reserve Regulatory Service 9–1558.

This notice also lists the following information:

Title of Proposal: Public Housing Admissions/Occupancy Policies.

Approval Number: 2577–0220.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: To ensure the low-income character of public housing projects and to ensure sound management practices, Public Housing Agencies (PHAs) which have entered into an Annual Contribution Contract (ACC) with HUD must develop, and keep on file, admission and occupancy policies approved by HUD.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,200		1		60		92,000

Total Estimated Burden Hours: 192,000.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 24, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 05–4042 Filed 3–2–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–11]

Notice of Submission of Proposed Information Collection to OMB; Third Round Designation of Seven Urban Empowerment Zones

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a revision to a currently approved collection. The application portion of this collection has been discontinued. Information will report progress by respondents of Round I, II, III Empowerment Zones (EZs). Businesses located in the EZs are eligible for Federal tax incentives to hire local residents and to expand or improve their operations.

DATES: Comments Due Date: April 4, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0148) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Third Round Designation of Seven Urban Empowerment Zones.

OMB Approval Number: 2506–0148.

Description of the Need for the Information and Its Proposed Use: This is a revision to a currently approved collection. The application portion of this collection has been discontinued. Information will report progress by respondents of Round I, II, III Empowerment Zones (EZs). Businesses located in the EZs are eligible for Federal tax incentives to hire local residents and to expand or improve their operations.

Frequency of Submission: On occasion, annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	75		1		15		1,125

Total Estimated Burden Hours: 1,125.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 25, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 05–4045 Filed 3–2–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–13]

Notice of Submission of Proposed Information Collection to OMB; Designation of Round III Empowerment Zones and Renewal Communities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a revision to a currently approved collection. The Round III Empowerment Zones and Renewal Communities (RCs) application has been discontinued. However, HUD is requesting approval to continue collecting information for progress reporting provided by designated RCs.

DATES: Comments Due Date: April 4, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0173) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Designation of Round III Empowerment Zones and Renewal Communities.

OMB Approval Number: 2506–0173.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: This is a revision to a currently approved collection. The Round III Empowerment Zones and Renewal Communities (RCs) application has been discontinued. However, HUD is requesting approval to continue collecting information for progress reporting provided by designated RCs.

Frequency of Submission: On occasion, annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	40		2		20		1,600

Total Estimated Burden Hours: 1,600.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 25, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 05–4046 Filed 3–2–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council Meeting Announcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). The meeting is open to the public.

DATES: March 14, 2005, 1–4 p.m.

ADDRESSES: The meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA. The Council Coordinator is located at the U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop: MBSP 4501–4075, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Council Coordinator, (703) 358–1784 or *dbhc@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Commission. Proposal due dates, application instructions, and eligibility requirements are available through the NAWCA Web site at

http://birdhabitat.fws.gov. Proposals require a minimum of 50 percent non-Federal matching funds. Canadian and U.S. Small grant proposals will be considered at the Council meeting. The tentative date for the Commission meeting is June 15, 2005.

Dated: February 11, 2005.

Paul Schmidt,

Assistant Director—Migratory Birds.

[FR Doc. 05–4061 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of renewal of a currently-approved information collection.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) in accordance with the Paperwork Reduction Act is soliciting comments on the Financial Assistance and Social Service program application forms in order to renew the Office of Management and Budget (OMB) clearance. This information collection request is cleared under OMB control number 1076–0017 and expires on July 31, 2005.

DATES: Written comments must be submitted on or before May 2, 2005.

ADDRESSES: Written comments or suggestions should be sent directly to Larry Blair, Office of Tribal Services, the Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Mail Stop 320–SIB, Washington, DC 20240. Facsimile number (202) 208–2648.

FOR FURTHER INFORMATION CONTACT: Larry Blair, 202–513–7621.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collected is necessary to be in compliance with 25 CFR Part 20 and 25 U.S.C. 13. The information is used to make determinations of eligibility for the BIA's social service (financial assistance) programs: General Assistance, Child Welfare Assistance, Miscellaneous Assistance, and services only (no cash assistance).

The information is also used to insure uniformity of services, and assure the maintenance of current and accurate records for clear audit facilitating data. All information collected is retained in an individual case record and used for case management/case planning purposes. The BIA does not require an individual to maintain a record.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

II. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

(b) The accuracy of the BIA estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time and financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collection, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to search data sources to complete and review the collection of information; and to transmit or otherwise disclose the information.

It is our policy to make all written comments available for public inspection; you may view them in Room 355–E of the South Interior Building, 1951 Constitution Avenue, NW., Washington, DC, from 9 a.m. until 3 p.m., Monday through Friday, excluding legal holidays. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. We will honor your request according to the requirements of the law. All comments from organizations or representatives will be available for review. We may withhold comments from review for other reason.

III. Data

Title of the collection of information: Bureau of Indian Affairs, Financial Assistance and Social Service Programs, 25 CFR 20.

OMB Control Number: 1076–0017.

Expiration Date: July 31, 2005.

Type of Review: Extension of a currently-approved collection.

Brief Description of the Collection: The information is submitted to obtain or retain benefits and for case management/case planning purposes.

Affected Entities: Individual members of Indian tribes who are living on or near a tribal service area.

Frequency of responses: One application per year.

Estimated Number of Annual Responses: 200,000.

Estimated Total Annual Burden Hours: 33,333 hours.

Dated: February 23, 2005.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 05–4039 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–180]

Call for Nominations for the Bureau of Land Management's Central California Resources Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations.

SUMMARY: The Bureau of Land Management is soliciting nominations form the public to fill a vacated position on the Central California Resources Advisory Council and serve the remainder of a three-year term which expires in September, 2006. Council members provide advice and recommendations to the BLM on the management of public lands in Central California.

ADDRESSES: Nominations should be sent to the Field Manager, Bureau of Land Management, Folsom Field Office, 63 Natoma Street, Folsom, CA 95630.

FOR FURTHER INFORMATION CONTACT: Deane Swickard, Field Manger, Folsom Field Office, 63 Natoma Street, Folsom, CA 95630, (916) 985–4474.

SUPPLEMENTARY INFORMATION: The Central California Resources Advisory Council (RAC) is composed of twelve individuals who represent different interests and advise BLM officials on policies and programs concerning the

management of public lands under the jurisdiction of the Folsom, Bishop, Hollister, and Bakersfield Field Offices. The Council meets in formal sessions two to four times a year at various locations. Council members serve without compensation except for reimbursement of travel expenditures incurred in the performance of their duties. Members serve three-year terms and may be renominated for reappointment for an additional three-year term.

The vacancy on the Central California RAC is in Category Two, which includes representatives of nationally or regionally recognized environmental organizations, archaeological and historic interests, dispersed recreation, and wild horse and burro groups.

Individuals may nominate themselves or others. Nominees must be residents of the region in which the RAC has jurisdiction. The BLM will evaluate nominees based on their education, training, and experience and their knowledge of the geographical resource decision making. The following must accompany nominations received in this call for nominations:

Letters of reference from represented interests or organizations;

A completed background information nomination form;

Any other information that speaks to the nominee's qualifications.

Nominations will be accepted for a 45-day period beginning the date this notice is published.

Dated: January 18, 2005.

D.K. Swickard,

Field Office Manager, Folsom Field Office.

[FR Doc. 05–4143 Filed 3–2–05; 8:45 am]

BILLING CODE 1610–DJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Resource Advisory Council Vacancy; Northwest California Resource Advisory Council, Susanville, CA; Notice of Vacancy and Call for Nominations

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Pursuant to authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Pub. L. 94–579), the U. S. Bureau of Land Management is seeking nominations to fill a vacant seat on the Northwest California Resource Advisory Council. The person selected to fill the vacancy will complete an unexpired term that ends in September 2005. The appointee will be eligible to be considered, through the minimal nomination process, for the full three-year term when the current term expires.

SUPPLEMENTARY INFORMATION: The council vacancy is in membership category three, persons elected to state, county or local elected office. The appointment will be made by the Secretary of the Interior, as are all BLM Resource Advisory Council appointments. The person selected must have knowledge or experience in the interest area specified, and must have knowledge of the geographic area under the council's purview (the Northwest portion of California).

Qualified applicants must have demonstrated a commitment to collaborate with varied interests to solve a broad spectrum of natural resource issues.

Nomination forms are available by contacting BLM Public Affairs Officer Joseph J. Fontana, 2950 Riverside Drive, Susanville, CA 96130; by telephone (530) 252–5332; or e-mail, *jfontana@ca.blm.gov*. Forms can also be downloaded from the BLM-California Web site, *http://www.ca.blm.gov/news/rac.html*. Nominations must be returned to: Bureau of Land Management, 2950 Riverside Drive, Susanville, CA 96130, Attention Public Affairs Officer, no later than April 4, 2005. Individuals can nominate themselves, or interest groups can submit nominations. Nominations must include letters of support from the interest groups the nominee will represent.

FOR FURTHER INFORMATION CONTACT: BLM Arcata Field Manager Lynda J. Roush, (707) 825–2300, or Public Affairs Officer Joseph J. Fontana at the above phone or e-mail address.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 05–4146 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–930–5420–EU–L028; AA–085446]

Notice of Applications for Recordable Disclaimers of Interest for Lands Underlying Kasilof River in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The State of Alaska has filed an application for a recordable disclaimer of interest in certain lands underlying the Kasilof River by the United States.

DATES: Comments on the State of Alaska's applications should be submitted on or before June 1, 2005. Interested parties may submit to comments on the BLM Draft Navigability Reports on or before May 2, 2005.

ADDRESSES: Comments should be sent to the Chief, Branch of Lands and Realty, BLM Alaska State Office, 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Callie Webber at (907) 271–3167 or Jack Frost at (907) 271–5531 or you may visit the BLM recordable disclaimer of interest Web site at *http://www.ak.blm.gov/ak930/rdi/index.html*.

SUPPLEMENTARY INFORMATION: On May 12, 2004, the State of Alaska filed applications for recordable disclaimers of interest pursuant to section 315 of the Federal Land Policy and Management Act and the regulations contained in 43 CFR subpart 1864 for lands underlying Kasilof River (AA–085446). A recordable disclaimer of interest, if issued, will confirm the United States has no valid interest in the subject lands. The notice is intended to notify the public of the pending applications and the State's grounds for supporting it. The State asserts that this river is navigable; therefore, under the Equal Footing Doctrine and Submerged Lands Act of 1953, ownership of these lands underlying the rivers automatically passed from the United States to the State at the time of statehood in 1959.

The State's application, AA–085446, is for ''all submerged lands lying within the bed of the Kasilof River, and all interconnected sloughs, between the ordinary high water lines of the left and right banks from the boundary of the Kenai National Wildlife Refuge at Township 2 North, Range 11 West, Sections 5 and 8, Seward Meridian, Alaska, downstream to its mouth in Cook Inlet within Townships 3 and 4 North, Range 12 West, Seward Meridian, Alaska''. The State did not identify any known adverse claimant or occupant of the affected lands.

A final decision on the merits of the applications will not be made before June 1, 2005. During the 90-day period, interested parties may comment upon the State's application, AA–085446, and supporting evidence. Interested parties may comment on the evidentiary evidence presented in the BLM's Draft Navigability Reports on or before May 2, 2005.

Comments, including names and street addresses of commenters, will be available for public review at the Alaska State Office (*see* **ADDRESSES** above), during regular business hours 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to hold your name or address from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

Dated: February 24, 2005.

Carolyn Spoon,

Chief, Branch of Lands and Realty.

[FR Doc. 05–4075 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Air Quality Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Air Quality Task Group (subcommittee) will meet in Pinedale, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: A PAWG Air Quality Task Group meeting is scheduled for April 7, 2005, from 8 a.m. until 5 p.m.

ADDRESSES: The PAWG Air Quality Task Group meeting will be held in the U.S. Forest Service office at 29 E. Fremont Lake Rd., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Susan Caplan, BLM/Air Quality TG Liaison, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Rd., Cheyenne, WY 82009, or PO Box 1828, Cheyenne, WY 82003; 307–775–6031.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field (PAPA) proceeds for the life of the field.

At their second business meeting, the PAWG established seven resource- or activity-specific Task Groups, including one for Air Quality. Public participation on the Task Groups was solicited through the media, letters, and word-of-mouth.

The agenda for this meeting will include information gathering and discussion related to implementation and funding of the adopted air quality monitoring plan for the Pinedale Anticline gas field. At a minimum, public comments will be heard just prior to adjournment of the meeting.

Dated: February 23, 2005.

Priscilla E. Mecham,

Field Office Manager.

[FR Doc. 05–4041 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–05–0777–XX]

Notice of Public Meeting, New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management, New Mexico Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting dates are April 13–14, 2005, at the Sally Port Inn, 200 North Main, Roswell, New Mexico. An optional field trip is planned for Tuesday, April 12, 2005. The public comment period is scheduled for April 12, 2005, from 6–7 p.m. at the Sally Port Inn. The public may present written comments to the RAC. Depending on the number of individuals wishing to comment and time available, oral comments may be limited. The three established RAC working groups may have a late afternoon or an evening meeting on Wednesday, April 13, 2005.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in New Mexico. All meetings are open to the public. At this meeting, topics include issues on renewable and nonrenewable resources.

FOR FURTHER INFORMATION CONTACT: Theresa Herrera, New Mexico State Office, Office of External Affairs, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, (505) 438–7517.

Dated: February 23, 2005.

Linda S.C. Rundell,

State Director.

[FR Doc. 05–4067 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZAR 05427]

Public Land Order No. 7627; Partial Revocation of Public Land Order No. 1229; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 340 acres of National Forest System land withdrawn for campgrounds, recreation areas, and other public purposes.

DATES: *Effective Date:* April 4, 2005.

FOR FURTHER INFORMATION CONTACT: Cliff Yardley, BLM Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, 602–417–9437.

SUPPLEMENTARY INFORMATION: The land is located within an overlapping withdrawal for a Forest Service roadside zone, so the partial revocation is a record-clearing action only.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

Public Land Order No. 1229, which withdrew National Forest System land for campgrounds, recreation areas, and other public purposes, is hereby revoked insofar as it affects the following described land:

Tonto National Forest

Gila and Salt River Meridian

A strip of land 200 feet on each side of the centerline of Federal Highway 9–K through the following subdivisions:

T. 9 N., R. 10 E.,

sec. 3, lots 3 and 4, and S½NW¼ (formally described NW¼);
sec. 4, lots 1 to 4, inclusive, and S½N½ (formally described N½);
sec. 5, lots 1 and 2, S½NE¼, and SE¼ (formally described E½);
sec. 8, N½ and SW¼.
T. 10 N., R. 10 E.,
sec. 28, NE¼ and S½;
sec. 33, NW¼ and S½;
sec. 34, SW¼.

The area described contains approximately 340 acres in Gila County.

Dated: February 11, 2005.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 05–4148 Filed 3–2–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 069197 and UTU 069197A]

Public Land Order No. 7626; Partial Revocation of Public Land Order No. 3480; Utah

AGENCY: Bureau of Land Management.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Public Land Order insofar as it affects approximately 150 acres of National Forest System lands withdrawn for Birch and Sulphur Campgrounds and South Fork Recreation Area. This order opens the lands to mining.

DATES: *Effective Date:* April 4, 2005.

FOR FURTHER INFORMATION CONTACT: Marsha Fryer, Forest Service, Intermountain Region, 324–25th Street, Ogden, Utah 84401–2310, 801–625–5802.

SUPPLEMENTARY INFORMATION: The Forest Service has determined that a withdrawal is no longer needed on the lands described in Paragraph 1 and has requested the partial revocation.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Public Land Order No. 3480, which withdrew National Forest System lands for campgrounds, administrative sites, and other public purposes, is hereby revoked insofar as it affects the following described lands:

Uinta National Forest

Birch Campground

Salt Lake Meridian

T. 7 S., R. 4 E.,
Sec. 26, N½SW¼NW¼ and SW¼SW¼NW¼;
Sec. 27, SE¼SE¼NE¼

Sulphur Campground

T. 7 S., R. 4 E.,
Sec. 27, SW¼SE¼NE¼ and SE¼SW¼NE¼ (part of lot 1)

Ashley National Forest

South Fork Recreation Area

Uintah Special Meridian

T. 2 N., R. 7 W.,
Sec. 20, S½NE¼SE¼, NE¼SW¼SE¼, NW¼SE¼SE¼, and S½SE¼SE¼;
Sec. 21, SW¼NW¼SW¼ and W½SW¼SW¼

The areas described aggregate approximately 150 acres in Duchesne and Utah Counties.

2. At 10 a.m. on April 4, 2005, the lands described in Paragraph 1 will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of these lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: February 11, 2005.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 05–4149 Filed 3–2–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–5853–ES; N–66442]

Notice of Realty Action: Change of Use for Recreation and Public Purposes Lease/Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purposes change of use.

SUMMARY: Clark County of Nevada proposes to change the use of public lands in an existing Recreation and Public Purposes lease to add a fire station facility.

FOR FURTHER INFORMATION CONTACT: Susan Woods, BLM Realty Specialist, (702) 515–5129.

SUPPLEMENTARY INFORMATION: The following described public land in Las Vegas, Clark County, Nevada was classified and segregated on April 19, 2002, for lease/conveyance under provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*). (**Federal Register**, Vol. 67, No. 76, page 19446).

The proposed change of use to include a five-acre fire-station facility to the lease/conveyance is consistent with uses authorized under the R&PP Act.

T. 22 S., R. 60 E.,
sec. 28, N½SW¼, SW¼SW¼, N½SE¼SW¼, SE¼SE¼SW¼, E½NE¼NE¼SE¼, E½NW¼NE¼SE¼, S½NE¼SE¼, NW¼SE¼, SW¼SE¼, W½SE¼SE¼, N½NE¼SE¼SE¼.
(Containing approximately 285.0 acres)

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed change of use for the lands to the Field Manager, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130.

Classification Comments: Given the public lands were previously classified for R&PP purposes, comments pertaining to classification will not be accepted.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision or any other factor not related to the suitability of the land for the proposed facilities. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the change of use of the land described in the Notice will become effective 60 days from the date of publication in the **Federal Register**.

Dated: December 16, 2004.

Sharon DiPinto,

Assistant Field Manager, Division of Lands.

[FR Doc. 05–4147 Filed 3–2–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Adam Bros. Farming Inc.*, Civil Action No. 00–cv–7409 CAS (RNBx), was lodged with the United States District Court for the Central District of California on February 25, 2005.

This proposed Consent Decree concerns a complaint filed by the United States against Adam Bros. Farming, Inc. Iceberg Holdings, L.P., Richard Adam, Peter Adam, Kieran Adam, and Dominic Adam, pursuant to 33 U.S.C. 1319(b) and (d), alleging violations of sections 301 and 309 of the Clean Water Act, 33 U.S.C. 1311, 1319. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore portions of the impacted area, pay for off-site mitigation and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Lily N. Chinn, Trial Attorney, P.O. Box 23986, Washington, DC 20026–3986, and refer to *United States* v. *Adam Bros. Farming Inc.*, DJ #90–5–1–1–05744.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Central District of California, 312 Spring Street, Room G–8, Los Angeles, California, 90012. In addition, the proposed Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html*.

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 05–4043 Filed 3–2–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 28 CFR 50.7, notice is hereby given that on February 11, 2005, a proposed Consent Decree in *United States* v. *FTR, LP,* et al., Civil Action No. 04–CV–930 was lodged with the United States District Court for the District of South Carolina, Rock Hill Division.

In this action, brought pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''the Act''), 42 U.S.C. 9607, the United States seeks reimbursement for response costs incurred by EPA at the Carolina Steel Drum Superfund Site (''Site'') located in Rock Hill, York County, South Carolina against twenty Defendants, who the United States alleges arranged for disposal of hazardous substances at this Site. Under the decree, fifteen settling Defendants—Akzo Nobel Coatings, Inc. (and its affiliate, Akzo Nobel Aerospace Coatings, Inc.; its predecessor, Dexter Corporation; and, another successor to Dexter Corporation, Invitrogen Corporation); Air Products and Chemicals, Inc.; Bayer CropScience, Inc. f/k/a Rhone-Poulenc, Inc.; Blackman Uhler Chemical Company; Boehme Filatex, Inc; Cognis Corporation; CNA Holdings, Inc.; Goodrich Corporation; Henry Company; Para-Chem Southern, Inc.; Piedmont Chemical Industries, Inc.; Reeves Brothers, Inc.; Sequa Corporation; Springs Industries, Inc.; and Wikoff Color Corporation (and its affiliate, Wikoff Color Corporation of SC) will make a collective payment of $3,536,394.82 to resolve their liability for EPA costs incurred to clean up the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *FTR, LP* et al., D.J. Ref. 90–11–2–07733.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of South Carolina, 1441 Main Street, Suite 500, Columbia, South Carolina, 29201, and at U.S. EPA Region IV, Atlanta Federal Building, 61 Forsyth Street, Atlanta, Georgia, 30303. During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–4044 Filed 3–2–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: Firearms Transaction Record Low Volume Part I Over-the-Counter and Part II Intra-State Non-Over-the-Counter.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 2, 2005. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Cherie Knoblock, Firearms Enforcement Branch, Room 7202, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

• 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 agencies, 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Transaction Record Low Volume Part I Over-the-Counter and Part II Intra-State Non-Over-the-Counter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4473 (5300.24) Part I (LV) and ATF F 4473 (5300.25) Part II (LV) and ATF REC 7570/2. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Individual or households. The forms are used by low volume firearms dealers to record acquisition and disposition of firearms and to determine the eligibility of buyers to receive firearms. The forms are part of the licensee's permanent record and may be used to trace firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 1,000 respondents will complete a 20-minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,666 annual total burden hours associated with this collection

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 25, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–4054 Filed 3–2–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: national prisoner statistics, summary of sentenced population movement.

The Department of Justice, Office of Justice Programs (OJP), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 2, 2005. This process is in accordance with the Paperwork Reduction Act of 1995.

If you have comment especially on the estimated burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lawrence Greenfeld, Director, Bureau of Justice Statistics, 810 Seventh St., NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the 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.

Overview of this information collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the Form/Collection:* National Prisoner Statistics, Summary of Sentenced Population Movement.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form: NPS–1. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract: Primary:* State Departments of Corrections. *Others:* The Federal Bureau of Prisons. For the NPS–1 form, 51 central reporters (one from each State and the Federal Bureau of Prisons) responsible for keeping records on inmates will be asked to provide prison admission information for the following categories: New court commitments, parole violators, other conditional release violators returned, transfers from other jurisdictions, AWOLs and escapees returned, and returns from appeal and bond. Respondents will also be asked to provide prison release information for the following categories: Expirations of sentence, commutations, other conditional releases, probations, supervised mandatory releases, paroles, other conditional releases, deaths by cause, AWOLs, escapes, transfers to other jurisdictions, and releases to appeal or bond. In addition, respondents will be asked for data on jurisdictional and custody populations at yearend by gender for inmates with over 1 year maximum sentence, and inmates with a year or less maximum sentence; for information on the number of state inmates house in facilities operated by a county or other local authority on December 31 to ease prison crowding; the number of state inmates housed in a privately operated correctional facility; inmates on December 31 by race and Hispanic origin; testing of incoming inmates for HIV; and HIV infection and AIDS cases on December 31.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJS estimates 51 respondents will respond to the collection. It will take the average respondent approximately 6.5 hours to respond to the information collection.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual

burden hours associated with this information collection is 332.

If additional information is required, contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 Suite D Street, NW., Washington, DC 20530.

Dated: February 25, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–4052 Filed 3–2–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: 2005 Census of Jail Inmates.

The Department of Justice (DOJ), Office of Justice Programs (OJP), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 2, 2005. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Jennifer C. Karberg, Statistician (202) 307–1043, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* 2005 Census of Jail Inmates.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* CJ3–I. Bureau of Justice Statistics (BJA), Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* County and City Jail Authorities, and Tribal Authorities. *Other:* Federal Government, and Private Contractors working under the authority of the Federal Government. The 2005 Census of Jail Inmates, together with the 2005 Census of Jail Facilities, is the foundation for all national statistics on local jails and inmates. These censuses provide the frames from which to generalize to the nation and to track changes over time. Without a periodic census, sample surveys would be unreliable, and statistics would be based on a group of jails of unknown representativeness, that were simply convenient to contact and willing to respond. These censuses provide a benchmark against which jurisdictions may compare their correctional populations. Administrators use this data to evaluate their staffing and budget needs relative to similarly situated jail jurisdictions. Practitioners, policy makers, and researchers are able to test assertions and conclusions about the causes and consequences of current sentencing release policies. Finally, the censuses present raw material for discussion and evaluation of correctional policies and practices throughout the nation, in some States providing the only sources of objective descriptions of the operation of local jails.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* BJA estimates 3,084 respondents, each taking an average of 80 minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,112 total annual burden hours associated with the collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 25, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–4053 Filed 3–2–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1).

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in

the addresses section of this notice. The Form EFAST–1 is also available for viewing and downloading through the Department of Labor's Internet site (*http://www.efast.dol.gov*).

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 2, 2005.

ADDRESSES: Interested parties are invited to submit written comments regarding the collection of information. Send comments to Mr. Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410 Fax: (202) 693–4745 (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Under part 1 of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), Title IV of ERISA, and the Internal Revenue Code of 1986, as amended, administrators of pension and welfare benefit plans (collectively, employee benefit plans) subject to those provisions and employers sponsoring certain fringe benefit plans and other plans of deferred compensation are required to file returns/reports annually concerning the financial condition and operations of the plans. These reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and the related regulations.

Beginning with the 1999 plan year, the Agency announced the availability of computer scannable forms and the development of electronic filing technologies. The computer scannable formats were developed to facilitate the implementation of a computerized system designed to process the Form 5500 and the IRS Form 5500–EZ—the ERISA Filing and Acceptance System, or EFAST. The Form 5500 and Form 5500–EZ may also be filed electronically via modem, magnetic tape, floppy diskette, or CD–ROM.

In order to participate in the electronic filing program, applicants are required to submit an Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1), the subject of this ICR. Applicants who may file the Form EFAST–1 include: (1) Individuals applying for an electronic signature to sign a Form 5500 or 5500–EZ as, or on behalf of, plan administrators, employers/plan sponsors, or Direct Filing Entities (DFEs) using modem, magnetic tape, floppy diskette, or CD–ROM to file electronically; (2) transmitters (a company, trade, business, or other person) applying for codes to transmit Forms 5500 and/or Forms 5500–EZ for electronic filing using modem, magnetic tape, floppy diskette, or CD–ROM; and, (3) software developers (a company, trade, business, or other person that creates, programs, or otherwise modifies computer software) applying for codes required to develop EFAST-compliant computer software for electronically preparing and filing the Form 5500 and/or Form 5500–EZ. Applicants provide some or all of the following information depending on applicant type: Name and title of applicant, mailing address, Employer Identification Number (EIN), telephone number, facsimile number and e-mail address (optional), contact person if different than applicant, and a signed agreement concerning the terms and conditions of the electronic filing program. Applicants receive, depending on applicant type, some or all of the following codes: electronic signature; filer identification number; personal identification number; encryption key; electronic filing identification number; password; and software developer ID. Applicants use these codes, as applicable, in connection with electronic filing, electronic transmission, or the development of EFAST software for the Form 5500 and 5500–EZ.

The information provided by the applicants on EFAST–1, combined with the codes supplied to the applicants by the program, allow EFAST to verify a filer, transmitter, or software developer's standing as a qualified participant in the EFAST electronic filing program for the Form 5500 and 5500–EZ. EFAST–1 information also establishes a means of contact between the EFAST program and filers, transmitters, and software developers for information exchange.

II. Review Focus

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department is requesting an extension of the currently approved ICR pertaining to the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1). The Department is not proposing or implementing changes to the existing ICR at this time.

Title: Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers.

Agency: Department of Labor, Employee Benefits Security Administration.

Type of Review: Extension of currently approved collections.

OMB Numbers: 1210–0117.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Form Number: EFAST–1.

Total Respondents: 5,200.

Total Responses: 5,200.

Frequency of Response: On occasion.

Estimated Burden Hours: 1,200.

Estimated Burden Cost (Operating and Maintenance): $1,976.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 24, 2005.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 05–4082 Filed 3–2–05; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce

paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Request for Examination and/or Treatment (LS–1). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before May 2, 2005.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, e-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or e-mail).

SUPPLEMENTARY INFORMATION:

I. *Background:* The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA). The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employee in loading, unloading, repairing or building a vessel. Under Section 7 (33 U.S.C., Chapter 18, Section 907) of the Longshore Act the employer/insurance carrier is responsible for furnishing medical care for the injured employee for such period of time as the injury or recovery period may require. Form LS–1 serves two purposes: (1) It authorizes the medical care and (2) provides a vehicle for the treating physician to report the findings, treatment given and anticipated physical condition of the employee. This information collection is currently approved for use through November 30, 2005.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to verify that proper medical treatment has been authorized and to determine the severity of a claimant's injuries for purposes of compensation benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Titles: Requests for Examination and/or Treatment.

OMB Number: 1215–0066.

Agency Numbers: LS–1.

Affected Public: Individual or households; Business or other for-profit.

Total Respondents: 16,200.

Total Annual responses: 101,250.

Estimated Total Burden Hours: 109,350.

Estimated Time Per Response: 1.08 Hours.

Frequency: On Occasion.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $43,740.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 25, 2005.

Sue Blumenthal,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 05–4081 Filed 3–2–05; 8:45 am]

BILLING CODE 4510–CF–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 154th Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on March 24, 2005 from 9 a.m.–12 p.m. (ending time is tentative) in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. After opening remarks by Chairman Gioia, there will be an update on National Leadership Initiatives and on Congressional/White House activities. A presentation on the NEA Arts Journalism Institutes will be followed by swearing-in of new Council members. There will then be a presentation on the NEA Jazz Masters Initiative, including information on both NEA Jazz Masters and NEA Jazz in the Schools. This will be followed by review and voting on applications and guidelines. The meeting will conclude with general discussion.

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: February 25, 2005.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 05–4098 Filed 3–2–05; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend and Revise 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 renewal 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 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 May 2, 2005 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: 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*. 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. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Graduate Students and Postdoctorates in Science and Engineering.

OMB Approval Number: 3145–0062.

Expiration Date of Approval: May 31, 2005.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: Graduation students in science, engineering, and health fields in U.S. colleges and universities, by source and mechanism of support and by demographic characteristics. An electronic/mail survey, the Survey of Graduate Students and Postdoctorates in Science and Engineering originated in 1966 and has been conducted annually since 1972. The survey is the academic graduate enrollment component of the NSF statistical program that seeks to ''provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal government'' as mandated in the National Science Foundation Act of 1950.

The proposed project will continue the current survey cycle for three years. The annual Fall surveys for 2005 through 2007 will survey the universe of 712 reporting units (schools) at 592 graduate degree-granting institutions. There are 12,262 departments at these schools that offer accredited graduate programs in science, engineering or health. The survey has provided continuity of statistics on graduate school enrollment and support for graduate students in all science & eningeering (S&E) and health fields, with separate data requested on demographic characteristics (race/ethnicity and gender by full-time and part-time enrollment status). Statistics from the survey are published in NSF's annual publication series Graduate Students and Postdoctorates in Science and Engineering, in NSF publications Science and Engineering Indicators, Women, Minorities, and Persons with Disabilities in Science and Engineering, and are available electronically on the World Wide Web.

The survey will be sent primarily to the administrators at the Institutional Research Offices. To minimize burden, NSF instituted a Web-based survey in 1998 through which institutions can enter data directly or upload preformatted files. The Web-based survey includes a complete program for editing and trend checking and allows institutions to receive their previous year's data for comparison. Respondents will be encouraged to participate in this Web-based survey should they so wish. Traditional paper questionnaires will also be available, with editing and trend checking performed as part of the survey processing. In the currently ongoing Fall 2004 GSS survey, preliminary data indicate that 95% of the institutions are submitting the data on the Web-based data collection system. During the 2003 GSS survey cycle, 87% of the institutions used the Web-based data collection system.

The Fall 2003 GSS achieved a total response rate of 99.4% for institutions and 99.0% for departments. Response rates are not yet available for the currently ongoing Fall 2004 survey.

Estimate of Burden:

Respondents: Individuals.

Estimated Number of Responses: 12,262.

Estimated Total Annual Burden on Respondents: 35,443 hours.

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; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 27, 2005.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 05–4116 Filed 3–2–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company, et al.; Notice of Consideration of Approval of Application Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on December 20, 2004 (69 FR 76019), that provided an incorrect application date. This action is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: David H. Jaffe, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–1439, e-mail: *dhj@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 76021, in the first column, in the second complete paragraph, third line, it is

corrected to read from ''October 12, 2004,'' to ''October 21, 2004''.

Dated in Rockville, Maryland, this 25th day of February 2005.

For the Nuclear Regulatory Commission.

Allen G. Howe,

Chief, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–4069 Filed 3–2–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–321, 50–366, 50–348, 50–364, 50–424, and 50–425]

Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, Units 1 and 2, Joseph M. Farley Nuclear Plant, Units 1 and 2, Vogtle Electric Generating Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, appendix E, and from 10 CFR 50.47(b)(3) for Facility Operating License Nos. DPR–57, NPF–5, NPF–2, NPF–8, NPF–68, and NPF–81, issued to Southern Nuclear Operating Company, Inc. (the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch), Joseph M. Farley Nuclear Plant, Units 1 and 2 (Farley), and Vogtle Electric Generating Plant, Units 1 and 2 (Vogtle), respectively. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would provide an exemption from the requirements of 10 CFR part 50, appendix E, and 10 CFR 50.47(b)(3) to permit the licensee to relocate the near-site emergency operations facilities (EOFs) for each plant identified above to a common EOF located at the licensee's corporate headquarters in Birmingham, Alabama.

The need for the proposed exemption was identified by the NRC staff during its review of the licensee's request for approval to relocate the EOFs dated October 16, 2003.

The Need for the Proposed Action

The proposed action provides relief from the requirements that (1) adequate provisions shall be made and described for emergency facilities and equipment, including a licensee near-site EOF from which effective direction can be given and effective control can be exercised during an emergency, and (2) that arrangements to accommodate State and local staff at the licensee's near-site EOF have been made. The licensee proposed to locate the EOFs in Birmingham, AL, which is 1½ to 2½ times farther than any previous NRC-approved distance. At this distance, the NRC staff believes that it cannot reasonably consider the proposed location to be ''near-site.'' Therefore, the NRC staff determined that an exemption to the regulations that require an EOF to be near-site is required prior to consolidation of the near-site EOFs in Birmingham, AL. In order to ensure that NRC actions are timely, effective, and efficient, the staff is issuing an exemption under 10 CFR 50.12.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes, as set forth below, that there are no significant environmental impacts associated with relocating the Hatch, Farley, and Vogtle near-site EOFs to a common EOF located in Birmingham, AL.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the following documents: ''Final Environmental Statement related to the operation of the Edwin I. Hatch Nuclear Plant, Unit 1,'' dated October 1972; ''Final Environmental Statement related to the operation of the Edwin I. Hatch Nuclear Plant, Unit 2,'' dated March 1978; ''Final Environmental Statement related to the operation of the Joseph M. Farley Nuclear Plant, Units 1 and 2,'' dated December 1974; and ''Final Environmental Statement related to the operation of the Vogtle Electric Generating Plant, Units 1 and 2,'' NUREG–1087, dated December 1985.

Agencies and Persons Consulted

In accordance with its stated policy, on November 17, 2004, the staff consulted with the Alabama State official, Kirk Whatley of the Office of Radiation Control, Alabama Department of Public Health, regarding the environmental impact of the proposed action for Farley. In addition, on November 18, 2004, the staff consulted with the Georgia State official, James Hardeman, of the Department of Natural Resources, regarding the environmental impact of the proposed action for Vogtle and Hatch. Neither State official had comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 16, 2003, as supplemented by letters dated April 15 and August 16, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* (**Note:** Public access to ADAMS has been temporarily suspended so that security reviews of publicly available documents may be performed and potentially sensitive information removed. Please check the NRC Web

site for updates on the resumption of ADAMS Access.) Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 25th day of February.

For the Nuclear Regulatory Commission.

Christopher Gratton,

Senior Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–4068 Filed 3–2–05; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Docket No. MC2005–2; Order No. 1431]

Negotiated Service Agreement

AGENCY: Postal Rate Commission.

ACTION: Notice and order on new negotiated service agreement case.

SUMMARY: This document establishes a docket for consideration of the Postal Service's request for approval of a negotiated service agreement with HSBC North America Holdings Inc. It identifies key elements of the proposed agreement, its relationship to the Capital One Services, Inc. negotiated service agreement, and addresses preliminary procedural matters.

DATES: Key dates are:

1. March 16, 2005: Deadline for filing notices of intervention.

2. March 18, 2005: Deadline for filing statements on need for hearing, objections to limiting issues, and objections to rule 196 [39 CFR 3001.196] procuedures.

3. March 24, 2005: Prehearing conference (10 a.m.), followed immediately by a settlement conference.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, general counsel, at 202–789–6818.

SUPPLEMENTARY INFORMATION:

Procedural History

Capital One Services, Inc. Negotiated Service Agreement, 67 FR 61355 (September 30, 2002).

Negotiated Service Agreement Proposed Rule, 68 FR 52546 (September 4, 2003).

Negotiated Service Agreement Final Rule, 69 FR 7574 (February 19, 2004).

Negotiated Service Agreement Proposed Rule, 70 FR 7704 (February 15, 2005).

On February 23, 2005, the United States Postal Service filed a request seeking a recommended decision from the Postal Rate Commission approving a Negotiated Service Agreement with HSBC North America Holdings Inc.[1] The Negotiated Service Agreement is proffered as functionally equivalent to the Capital One Services, Inc. Negotiated Service Agreement (baseline agreement) as recommended by the Commission in Docket No. MC2002–2. The Request, which includes six attachments, was filed pursuant to chapter 36 of the Postal Reorganization Act, 39 U.S.C. 3601 *et seq.*[2]

The Postal Service has identified HSBC North America Holdings Inc. (HSBC), along with itself, as parties to the Negotiated Service Agreement. This identification serves as notice of intervention by HSBC. It also indicates that HSBC shall be considered a co-proponent, procedurally and substantively, of the Postal Service's Request during the Commission's review of the Negotiated Service Agreement. Rule 191(b) (39 CFR 3001.191(b)). An appropriate Notice of Appearance and Filing of Testimony as Co-Proponent by HSBC North America Holdings Inc., February 23, 2005, also was filed.

In support of the direct case, the Postal Service has filed Direct Testimony of Jessica A. Dauer on Behalf of the United States Postal Service, February 23, 2005 (USPS–T–1). HSBC has separately filed Direct Testimony of John H. Harvey on Behalf of HSBC North America Holdings Inc., February 23, 2005 (HSBC–T–1). The Postal Service has reviewed the HSBC testimony and, in accordance with rule 192(b) (39 CFR 3001.192(b)), states that such testimony may be relied upon in presentation of the Postal Service's direct case.[3]

The Request relies substantially on record evidence entered in the baseline docket, Docket No. MC2002–2. The Postal Service's Compliance Statement, Request Attachment E, identifies the baseline docket material on which it proposes to rely.

Requests that are proffered as functionally equivalent to baseline Negotiated Service Agreements are handled expeditiously, until a final determination has been made as to their proper status. The Postal Service's Compliance Statement, Request Attachment E, is noteworthy in that it provides valuable information to facilitate rapid review of the Request to aid participants in evaluating whether or not the procedural path suggested by the Postal Service is appropriate.

The Postal Service submitted several contemporaneous related filings with its Request. The Postal Service has filed a proposal for limitation of issues in this docket.[4] Rule 196(a)(6) (39 CFR 3001.196(a)(6)). The proposal identifies issues that were previously decided in the baseline docket, and key issues that are unique to the instant Request.

Rule 196(b) (39 CFR 3001.196(b)) requires the Postal Service to provide written notice of its Request, either by hand delivery or by First-Class Mail, to all participants of the baseline docket, MC2002–2. This requirement provides additional time, due to an abbreviated intervention period, for the most likely participants to decide whether or not to intervene. A copy of the Postal Service's notice was filed with the Commission on February 23, 2005.[5]

The Postal Service has filed a conditional request to establish settlement procedures.[6] The Postal Service believes that there is a distinct possibility that no party will identify any need for a hearing, thus there would be no need to engage in settlement discussions. However, if the parties do have issues that they want to explore, settlement discussions might provide a convenient forum to resolve those issues.

The Postal Service's Request, the accompanying testimonies of witnesses Dauer (USPS–T–1) and Harvey (HSBC–T–1), the baseline Docket No. MC2002–2 material, and other related material are available for inspection at the

[1] Request of the United States Postal Service for a Recommended Decision on Classifications, Rates and Fees to Implement a Functionally Equivalent Negotiated Service Agreement with HSBC North America Holdings Inc., February 23, 2005 (Request).

[2] Attachments A and B to the Request contain proposed changes to the Domestic Mail Classification Schedule and the associated rate schedules; Attachment C is a certification required by Commission rule 193(i) specifying that the cost statements and supporting data submitted by the Postal Service, which purport to reflect the books of the Postal Service, accurately set forth the results shown by such books; Attachment D is an index of testimony and exhibits; Attachment E is a compliance statement addressing satisfaction of various filing requirements; and Attachment F is a copy of the Negotiated Service Agreement.

[3] Request at 2–3, fn. 2.

[4] United States Postal Service Proposal for Limitation of Issues, February 23, 2005.

[5] Notice of the United States Postal Service Concerning the Filing of a Request for a Recommended Decision on a Functionally Equivalent Negotiated Service Agreement, February 23, 2005.

[6] Conditional Request of the United States Postal Service for Establishment of Settlement Procedures, February 23, 2005.

Commission's docket section during regular business hours. They also can be accessed electronically, via the Internet, on the Commission's Web site (*http://www.prc.gov*).

I. Background: The Baseline Capital One Negotiated Service Agreement, Docket No. MC2002–2

If a request predicated on a Negotiated Service Agreement is found to be functionally equivalent to a previously recommended, and currently in effect, Negotiated Service Agreement, it may be afforded accelerated review. Rule 196 [39 CFR 3001.196]. The Postal Service asserts that the Negotiated Service Agreement in its instant Request is functionally equivalent to the now in effect Capital One Negotiated Service Agreement recommended by the Commission in Docket No. MC2002–2.[7] The Capital One Negotiated Service Agreement will remain in force from September 1, 2003 to September 1, 2006.[8]

The Capital One Negotiated Service Agreement is based upon two significant mail service features—an address correction service feature, and a declining block rate volume discount feature.

The address correction service feature provides Capital One, at certain levels of volume, electronic address corrections without fee for First-Class Mail solicitations that are undeliverable as addressed (UAA). In return for receipt of electronic address correction, Capital One will no longer receive physical return of its UAA First-Class solicitation mail that cannot be forwarded. Capital One will also be required to maintain and improve the address quality for its First-Class Mail.

Use of the address correction service feature is a prerequisite to use the second feature of the Negotiated Service Agreement, a declining block rate volume discount. This feature provides Capital One with a per-piece discount for bulk First-Class Mail volume above an annual threshold volume. The per-piece discount varies from 3 to 6 cents under a ''declining-block'' rate structure. Should first-year mail volume decline under a predetermined quantity, a reduced threshold and lower initial discounts take effect.

To account for several unknowns, the Commission's recommendation incorporates a stop-loss provision in the amount of $40.637 million.

[7] See, Opinion and Recommended Decision, Docket No. MC2002–2, May 15, 2003.

[8] Notice of the United States Postal Service of Decision of the Governors, June 3, 2003.

II. The HSBC Negotiated Service Agreement

The Postal Service proposes to enter into a three-year Negotiated Service Agreement with HSBC. It asserts that the HSBC Negotiated Service Agreement is based on the same two substantive functional elements that are central to the Capital One Negotiated Service Agreement—an address correction element and a declining block rate volume discount element.

The address correction element provides, at certain levels of volume, electronic address corrections without fee for solicitations sent by First-Class Mail that are undeliverable as addressed and cannot be forwarded under existing regulations. In return, HSBC agrees to forgo physical return of such undeliverable mail provided under the existing service features of First-Class Mail.

The declining block rate volume discount element provides HSBC with per-piece discounts of those portions of its First-Class Mail solicitations that exceed specified volume thresholds. The initial volume threshold, which must be exceeded to receive any discount, is 615 million pieces. The negotiated volume threshold is increased annually. The discounts range from 2.5 cents to 5.0 cents depending on the block volume.

The Postal Service estimates it will benefit by $6.1 million over the life of the Negotiated Service Agreement. This is based on estimates of $6.6 million in savings due to the address correction feature, $3.9 million in increased contribution due to increased mail volume, and a net leakage of minus $4.4 million due to the discount feature of the agreement. The agreement establishes a $9 million discount cap over the life of the agreement. The agreement further provides for an annual adjustment mechanism to the volume thresholds.

III. Commission Response

Applicability of the rules for functionally equivalent Negotiated Service Agreements. For administrative purposes, the Commission has docketed the instant filing as a request predicated on a Negotiated Service Agreement functionally equivalent to a previously recommended and ongoing Negotiated Service Agreement. A final determination regarding the appropriateness of characterizing the Negotiated Service Agreement as functionally equivalent to the Capital One Negotiated Service Agreement, Docket No. MC2002–2, and application of the expedited rules for functionally equivalent Negotiated Service Agreements, rule 193 (39 CFR 3001.193), will not be made until after the prehearing conference.

Settlement. The Commission has established rules for expeditiously issuing recommendations in regard to requests predicated on functionally equivalent Negotiated Service Agreements. If, after a prehearing conference, it is determined that the Postal Service's request is properly submitted as a functionally equivalent request, and there are no outstanding issues, the Commission will promptly issue its recommendations. In such instances, conducting a settlement conference for the purpose of concluding with a Stipulation and Agreement is both unnecessary and could interfere with the intent of the rules to expedite the schedule.

However, the Commission encourages communications among the Postal Service and other participants to facilitate resolving issues early in a proceeding. These communications can be either informal, or formally sanctioned settlement conferences. Settlement conferences early in a proceeding still can have value in exploring the various positions of the different participants.

The Commission authorizes settlement negotiations in this proceeding. It appoints Postal Service counsel as settlement coordinator. In this capacity, counsel for the Service shall file periodic reports on the status of settlement discussions. The Commission authorizes the settlement coordinator to hold a settlement conference on March 24, 2005, immediately following the prehearing conference in the Commission's hearing room. Authorization of settlement discussions does not constitute a finding on the proposal's procedural status or on the need for a hearing.

Representation of the general public. In conformance with section 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

Intervention. Those wishing to be heard in this matter are directed to file a notice of intervention on or before March 16, 2005. The notice of

intervention shall be filed using the Internet (Filing Online) at the Commission's Web site (*http://www.prc.gov*), unless a waiver is obtained for hardcopy filing. Rules 9(a) and 10(a) (39 CFR 3001.9(a) and 10(a)). Notices should indicate whether participation will be on a full or limited basis. See rules 20 and 20a (39 CFR 3001.20 and 20a). No decision has been made at this point on whether a hearing will be held in this case.

Prehearing conference. A prehearing conference will be held March 24, 2005, at 10 a.m. in the Commission's hearing room. Participants shall be prepared to address whether or not it is appropriate to proceed under rule 196 (39 CFR 3001.196), and to identify any issue(s) that would indicate the need to schedule a hearing, along with other matters referred to in this ruling. Rule 196(c) (39 CFR 3001.196(c)). In addition, discussion on the Postal Service's proposal for limiting issues should be presented at the prehearing conference.

Participants intending to object to proceeding under rule 196 (39 CFR 3001.196) shall file supporting written argument, if any, by March 18, 2005. Participants also shall file supporting written argument, if any, in regard to the identification of issue(s) that would indicate the need to schedule a hearing, and objections to the Postal Service's proposal for limiting issues by March 18, 2005. The Commission intends on deciding upon these issues shortly after the prehearing conference.

Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2005–2 to consider the Postal Service Request referred to in the body of this order.

2. The Commission will sit en banc in this proceeding.

3. Postal Service counsel is appointed to serve as settlement coordinator in this proceeding. The Commission will make its hearing room available for a settlement conference immediately following the prehearing conference scheduled on March 24, 2005, and at such times deemed necessary by the settlement coordinator.

4. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.

5. The deadline for filing notices of intervention is March 16, 2005.

6. A prehearing conference will be held March 24, 2005 at 10 a.m. in the Commission's hearing room.

7. Participants shall file supporting written argument, if any, in regard to the identification of issue(s) that would indicate the need to schedule a hearing, objections to the Postal Service's proposal for limiting issues, or objections to proceeding under rule 196 (39 CFR 3001.196) by March 18, 2005.

8. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.

Issued: February 28, 2005.

Steven W. Williams,

Secretary.

[FR Doc. 05–4111 Filed 3–2–05; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26776]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

February 25, 2005.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February, 2005. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. (202) 942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 22, 2005, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0504.

Hilliard Lyons Growth Fund, Inc. [File No. 811–6423]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 5, 2004, applicant transferred its assets to Constellation HLAM Large Cap Quality Growth Fund, a series of Constellation Funds, based on net asset value. Expenses of $265,708 incurred in connection with the reorganization were paid by Hilliard Lyons Asset Management, applicant's investment adviser, and Constellation Investment Management company, LP, investment adviser to the acquiring fund.

Filing Dates: The application was filed on January 5, 2005, and amended on February 18, 2005.

Applicant's Address: Hilliard Lyons Center, Louisville, KY 40202.

Credit Suisse Strategic Small Cap Fund, Inc. [File No. 811–10435] and Credit Suisse New York Tax Exempt Fund, Inc. [File No. 811–4170]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On December 15, 2004, and January 6, 2005, respectively, applicants made a liquidating distribution to their shareholders, based on net asset value. Expenses of $15,000 and $50,000, respectively, incurred in connection with the liquidations were paid by Credit Suisse Asset Management, LLC, applicants' investment adviser, and/or its affiliates.

Filing Date: The applications were filed on January 26, 2005.

Applicants' Address: 466 Lexington Ave., New York, NY 10017.

Nuveen Tax Exempt Unit Trust Series 1 [File No. 811–1015]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On July 15, 2000, applicant made a final liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 24, 2005.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Nuveen Tax Exempt Unit Trust Series 15 [File No. 811–1507]; Nuveen Tax Exempt Unit Trust Series 19 [File No. 811–1688]; Nuveen Tax Exempt Unit Trust Series 20 [File No. 811–1742]; Nuveen Tax Exempt Unit Trust Series 30 National Trust 30 [File No. 811–2096]; Nuveen Tax Exempt Unit Trust Series 32 National Trust 32 [File No. 811–2121]; Nuveen Tax Exempt Unit Trust Series 34 National Trust 34 [File No. 811–2160]; Nuveen Tax Exempt Unit Trust Series 35 National Trust 35 [File No. 811–2169]; Nuveen Tax Exempt Unit Trust Series 38 [File No. 811–2223]; and Nuveen Tax Exempt Unit Trust Series 39 National Trust 39 [File No. 811–2234]

Summary: Each applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. Between August 15, 1999 and May 15, 2001, each applicant made a final liquidating distribution to its shareholders, based on net asset value. Applicants incurred no expenses in connection with the liquidations.

Filing Date: The applications were filed on January 25, 2005.

Applicants' Address: 333 West Wacker Dr., Chicago, IL 60606.

Touchstone Series Trust [File No. 811–8380]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 28, 2000, three of applicant's series made a liquidating distribution to their shareholders, based on net asset value. On May 1, 2000, applicant's remaining series transferred their assets to corresponding series of Touchstone Strategic Trust and Touchstone Investment Trust, based on net asset value. Expenses of $375,000 incurred in connection with the reorganization were paid by Touchstone Advisors, Inc., applicant's investment adviser.

Filing Dates: The application was filed on December 9, 2004, and amended on February 9, 2005.

Applicant's Address: 221 East Fourth St., Suite 300, Cincinnati, OH 45202.

Arden Registered Institutional Advisers, L.L.C. [File No. 811–21307]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on January 12, 2005, and amended on February 4, 2005.

Applicant's Address: 350 Park Ave., 29th Floor, New York, NY 10022.

Nuveen Florida Dividend Advantage Municipal Fund [File No. 811–9467]; Nuveen Missouri Dividend Advantage Municipal Bond Fund [File No. 811–10195]; Nuveen California Dividend Advantage Municipal Fund 4 [File No. 811–10545]; Nuveen Dividend Advantage Municipal Fund 4 [File No. 811–10547]; Nuveen Pennsylvania Dividend Advantage Municipal Fund 3 [File No. 811–21150]; Nuveen New Jersey Dividend Advantage Municipal Fund 3 [File No. 811–21151]; Nuveen Michigan Dividend Advantage Municipal Fund 2 [File No. 811–21156]; Nuveen Colorado Dividend Advantage Municipal Fund [File No. 811–21159]; Nuveen Insured PA Tax Free Advantage Municipal Fund [File No. 811–21243]; Nuveen Insured NJ Tax Free Advantage Municipal Fund [File No. 811–21244]; Nuveen Insured Michigan Tax-Free Advantage Municipal Fund [File No. 811–21245]; Nuveen Insured New York Tax Free Advantage Municipal Fund 2 [File No. 811–21302]; Nuveen Insured Tax-Free Advantage Municipal Fund 2 [File No. 811–21303]; and Nuveen Insured CA Tax Free Advantage Municipal Fund 2 [File No. 811–21304]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not propose to make a public offering or engage in business of any kind.

Filing Dates: The applications were filed on December 8, 2004, and amended on January 28, 2005.

Applicants' Address: 333 West Wacker Dr., Chicago, IL 60606.

Phoenix Trust [File No. 811–4116]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 16, 2004, each of applicant's three series transferred its assets to Phoenix Investment Trust 97, Phoenix-Oakhurst Strategic Allocation Fund or Phoenix Equity Series Fund, based on net asset value. Expenses of $31,824 incurred in connection with the reorganization were paid by Phoenix Investment Partners, Ltd., investment adviser for applicant and the acquiring fund.

Filing Dates: The application was filed on December 1, 2004, and amended on January 28, 2005.

Applicant's Address: 56 Prospect St., PO Box 150480, Hartford, CT 06115–0480.

American Municipal Term Trust Inc. III [File No. 811–6516]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On April 10, 2003, applicant made a liquidating distribution to its shareholders, based on net asset value. Prior to the liquidation date, applicant's preferred stock was redeemed at its liquidation preference, plus accumulated but unpaid dividends through the redemption date. Expenses of $4,801 incurred in connection with the liquidation were paid by applicant and U.S. Bancorp Asset Management, Inc., applicant's investment adviser.

Filing Dates: The application was filed on December 29, 2004, and amended on January 27, 2005.

Applicant's Address: U.S. Bancorp Asset Management, Inc., 800 Nicollet Mall, Minneapolis, MN 55402.

Lindbergh Funds [File No. 811–9437]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 20, 2005, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $3,200 incurred in connection with the liquidation were paid by Lindbergh Capital Management, applicant's investment adviser.

Filing Date: The application was filed on February 3, 2005.

Applicant's Address: 5520 Telegraph Rd., #204, St. Louis, MO 63129.

TCW Premier Funds [File No. 811–21164]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on December 1, 2004, and amended on January 18, 2005, and February 9, 2005.

Applicant's Address: 865 South Figueroa St., Suite 1800, Los Angeles, CA 90017.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–851 Filed 3–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27948]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

February 25, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 22, 2005, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 22, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc. (70–10283)

Order Authorizing Solicitation of Proxies; Notice of Request To Distribute Securities Under Proposed Amended and Restated American Electric Power System 2000 Long-Term Incentive Plan

American Electric Power Company, Inc. (''AEP''), 1 Riverside Plaza, Columbus, Ohio, 43215, a registered holding company has filed a declaration (''Declaration'') under sections 6(a), 7 and 12(e) of the Act and rules 23, 42, 54, 62 and 65 under the Act.

I. Requested Authority

AEP requests authority to: (1) Solicit proxies with respect to the Amended and Restated American Electric Power System 2000 Long-Term Incentive Plan (''Plan'') from the holders of its outstanding common stock for action at the annual meeting of AEP's shareholders scheduled to be held on April 26, 2005; and (2) issue securities under the Plan, if it is approved by shareholders, including up to 19,200,000 shares of common stock (''Common Stock'').

II. Order for Solicitation of Proxies

AEP has requested that an order be issued authorizing commencement of the solicitation of proxies from the holders of the outstanding shares of its common stock with respect to the Plan.

AEP is authorized to issue up to 15,700,000 shares of common stock under the current Long-Term Incentive Plan (''Current Plan''). AEP has issued all but 3,754,150 shares of common stock under the Current Plan. AEP shareholders will be asked to approve the following amendments to the Current Plan: (1) The provision of an additional 15,445,850 shares of Common Stock for awards (which when added to the 3,754,150 shares still available for issuance under the Current Plan establishes a new limit of 19,200,000 shares of Common Stock that will be available for issuance under the Plan); (2) an increase in the maximum number of options and stock appreciation rights that may be awarded to a participant during any three calendar year period from 1,650,000 to 2,000,000; (3) an increase in the maximum number of restricted shares that may be awarded to a participant during any one calendar year from 330,000 to 400,000; (4) an increase in the maximum amount of compensation that may be payable to a participant during any one calendar year under a performance-based award from $8,260,000 to $15,000,000; (5) an increase in the maximum number of performance share units that may be earned by a participant during any one calendar year from 330,000 to 400,000; and (6) revised performance criteria.

AEP states that the Plan is designed to allow for the grant of certain types of awards that conform to the requirements for tax deductible ''performance-based'' compensation under Section 162(m) of the Internal Revenue Code (''Code''). Shareholder approval of the Plan is needed in order to maximize the deductibility of the payments under the Plan to AEP's chief executive officer and other four most highly compensated officers under the provisions of Section 162(m), and to comply with the requirements of the regulations issued by the Internal Revenue Service governing the deductibility of individual compensation amounts in excess of $1,000,000.

Approval of the proposed amendments will require the affirmative vote of a majority of the votes cast at the annual meeting.

III. Description of the Plan and Securities Issuable Under the Plan

A. Purpose of Plan

The purpose of the Plan is to promote the interests of AEP and its shareholders by strengthening AEP's ability to attract, motivate and retain employees and directors, to align further the interests of AEP's management with the shareholders, and to provide an additional incentive for employees and directors to promote the financial success and growth of AEP. The Plan provides for the grant of stock options, including incentive stock options and nonqualified stock options, stock appreciation rights, restricted stock, performance share awards, phantom stock, and dividend equivalents to employees and non-employee Directors.

B. Reservation of Shares and Administration of the Plan

The Common Stock that will be issuable under the Plan will be made available from authorized but unissued shares and/or shares reacquired by AEP. If any shares of Common Stock awarded under the Plan are not issued and cease to be issuable for any reason, the shares will no longer be charged against the maximum share limitation and may again be made subject to awards under the Plan. If certain corporate reorganizations, recapitalizations, or any similar corporate transactions affecting AEP or the Common Stock, or stock splits, stock dividends or other distribution with respect to the Common Stock occur, proportionate adjustments may be made to the number of shares available for grant under the Plan, the applicable maximum share limitations under the Plan, and the number of shares and prices under outstanding awards at the time of the event.

The Plan will be administered by the Human Resources Committee of AEP's Board of Directors (''Committee''). However, for awards granted to non-employee Directors, all rights, powers and authorities vested in the Committee under the Plan will be instead exercised by the Board. Subject to limitations set forth in the Plan, the Committee has the authority to determine the persons to whom awards are granted, the type, timing, vesting and duration of the awards, the number of shares, units or other rights awarded and the exercise, base or purchase price of an award.

The Plan has no fixed expiration date, but no awards may be granted after April 26, 2015. The Board may amend

the Plan, except that shareholder approval is required for amendments that would either: (1) Increase the number of shares of Common Stock reserved for issuance under the Plan; or (2) allow the grant of options at an exercise price below fair market value or allow the repricing of options.

C. Stock Options

The Plan authorizes the grant of nonqualified and incentive stock options. Nonqualified stock options may be granted to employees and non-employee Directors, but incentive stock options may only be granted to employees. The exercise price of an option may be determined by the Committee, provided that the exercise price per share of an option may not be less than 100% of the fair market value of a share of Common Stock on the date of grant. The exercise price of an option is payable by the participant in cash, or at the discretion of the Committee, in shares of Common Stock, or by any other method approved by the Committee. The terms of any Incentive Stock Option shall comply with the provisions of the Code. The maximum number of shares of Common Stock that may be granted under stock options to any one participant during any three calendar year period shall be limited to 2 million shares.

D. Stock Appreciation Rights

A stock appreciation right entitles the holder, upon exercise, to receive a payment based on the difference between the base price of the stock appreciation right and the fair market value of a share of Common Stock on the date of exercise, multiplied by the number of shares as to which the stock appreciation right will have been exercised. A stock appreciation right may be granted either separately or in tandem with an option. If the stock appreciation right is granted in tandem with an option it will have a base price per share equal to the per share exercise price of the option, will be exercisable only at the same time the related option is exercisable, and will expire no later than when the related option expires. Exercise of the option or the stock appreciation right results in the cancellation of the same number of shares under the tandem right. A stock appreciation right granted without relationship to an option will be exercisable as determined by the Committee. The base price assigned to a stock appreciation right granted without relationship to an option shall not be less than 100% of the fair market value of a share of Common Stock on the date of grant. The maximum number of shares of Common Stock that may be subject to stock appreciation rights granted to any one participant during any three calendar year period shall be limited to 2,000,000 shares. Stock appreciation rights are payable in cash, restricted or unrestricted shares of Common Stock, or a combination thereof, in the discretion of the Committee.

E. Performance Awards

Performance awards are units denominated in shares of Common Stock or specified dollar amounts (''Performance Units''). Performance awards are payable upon the achievement of performance criteria established by the Committee at the beginning of the performance period. At the time of grant, the Committee establishes the number of units, the duration of the performance period, the applicable performance criteria, and in the case of Performance Units, the target unit value or range of unit values for the award. Performance awards are payable in cash, restricted or unrestricted shares of Common Stock, phantom stock or options, or a combination thereof, in the discretion of the Committee. The maximum amount of compensation that may be payable in any one calendar year to any one participant designated to receive an award intended to qualify under Section 162(m) of the Code is $15,000,000. The maximum number of performance share units that may be earned in any one calendar year by any one participant intended to qualify under Section 162(m) of the Code is 400,000 units.

F. Restricted Stock

An award of restricted stock represents shares of Common Stock that are issued subject to restrictions on transfer and on incidents of ownership and to forfeiture upon the occurrence of certain events deemed appropriate by the Committee. The Committee may, in connection with an award of restricted stock, require the payment of a specified purchase price. During the period of restriction, the participant will have the rights of a shareholder of AEP, including all voting and dividend rights, unless otherwise determined by the Committee. The maximum number of shares of Common Stock that may be subject to restricted stock awards intended to qualify under Section 162(m) of the Code granted to any one participant during any calendar year is limited to 400,000 shares.

G. Phantom Stock

An award of phantom stock gives the participant the right to receive payment at the end of a fixed vesting period based on the value of a share of Common Stock at the time of vesting. Phantom stock units are subject to restrictions and conditions to payment as the Committee determines are appropriate. An award of phantom stock may be granted, at the discretion of the Committee, together with an award of dividend equivalent rights for the same number of shares. Phantom stock awards are payable in cash, restricted or unrestricted shares of Common Stock, options or a combination thereof.

H. Dividend Equivalents

Dividend equivalent awards entitle the holder to a right to receive cash, shares of Common Stock, or other property equal in value to dividends paid with respect to a specified number of shares of Common Stock. Dividend equivalents may be awarded on a free-standing basis or in connection with another award, and may be paid currently or on a deferred basis. The Committee may provide that the dividend equivalent award shall be paid when accrued or shall be deemed to have been reinvested in additional shares of Common Stock or other investment vehicles as the Committee may specify, provided that dividend equivalent awards (other than free-standing dividend equivalent awards) shall be subject to all conditions and restrictions of the underlying awards to which they relate.

IV. Rule 54 Analysis

The proposed transactions are subject to rule 54. Rule 54 provides that, in determining whether to approve the issue or sale of any securities for purposes other than the acquisition of any ''exempt wholesale generator'' (''EWG'') or ''foreign utility company'' (''FUCO'') or other transactions unrelated to EWGs or FUCOs, the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are EWGs or FUCOs if the requirements of Rule 53(a), (b) and (c) are satisfied. Under rule 53(a), the Commission shall not make certain specified findings under Section 7 and 12 of the Act in connection with a proposal by a holding company to issue securities for the purpose of acquiring the securities of, or other interest in, an EWG or to guarantee the securities of an EWG, if each of the conditions in paragraphs (a)(1) through (a)(4) are met, provided that none of the conditions specified in paragraph (b)(1) through (b)(3) of rule 53 exists.

AEP currently meets all of the conditions of rule 53(a). At September

30, 2004, AEP's ''aggregate investment,'' as defined in rule 53(a)(1), in EWGs and FUCOs was approximately $332 million or about 19.9% of AEP's ''consolidated retained earnings,'' also as defined in rule 53(a)(1), for the four quarters ended September 30, 2004 ($1.675 billion).[1]

AEP has complied and will continue to comply with the record-keeping requirements of rule 53(a)(2), the limitation under rule 53(a)(3) on the use of operating company personnel to render services to EWGs and FUCOs, and the requirements of rule 53(a)(4) concerning the submission of copies of certain filings under the Act to retail rate regulatory commissions. Further, none of the circumstances described in rule 53(b)(1) or (3) has occurred or is continuing. AEP states that it meets the requirements of Rule 53(c).

The circumstances described in rule 53(b)(2) have occurred. As a result of the recording of a loss with respect to impairment charges,[2] AEP's consolidated retained earnings declined. The average consolidated retained earnings of AEP for the four quarterly periods ended September 30, 2004, was $1.695 billion, or a decrease of approximately 24.8% from AEP's average consolidated retained earnings for the four quarterly periods ended September 30, 2003, of $2.226 billion. In addition, AEP's ''aggregate investment'' in EWGs and FUCOs as of September 30, 2004, exceeded 2% of the total capital invested in utility operations.

AEP states that if the effect of the capitalization and earnings of its EWGs and FUCOs upon its holding company system were considered, there would be no basis for the Commission to withhold or deny approval for the authority sought in the Declaration. AEP states that the proposed transactions would not, by themselves or even considered in conjunction with the effect of the capitalization and earnings of AEP's EWGs and FUCOs, have a material adverse effect on the financial integrity of the AEP system, or an adverse impact on AEP's utility subsidiaries,[3] their customers or the ability of state commissions to protect the public utility customers. The Rule 53(c) Order was predicated, in part, upon an assessment of AEP's overall financial condition which took into account, among other factors, AEP's consolidated capitalization ratio and the growth trend in AEP's retained earnings.

Since the date of the Rule 53(c) Order, there has been an increase in AEP's consolidated equity capitalization ratio. As of December 31, 1999, the most recent period for which financial statement information was evaluated in the Rule 53(c) Order, AEP's consolidated capitalization (including CSW on a pro forma basis) consisted of 61.3% debt, 37.3% common and preferred equity, and 1.4% of certain subsidiary obligated mandatorily redeemable preferred securities of subsidiary trusts holding solely junior subordinated debentures of the subsidiaries (or $335 million principal amount). However, as of September 30, 2004, AEP's consolidated capitalization consisted of 60.4% debt, and 39.6% common and preferred equity (consisting of common stock representing 39%, and preferred stock representing 0.6% (or $133 million principal amount).

In addition, the Utility Subsidiaries, which will have a significant influence on the determination of the AEP corporate rating, continue to show strong financial statistics as measured by the rating agencies. As of December 31, 1999 and September 30, 2004 Standard and Poor's (''S&P'') rating of secured debt for AEP's Utility Subsidiaries was as follows:

	12/31/99	9/30/04
Appalachian Power Company	A	BBB
Columbus Southern Power Company	A–	BBB
Indiana Michigan Power Company	A–	BBB
Kentucky Power Company	A	BBB
Ohio Power Company	A–	BBB
AEP Texas Central Company	A	BBB
Public Service Company of Oklahoma	AA–	BBB
Southwestern Electric Power Company	AA–	BBB
AEP Texas North Company	A	BBB

AEP did not have a long-term debt rating as of December 31, 1999. As of September 30, 2004, S&P's rating of AEP's unsecured debt was BBB.

V. Conclusion

AEP states that no State or other Federal regulatory authority has jurisdiction over the proposed transactions. AEP states that the fees, commissions and expenses to be paid or incurred directly or indirectly, by it in connection with the proposed transactions are estimated to be as follows, except as otherwise indicated:

[1] With respect to rule 53(a)(1), however, the Commission has determined that AEP's financing of investments in EWGs and FUCOs in an amount greater than the amount that would otherwise be allowed by rule 53(a)(1) would not have either of the adverse effects set forth in rule 53(c). By order dated June 14, 2000 (Holding Company Act Release No. 27186), the Commission authorized AEP to invest up to 100% of its consolidated retained earnings, with consolidated retained earnings to be calculated on the basis of the combined consolidated retained earnings of AEP and Central and South West Corporation (''CSW'')(''Rule 53(c) Order''). The Rule 53(c) Order also authorized the merger of AEP and CSW.

[2] In the fourth quarter of 2003 AEP recorded pre-tax impairments of assets (including goodwill) and investments totaling $1.4 billion that reflected downturns in energy trading markets, projected long-term decreases in electricity prices, and other factors. The impairments consisted of $650 million related to asset impairments, $70 million related to investment value and other impairment losses, and $711 million related to discontinued operations. Of the discontinued operations, $577 million was attributable to the impairment of the fixed-asset carrying value of AEP's two coal-fired generation plants in the United Kingdom. AEP recorded a pre-tax impairment of $70 million on certain qualifying facilities as defined under the Public Utility Regulatory Policies Act of 1978, as amended in the third quarter of 2003.

[3] AEP's utility subsidiaries are: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Ohio Power Company, AEP Texas Central Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Texas North Company (collectively, ''Utility Subsidiaries'').

Printing Costs	$75,000
Transfer Agent and Brokerage Fees and Expenses	[1] 450,000
Estimated Commission Filing Fee Related to 1933 Act Registration	80,000
Total	$605,000

[1] This represents the total amount of expenses that AEP estimates it will incur in connection with the solicitation of proxies for the 2005 annual meeting, including with respect to the Plan. AEP states that it does not have enough data to make a reasonable estimate of the incremental costs associated with the solicitation of proxies in regard to the Plan, but believes that the incremental costs would not represent more than approximately 10% of the estimated amounts indicated.

Other expenses for legal, financial, accounting, and clerical services will be billed at cost by the American Electric Power Service Corporation. These expenses are estimated not to exceed $5,000. In addition, if AEP considers it desirable to do so it may employ professional proxy solicitors for additional fees estimated not to exceed $92,000.

It appears to the Commission that AEP's Declaration regarding the proposed solicitation of proxies should be permitted to become effective immediately under rule 62(d).

It is ordered, under rule 62 of the Act, that the Declaration regarding the proposed solicitation of proxies from the holders of outstanding shares of AEP Common Stock become effective immediately, subject to the terms and conditions of rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–853 Filed 3–2–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51246; File No. SR–Amex–2005–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the American Stock Exchange LLC To Adopt Obvious Error Rules for Options Transactions

February 24, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 18, 2005, 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 proposed rule change has been filed by Amex as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] On January 24, 2005, Amex submitted Amendment No. 1 to the proposed rule change.[5] On January 26, 2005, Amex submitted Amendment No. 2 to the proposed rule change.[6] On February 3, 2005, Amex submitted Amendment No. 3 to the proposed rule change.[7] On February 24, 2005, Amex submitted Amendment No. 4 to the proposed rule change.[8] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to adopt new Amex Rules 936, 936C, 936–ANTE, and 936C–ANTE to provide for the cancellation and adjustment of options transactions resulting from obvious errors. The proposed rule text is set forth below.[9] Additions are italicized. Deletions are bracketed.

* * * * *

Rule 950. Rules of General Applicability

(a) The following Floor Rules shall apply to Exchange option transactions and other transactions on the Exchange in options contracts: 100, 101, 104, 105, 106, 110, 112, 117, 123, 129, 130, [135,] 150, 151, 152, 153, 155, 157, 172, 173, 174, 175, 176, 177, 180, 181, 183, 184, 185, 192 and 193. Unless the context otherwise requires, the term ''stock'' wherever used in the foregoing Rules shall be deemed to include option contracts. Except as otherwise provided in this Rule, all other Floor Rules (series 100 *et seq.*) shall not be applicable to Exchange option transactions.

(b)–(n). No Change

Rule 936. Cancellation and Adjustment of Equity Options Transactions

This Rule governs the cancellation and adjustment of transactions involving equity options. Rules 936C and 936C–ANTE govern the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (''ETFs'') and trust issued receipts (''TIRs''). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry. (a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical price	*Minimum amount*
Below $2	*$0.25*
$2 to $5	*0.40*
Above $5 to $10	*0.50*
Above $10 to $20	*0.80*
Above $20	*1.00*

Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. If there are no quotes for comparison, designated Trading Officials will

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] Amendment No. 1 superseded and replaced the original proposed rule change in its entirety.

[6] Amendment No. 2 superseded and replaced the original proposed rule change and Amendment No. 1 in their entirety.

[7] Amendment No. 3 superseded and replaced the original proposed rule change, Amendment No. 1, and Amendment No. 2 in their entirety.

[8] In Amendment No. 4, Amex replaced the term ''control room'' with ''Exchange's Service Desk'' in paragraph (b)(2) of proposed Amex Rule 936C and paragraph (b)(2) of Amex Rule 936C—ANTE.

[9] The proposed rule text below contains technical corrections as follows: (1) capitalize the word ''Official'' in proposed Amex Rule 936, Commentary .03; (2) change the abbreviation ''EST'' to ''ET'' in proposed Amex Rule 936C—ANTE (a)(6) and (b)(1), and the purpose section; and (3) make typographical corrections to proposed Amex Rules 936, 936—ANTE, 936C, and 936C—ANTE. Telephone conversations between Claire P. McGrath, Senior Vice President and General Counsel, Amex, and Frank N. Genco, Special Counsel, Division of Market Regulation, Commission, on February 9, 2005; and Jeffrey Burns, Associate General Counsel, Amex, and Frank N. Genco, Special Counsel, Division of Market Regulation, Commission, on February 9, 2005.

determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(i) Cancellation or Price Adjustment. Obvious Pricing Errors will be cancelled or adjusted as follows.

- *Transactions Between Amex specialists/registered options traders (ROTs): Where both parties to the transaction are Amex specialists/ROTs, the execution price of the transaction will be adjusted by Trading Officials to the prices provided in Paragraphs (A) and (B) below, minus (plus) an adjustment penalty (''adjustment penalty''), unless both parties agree to adjust the transaction to a different price or agree to cancel the trade within fifteen (15) minutes of being notified by Trading Officials of the Obvious Error.*

(A) Erroneous buy transactions will be adjusted to their Theoretical Price plus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

(B) Erroneous sell transactions will be adjusted to their Theoretical Price minus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

- *Transactions Involving at least one non-Amex specialist/ROT: Where one of the parties to the transaction is not an Amex specialist/ROT, the transactions will be cancelled by Trading Officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Trading Officials of the Obvious Error.*

(2) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Electronic or open outcry transactions arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Theoretical Price, as defined in paragraph (a)(1) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled. In order to be cancelled, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period. For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. Electronic trades (this provision does not apply to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or canceled as set forth in paragraph (a)(1) above. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Obvious Error Panel

(1) Composition. An Obvious Error Panel will be comprised of at least one (1) member of the Regulatory staff and four (4) Floor Officials. Fifty percent of the number of Floor Officials on the Obvious Error Panel must be directly engaged in market making activity and fifty percent of the number of Floor Officials on the Obvious Error Panel must act in the capacity of a non-specialist floor broker.

(2) Scope of Review. If a party affected by a determination made under this Rule so requests within the time permitted in paragraph (b), an Obvious Error Panel will review decisions made by the Trading Officials under this Rule,

including whether an obvious error occurred, whether the correct Theoretical Price was used, and whether the correct adjustment was made at the correct price. A party may also request that the Obvious Error Panel provide relief as required in this Rule in cases where the party failed to provide the notification required in paragraph (b) and the Trading Officials declined to grant an extension, but unusual circumstances must merit special consideration.

(3) Procedure for Requesting Review. A request for review must be made in writing within (30) minutes after a party receives verbal notification of a final determination by the Trading Officials under this Rule, except that if notification is made after 3:30 p.m. Eastern Time (''ET''), either party has until 9:30 a.m. ET the next trading day to request review. The Obvious Error Panel shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made the next trade day.

(4) Panel Decision. The Obvious Error Panel may overturn or modify an action taken by the Trading Officials under this Rule upon agreement by a majority of the Panel representatives. All determinations by the Obvious Error Panel may be appealed in accordance with paragraph (d) of this rule.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary

.01 The term ''Trading Officials'' means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 For purposes of this Rule, an ''erroneous sell transaction'' is one in which the price received by the person selling the option is erroneously low, and an ''erroneous buy transaction'' is one in which the price paid by the person purchasing the option is erroneously high.

.03 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

* * * * *

Rule 936C. Cancellation and Adjustment of Index Option Transactions This Rule only governs the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (ETFs) and trust issued receipts (TIRs). Rule 936 governs the cancellation and adjustment of transactions involving equity options. Paragraphs (a)(1), (2), (6) and (7) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject To Review

A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 958(c), the prescribed amount shall be: (a) the greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 958(c), the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of an opening, the Fair Market Value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(2) Obvious Quantity Error. An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four hours by a factor of five (5) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer's average disseminated size over the previous four trading hours (which may include the previous trading day).

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Trades arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be

adjusted to the Fair Market Value, as defined in paragraph (a)(1)(i) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled or adjusted. In order to be cancelled or adjusted, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900(b)(26)) during the time period encompassing two minutes before and after the dissemination of such quote.

(6) Trades Below Intrinsic Value. An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than $0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at ''parity''). Paragraph (6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 4:00:01 p.m. (ET) to 4:02 p.m. (ET)) on days with regular trading hours).

(i) Definition of Intrinsic Value: For purposes of this Rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

(7) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(b) Procedures for Reviewing Transactions.

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 3:45 p.m. (ET), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on the Exchange. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. If the transaction(s) in question occurred after 3:30 p.m. (ET), Trading Officials shall have until 10:30 a.m. (ET) the following morning to render a determination. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Adjustments. Unless otherwise specified in Rule 936C(a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be cancelled. With respect to 936C(a)(1)–(5), the price to which a transaction shall be adjusted shall be the national best bid or offer (NBBO) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For opening transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on the Exchange. With respect to Rule 936C(a)(6), the transaction shall be adjusted to a price that is $0.10 under parity.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary

.01 The term ''Trading Officials'' means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during

the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

* * * * *

Rule 936—ANTE. Cancellation and Adjustment of Equity Options Transactions This Rule governs the nullification and adjustment of transactions involving equity options. Rule 936C and 936C—ANTE governs the nullification and adjustment of transactions involving options on indexes, exchange-traded funds (''ETFs'') and trust issued receipts (''TIRs''). Paragraphs (a)(1) and (2) of this Rule have no applicability to trades executed in open outcry. (a) Trades Subject to Review. A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error occurs when the execution price of an electronic transaction is above or below the Theoretical Price for the series by an amount equal to at least the amount shown below:

Theoretical price	Minimum amount
Below	$0.25
$2 to $5	0.40
Above $5 to $10	0.50
Above $10 to $20	0.80
Above $20	1.00

Definition of Theoretical Price. For purposes of this Rule only, the Theoretical Price of an option series is, for series traded on at least one other options exchange, the last bid price with respect to an erroneous sell transaction and the last offer price with respect to an erroneous buy transaction, just prior to the trade, disseminated by the competing options exchange that has the most liquidity in that option class in the previous two calendar months. If there are no quotes for comparison, designated Trading Officials will determine the Theoretical Price. For transactions occurring as part of an opening, the Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(i) Cancellation or Price Adjustment. Obvious Pricing Errors will be cancelled or adjusted as follows.

- *Transactions Between Amex specialists/registered options traders (ROTs): Where both parties to the transaction are Amex specialists/ROTs, the execution price of the transaction will be adjusted by Trading Officials to the prices provided in Paragraphs (A) and (B) below, minus (plus) an adjustment penalty (''adjustment penalty''), unless both parties agree to adjust the transaction to a different price or agree to cancel the trade within fifteen (15) minutes of being notified by Trading Officials of the Obvious Error.*

(A) Erroneous buy transactions will be adjusted to their Theoretical Price plus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

(B) Erroneous sell transactions will be adjusted to their Theoretical Price minus an adjustment penalty of either $.15 if the Theoretical Price is under $3 or $.30 if the Theoretical Price is at or above $3.

- *Transactions Involving at least one non-Amex specialist/ROT: Where one of the parties to the transaction is not an Amex specialist/ROT, the transactions will be cancelled by Trading Officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by Trading Officials of the Obvious Error.*

(2) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Electronic or open outcry transactions arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Theoretical Price, as defined in paragraph (a)(1) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled. In order to be cancelled, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period. For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. Electronic trades (this provision does not apply to trades executed in open outcry) resulting from an erroneous quote in the underlying security may be adjusted or canceled as set forth in paragraph (a)(1) above. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900(b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must

notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Obvious Error Panel

(1) Composition. An Obvious Error Panel will be comprised of at least one (1) one member of the regulatory staff and four (4) Floor Officials. Fifty percent of the number of Floor Officials on the Obvious Error Panel must be directly engaged in market making activity and fifty percent of the number of Floor Officials on the Obvious Error Panel must act in the capacity of a non-specialist floor broker.

(2) Scope of Review. If a party affected by a determination made under this Rule so requests within the time permitted in paragraph (b), an Obvious Error Panel will review decisions made by the Trading Officials under this Rule, including whether an obvious error occurred, whether the correct Theoretical Price was used, and whether the correct adjustment was made at the correct price. A party may also request that the Obvious Error Panel provide relief as required in this Rule in cases where the party failed to provide the notification required in paragraph (b) and the Trading Officials declined to grant an extension, but unusual circumstances must merit special consideration.

(3) Procedure for Requesting Review. A request for review must be made in writing within (30) minutes after a party receives verbal notification of a final determination by the Trading Officials under this Rule, except that if notification is made after 3:30 p.m. Eastern Time (''ET''), either party has until 9:30 a.m. ET the next trading day to request review. The Obvious Error Panel shall review the facts and render a decision on the day of the transaction, or the next trade day in the case where a request is properly made the next trade day.

(4) Panel Decision. The Obvious Error Panel may overturn or modify an action taken by the Trading Officials under this Rule upon agreement by a majority of the Panel representatives. All determinations by the Obvious Error Panel may be appealed in accordance with paragraph (d) of this rule.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials. Notwithstanding other Exchange rules to the contrary (e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary

.01 The term ''Trading Officials'' means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 For purposes of this Rule, an ''erroneous sell transaction'' is one in which the price received by the person selling the option is erroneously low, and an ''erroneous buy transaction'' is one in which the price paid by the person purchasing the option is erroneously high.

.03 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

* * * * *

Rule 936C—ANTE. Cancellation and Adjustment of Index Option Transactions

This Rule only governs the cancellation and adjustment of transactions involving options on indexes, exchange-traded funds (ETFs) and trust issued receipts (TIRs). Rule 936 and 936—ANTE governs the cancellation and adjustment of transactions involving equity options. Paragraphs (a)(1), (2), (6) and (7) of this Rule have no applicability to trades executed in open outcry.

(a) Trades Subject To Review

A member or person associated with a member may have a trade cancelled or adjusted if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error. An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 958(c)—ANTE, the prescribed amount shall be: (a) The greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 958(c)—ANTE, the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across

all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of an opening, the Fair Market Value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(2) Obvious Quantity Error. An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four hours by a factor of five (5) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer's average disseminated size over the previous four trading hours (which may include the previous trading day).

(3) Verifiable Disruptions or Malfunctions of Exchange Systems. Trades arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (a) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (b) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred and due to the disruption or malfunction the quote was not updated or cancelled. Transactions that qualify for price adjustment will be adjusted to the Fair Market Value, as defined in paragraph (a)(1)(i) above.

(4) Erroneous Print in Underlying. A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be cancelled or adjusted. In order to be cancelled or adjusted, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

For purposes of this Rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question). For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(5) Erroneous Quote in Underlying. A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Rule 900 (b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote.

(6) Trades Below Intrinsic Value. An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than $0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at ''parity''). Paragraph (6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 4:00:01 p.m. (ET) to 4:02 p.m. (ET)) on days with regular trading hours). (i) Definition of Intrinsic Value: For purposes of this Rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

(7) No Bid Series. Electronic transactions in series quoted no bid at a nickel (i.e., $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

(b) Procedures for Reviewing Transactions

(1) Notification. Any member or person associated with a member that believes it participated in a transaction that may be cancelled or adjusted in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 3:45 p.m. (ET), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on the Exchange. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination. Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. If the transaction(s) in question occurred after 3:30 p.m. (ET), Trading Officials shall have until 10:30 a.m. (ET) the following morning to render a determination. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the Exchange's Service Desk.

(c) Adjustments. Unless otherwise specified in Rule 936C—ANTE (a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be

cancelled. With respect to Rule 936C—ANTE (a)(1)–(5), the price to which a transaction shall be adjusted shall be the national best bid or offer (NBBO) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For opening transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on the Exchange. With respect to Rule 936C—ANTE (a)(6), the transaction shall be adjusted to a price that is $0.10 under parity.

(d) Review of Rulings. A member affected by a determination made under this rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials who have not already ruled on the matter. A request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials.

Notwithstanding other Exchange rules to the contrary e.g., Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Constitution. The parties may also elect to submit the matter to arbitration pursuant to Article VIII of the Constitution.

(e) Negotiated Trade Cancellation. A trade may be cancelled if the parties to the trade agree to the cancellation. When all parties to a trade have agreed to a trade cancellation one party must promptly disseminate cancellation information in OPRA format.

Commentary

.01 The term ''Trading Officials'' means two Exchange members designated as Floor Officials and one member of the Regulatory staff.

.02 Applicability: Trading Officials may also allow for the execution of opening trades that were not executed on the opening but that should have been executed had the specialist opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed during the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt new Amex Rules 936, 936C, 936—ANTE, and 936C—ANTE to allow the Exchange to either cancel or adjust equity, index, exchange-traded fund (''ETF''), and trust issued receipt (''TIR'') options transactions, the terms of which are obviously in error. The proposal would apply to transactions in both the Amex New Trading Environment (''ANTE'')[10] as well as the existing floor-based auction market traditionally available on the Exchange. The proposed rule contains objective criteria for determining when an options transaction constitutes an ''obvious error,'' provides an objective process members must follow to seek relief under the rule, and provides an appeals process for members seeking to challenge an initial determination. Because of the lack of uniform obvious error rules among the options exchanges, customers that routinely send orders to multiple exchanges have indicated that a more uniform obvious error pricing rule with respect to equity options would be beneficial to them. Accordingly, in response to the requests of its customers, the Amex proposes to adopt an obvious error pricing rule for equity options that is similar to other options exchanges. The Exchange is also proposing an obvious error rule for index, ETF and TIR options.

Obvious Error Rule for Equity Options (Amex Rules 936 and 936—ANTE).

Criteria for Determining an Erroneous Transaction. For purposes of proposed Amex Rules 936 and 936—ANTE, an options transaction must satisfy one of the following ''obvious error'' categories in order for such transaction to be reviewed for cancellation or adjustment by the Exchange.

Obvious Price Error. The Exchange proposes to adopt an obvious price error rule that operates identically to that of Chicago Board Options Exchange, Inc. (''CBOE'') Rule 6.25. As such, an obvious pricing error will be deemed to have occurred when the execution price of an electronic transaction (not open outcry) varies from the Theoretical Price[11] by a requisite amount.[12] When an obvious price error occurs, Amex either will adjust or cancel the transaction in the following manner.

Transactions Between Amex Specialists/Registered Options Traders (''ROTs''). Transactions between Amex specialists/ROTs will be adjusted to the Theoretical Price plus/minus an ''adjustment penalty'' of either $0.15 or $0.30. Erroneous buy transactions will be adjusted to the Theoretical Price plus an adjustment penalty of either $0.15 if the Theoretical Price is below $3 or $0.30 if the Theoretical Price is $3 or higher. Conversely, erroneous sell transactions will be adjusted to the Theoretical Price minus an adjustment penalty of either $0.15 if the Theoretical Price is below $3 or $0.30 if the Theoretical Price is $3 or higher. Both parties to the transaction may agree to adjust to a different price or cancel the transaction altogether provided they do so within fifteen (15) minutes of being notified by trading officials that an obvious error occurred.

Transactions where One Party is not an Amex specialist/ROT. In cases where at least one party is not an Amex

[10] The Commission approved the ANTE system in May 2004. *See* Securities Exchange Act Release No. 49747 (May 20, 2004), 69 FR 30344 (May 27, 2004) (approving File No. SR–Amex–2003–89). Amex represents that the rollout of ANTE is expected for completion by the end of the third quarter 2005 with the top 300 option classes on ANTE by the end of January 2005. Accordingly, the proposal initially would require application to both the traditional floor-based system as well as ANTE. Upon completion of the rollout of ANTE, the proposed rule would only need to apply to ANTE.

[11] The Exchange proposes to use the definition of Theoretical Price currently employed by the CBOE and the International Securities Exchange (''ISE''). See CBOE Rule 6.25(a)(1) and ISE Rule 720(b). For multiply traded options, Theoretical Price will be the last bid (offer) price with respect to an erroneous sell (buy) transaction just prior to the trade that is disseminated by the competing options exchange with the most liquidity in that class over the preceding two calendar months. If there are no quotes for comparison purposes, trading officials shall determine Theoretical Price. For transactions occurring as part of an opening, Theoretical Price shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

[12] The requisite amount is: $0.25 for options below $2, $0.40 for options priced from $2 to $5, $0.50 for options priced above $5 to $10, $0.80 for options priced above $10 to $20, and $1.00 for options priced above $20.

specialist/ROT, the transaction will be cancelled by trading officials unless both parties agree to an adjustment price for the transaction within thirty (30) minutes of being notified by trading officials of the obvious error. This is identical to CBOE Rule 6.25.

Series Quoted No Bid. An obvious pricing error will also be deemed to exist for ''series quoted no bid.'' Electronic transactions in series quoted no bid at a nickel (*i.e.*, $0.05 offer) will be cancelled provided at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid at a nickel ($0.05) at the time of execution. This proposed rule provision would correct errors in out-of-the-money options that often have no intrinsic value.

Verifiable Disruptions or Malfunctions of Exchange Systems. Transactions arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (1) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (2) automated quotation, dissemination, or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred, and due to the disruption or malfunction, the quote was not updated or cancelled. This Rule will apply to transactions occurring both electronically and in open outcry.

Erroneous Print in Underlying Market. A trade resulting from an erroneous print disseminated by the underlying market that is later cancelled or corrected by that underlying market may be cancelled. In order to be cancelled, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two (2) minute period before and after the erroneous print by an amount at least five (5) times greater than the average quote width for such underlying security during the same period. This Rule will apply to transactions occurring both electronically and in open outcry.

Erroneous Quote in Underlying Security. A trade resulting from an erroneous quote in the underlying security may be adjusted or cancelled. An erroneous quote occurs when the underlying security has a width of at least $1.00 and a width at least five times greater than the average quote width for such underlying security on the primary market (as defined in Amex Rule 900(b)(26) and Amex Rule 900(b)(26)—ANTE) during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this proposed Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four-minute time period referenced above (excluding the quote in question) and dividing the number of quotes during such time period (excluding the quote in question).

Erroneous Transactions During the Opening. A trading rotation in options is held each business day promptly following the opening of the underlying security or the availability of opening quotations in the underlying security. Included in the opening rotation are pre-opening market and limit orders as well as orders on the book from the previous trading day. As described in Commentary .01 to Amex Rule 918 and Commentary .01 to Amex Rule 918—ANTE, an opening price will be established and all market and marketable limit orders will be executed. Depending upon the opening price some limit orders may not be eligible for execution. If that opening price is erroneous and later corrected, Trading Officials may also allow for the execution of trades that were not executed on the opening but that should have been executed had the specialist or ANTE System opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed pursuant to the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

Procedures for Reviewing Options Transactions Deemed Erroneous. The proposed Amex Rule would allow the Exchange to cancel or adjust options transactions that are obviously erroneous where either the parties agree or do not agree that the transaction should be cancelled or revised. Under the proposed Rule, a member or person associated with a member may request trading officials to review an option transaction(s) claimed to be erroneous. The Exchange proposes to require notification within 15 minutes of the transaction in question, regardless of the time it occurred. Once a ruling is requested, the trading officials must review the trade unless both parties agree to withdraw an application before ruling is made. The proposed Rule requires trading officials to render a determination within 60 minutes of notification, regardless of the time the transaction occurred.[13]

The process for appealing determinations regarding obvious errors is proposed in new Amex Rules 936(d) and 936(d)—ANTE. The Exchange proposes to create an Obvious Error Panel (''Panel'') that will review decisions rendered by trading officials. The rules creating and governing the Panel are substantially similar to CBOE Rule 6.25(c) and ISE Rule 720(e). Regarding the composition of the Panel, Amex, in addition to including one member of the regulatory staff, will require that the Panel be comprised of an equal number of Amex specialists and ROTs, and floor broker members. Decisions of the Panel are subject to review by a panel of three (3) Exchange Officials who have not already ruled on the matter presented on appeal. Notwithstanding other Exchange rules to the contrary (*e.g.*, Rule 22(d)), the decision or ruling of the three (3) Exchange Official panel is binding on members subject to any right of appeal pursuant to Article II, Section 3 of the Amex Constitution. The parties may also submit the matter to arbitration pursuant to Article VIII of the Amex Constitution.

Obvious Error Rule for Index, ETF and TIR Options (Amex Rules 936C and 936C—ANTE). Criteria for Determining an Erroneous Transaction. For purposes of proposed Amex Rules 936C and 936C—ANTE, an options transaction must satisfy one of the following ''obvious error'' categories in order for such transaction to be reviewed for cancellation or adjustment by the Exchange. The Exchange represents that the proposal is identical to CBOE Rule 24.16.

Obvious Price Error. An obvious price error will be deemed to have occurred when the execution price of a

[13] The Amex represents that trading officials will remain at the Exchange until a determination is rendered.

transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask spreads as set forth in Amex Rule 958(c) and Amex Rule 958(c)—ANTE, the prescribed amount shall be: (a) The greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask spreads that are greater than the bid-ask spreads established in Rule 958(c) and 958(c)—ANTE, the prescribed error amount shall be: (a) The greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

Fair market value for these purposes is deemed to be the midpoint of the national best bid and national best offer (the ''NBBO'') for the series for multiple-traded classes. If there are no quotes for comparison purposes, fair market value shall be determined by trading officials. In connection with single-listed classes, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of the opening, fair market value shall also be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

Obvious Quantity Error. An obvious error in quantity will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four (4) hours by a factor of ten (10) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer's average disseminated size over the previous four (4) trading hours (which may include the previous trading day).

Verifiable Disruptions or Malfunctions of Exchange Systems. Transactions arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange (1) automated quotation, dissemination, execution, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen because of an Exchange system error and is repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or (2) automated quotation, dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible, provided there is Exchange documentation reflecting that the member sought to update or cancel the quote/order. With respect to verifiable disruptions or malfunctions of the Exchange's automated quotation system, documentation of the existence of the disruption or malfunction will be sufficient provided the automated quotation system was programmed to update or cancel a quote based upon specific changes in the underlying, those changes occurred, and due to the disruption or malfunction, the quote was not updated or cancelled. This Rule will apply to transactions occurring both electronically and in open outcry.

Erroneous Print in Underlying Market. A trade resulting from an erroneous print disseminated by the underlying market that is later cancelled or corrected by that underlying market may be cancelled or adjusted. In order to be cancelled or adjusted, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two (2) minute period before and after the erroneous print by an amount at least five (5) times greater than the average quote width for such underlying security during the same period. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four (4) minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

Erroneous Quote in Underlying Security. A trade resulting from an erroneous quote in the underlying security may be cancelled or adjusted. An erroneous quote occurs when the underlying security has a width of at least $1.00 and that width is at least five (5) times greater than the average quote width for such underlying security on the primary market (as defined in Amex Rule 900(b)(26) and Amex Rule 900(b)(26)—ANTE during the time period encompassing two (2) minutes before and after the dissemination of such quote.

Trades Below Intrinsic Value. An obvious pricing error will be deemed to exist where a trade is automatically executed at a price so that the specialist or ROT sells at $0.10 or more below intrinsic value. An option that trades at its intrinsic value is known as trading at ''parity.'' Parity describes an option contract's total premium when that premium is equal to its intrinsic value. Parity for calls is measured by reference to the offer price of the underlying security at the time of the transaction minus the strike price for the call. Parity for puts is measured by the strike price of an underlying security minus its bid price at the time of the transaction.

Series Quoted No Bid. An obvious pricing error will also be deemed to exist for ''series quoted no bid.'' In this situation, the trade resulted in an execution price in a series quoted no bid and at least one strike price below (for calls) or above (for puts) in the same class were quoted no bid immediately before the time of the erroneous execution, and the bid following the execution in that series was zero. This proposed rule provision would correct errors in out-of-the-money options that often have no intrinsic value.

Adjustments. If the trading officials determine that the particular option transaction fits within one of the categories set forth above and the complaining party has timely documented a request for relief, then the trade will be cancelled or adjusted. In general, transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be cancelled.

With respect to transactions deemed in error as set forth in Amex Rules 936C(a)(1)–(5) and 936C(a)(1)–(5)—ANTE, the price to which a transaction will be adjusted is the NBBO immediately following the erroneous transaction order entered on the Exchange. For opening transactions in ANTE, the price to which a transaction shall be adjusted is based on the first non-erroneous quote after the erroneous transaction on the Amex. In connection with transactions below intrinsic value set forth in Amex Rules 936C(a)(6) and 936C(a)(6)—ANTE, the transaction would be adjusted to a price that is $0.10 under parity.

Negotiated Trade Cancellation. A trade may also be cancelled if the parties to the trade agree to the cancellation. When a cancellation has been agreed to, one of the parties is required to disseminate cancellation information in OPRA format.

Erroneous Transactions During the Opening. A trading rotation in options is held each business day promptly following the opening of the underlying security or the availability of opening quotations in the underlying security. Included in the opening rotation are pre-opening market and limit orders as well as orders on the book from the previous trading day. As described in Commentary .01 to Amex Rule 918 and Commentary .01 to Amex Rule 918—ANTE, Commentary .01, an opening price will be established and all market and marketable limit orders will be executed. Depending upon the opening price some limit orders may not be

eligible for execution. If that opening price is erroneous and later corrected, trading officials may also allow for the execution of trades that were not executed on the opening but that should have been executed had the specialist or ANTE System opened the series at the non-erroneous price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed pursuant to the opening rotation. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

Procedures for Reviewing Options Transactions Deemed Erroneous. The proposed Rule would allow the Exchange to cancel or adjust options transactions that are obviously erroneous where either the parties agree or do not agree that the transaction should be cancelled or revised. Under the proposed rule change, a member or person associated with a member may request trading officials to review an option transaction(s) claimed to be erroneous. Once a ruling is requested, the trading officials must review the trade unless both parties agree to withdraw an application before ruling is made.

Notification of trading officials by a member indicating that a transaction should be cancelled or adjusted should occur promptly but no later than fifteen (15) minutes after the execution in question. For transactions occurring after 3:45 p.m. Eastern Time (ET), notification may not occur later than fifteen (15) minutes after the close of trading. Absent unusual circumstances, trading officials must render a determination within sixty (60) minutes of receiving notification. If the transaction(s) in question occurred after 3:30 p.m. ET, trading officials have until 10:30 a.m. (ET) the following morning to render a determination.

A member affected by a determination made under the proposed Rule may appeal such determination to a Review Panel of at least three (3) Exchange Officials. A request for review must be made in writing no later than the close of trading on the next trade date after a party receives verbal notification of a final determination by trading officials. Notwithstanding other Exchange rules to the contrary (*e.g.*, Amex Rule 22(d)), decisions of the Review Panel are binding on members, subject to any right of appeal pursuant to Article II, Section 3 of the Amex Constitution. The parties may also submit the matter to arbitration pursuant to Article VIII of the Amex Constitution.

2. Statutory Basis

Amex represents that the filing provides objective guidelines for the nullification or adjustment of transactions executed at clearly erroneous prices. Moreover, the proposed rule change provides more uniformity regarding obvious pricing errors, which will serve to benefit customers. For these reasons, the Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act[15] that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex 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 Exchange 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, it has become effective pursuant to section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change immediately operative. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[18] The proposed Amex obvious error rules are substantially similar to CBOE Rules 6.25 and 24.16. Thus, the Commission does not believe that the proposed rule change raises any new regulatory issues. In addition, the Commission believes that waiver of the 30-day operative delay would enable the Exchange to implement the proposal as quickly as possible, and thereby should provide Amex members and users of Amex facilities with greater clarity with respect to whether a particular options transactions involves an obvious error.

At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[19]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. 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.* Please include File Number SR-Amex-2005–11 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.

[14] 15 U.S.C. 78(f)(b).

[15] 15 U.S.C. 78(f)(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] For purposes of waiving the operative delay of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] For purposes of calculating the sixty-day abrogation period, the Commission considers the abrogation period to have begun on February 22, 2005, the date Amex submitted Amendment No. 4. *See* 15 U.S.C. 78s(b)(3)(C).

All submissions should refer to File Number SR–Amex–2005–11. 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 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–2005–11 and should be submitted on or before March 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–844 Filed 3–2–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51248; File No. SR–Amex–2004–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to an Obvious Error Rule for Trades on the Exchange in Equity Securities

February 24, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 3, 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. On May 21, 2004 and February 18, 2005, Amex submitted Amendment Numbers 1 [3] and 2,[4] respectively, to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to adopt an obvious error rule for transactions on the Exchange in equity securities other than Nasdaq National Market securities admitted to dealings on an unlisted basis.[5] The text of the proposed rule change follows. New text is italicized and deleted text is bracketed. Cancellations of, and Revisions in, Transactions *Where Both the Buying and Selling Members Agree to the Cancellation or Revision*

Rule 135. (*a*) A member or member organization effecting a transaction on the Exchange shall not cancel or revise such transaction unless it was made in error or the cancellation or revision is for other proper reason, and unless in each case both buying and selling members agree to the cancellation or revision and prior approval of the cancellation or revision is obtained from a Floor Official.

(b) Rule 390 shall not preclude a member, member organization, allied member, registered representative, or officer from sharing or agreeing to share in any losses in any customer's account with respect to securities admitted to dealings on the Exchange after the member organization has established that the loss was caused in whole or in part by the action or inaction of such member, member organization, allied member, registered representative or officer, provided, however, that this provision shall not permit a member, member organization, allied member, registered representative or officer to guarantee any customer against loss in his or her account.

* * * Commentary

.01 A change or correction in a transaction which previously appeared on the tape, or the cancellation of a transaction which previously appeared on the tape and was properly rescinded, or the occurrence of a transaction which had been omitted from the tape, is to be published on the tape on the day of the transaction after approval of such publication is obtained from a Floor Official. If not published on such day, the same is to be published at a later date in the Exchange's Sales and Quotes Report with the approval of a Floor Official.

.02 *Rescinded* [Where a transaction is not cancelled but the member or member organization intends to assume for his or its own account the contract made for a customer, the provisions of Rule 390 apply, and any required consent of the Exchange under that rule is to be obtained from the Compliance and Surveillance Division.]

Cancellations of, and Revisions in, Transactions Where Both the Buying and Selling Members Do Not Agree to the Cancellation or Revision

Rule 135A (a) A Floor Official shall, pursuant to the procedures set forth below, have the authority to review any transaction in a security admitted to dealings on the Exchange that is claimed to be clearly erroneous arising out of the use or operation of any facility of the Exchange, provided, however, that the procedures for reviewing transactions in Nasdaq National Market securities admitted to dealings on the Exchange are separately set forth in Rule 118 and provided further that these procedures do not apply to listed options.

In reviewing a trade that is claimed to be clearly erroneous, a Floor Official shall review the transaction with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Based upon this review, the Floor Official shall decline to ''break'' a disputed transaction if the Floor Official believes that the transaction under dispute is not clearly erroneous. If the Floor Official

[20] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange, among other things, revised the proposed rule text to state expressly that it would not apply to listed options and to more closely mirror the Exchange's existing rule concerning clearly erroneous transactions in Nasdaq National Market Securities. *See* letter from Bill Floyd-Jones, Associate General Counsel, Amex, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 20, 2004 (''Amendment No. 1'') (replacing the original Form 19b–4 filing in its entirety).

[4] In Amendment No. 2, the Exchange, among other things, made technical corrections to its proposed rule text and requested accelerated approval of the proposed rule change. Amendment No. 2 superceded and replaced Amendment No. 1 in its entirety.

[5] Telephone conversation between William Floyd-Jones, Associate General Counsel, Amex, and Terri L. Evans, Senior Special Counsel, Division, Commission, on February 22, 2005 (clarifying that the proposed rule change does not apply to Nasdaq National Market securities).

determines the transaction in dispute is clearly erroneous, however, he or she shall declare that the transaction is null and void or modify one or more terms of the transaction. When adjusting the terms of a transaction, the Floor Official shall seek to adjust the price and/or size of the transaction to achieve an equitable rectification of the error that would place the parties to a transaction in the same position, or as close as possible to the same position, as they would have been in had the error not occurred. For the purposes of this Rule, the terms of a transaction are clearly erroneous when there is an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security.

(b) Any member who seeks to have one or more transactions reviewed pursuant to paragraph (a) above shall submit the matter to a Floor Official and deliver a written complaint to the Service Desk and the other member(s) who were part of the trade within 30 minutes of the transaction. Once a complaint has been received, the complainant shall have up to 30 minutes, or such longer period as the Floor Official may specify, to submit any supporting written information concerning the complaint necessary for a review of the transaction. The other member(s) that were part of the trade shall have up to thirty minutes after being notified of the complaint, or such longer period as specified by the Floor Official, to submit any supporting written information concerning the complaint necessary for a review of the transaction. Any member on a disputed trade may request the written information provided by the other members pursuant to this subparagraph. Once a member communicates that he or she does not intend to submit any further information concerning a complaint, the member may not thereafter provide additional information unless requested to do so by the Floor Official. If the members involved in a disputed trade indicate that they have no further information to provide concerning the complaint before their thirty-minute information submission periods have elapsed, then the matter may be immediately considered by a Floor Official. Members or persons associated with members and member organizations involved in the transaction shall provide the Floor Official with any information that he or she requests in order to resolve the matter on a timely basis notwithstanding the time parameters set forth above. Once a member has applied to a Floor Official for a ruling, the Floor Official shall review the transaction and make a ruling unless all members on the transaction agree to withdraw the application for review prior to the time that the Floor Official makes the ruling. A member may seek review of a Floor Official's ruling pursuant to the procedures described in Rule 22(d) and Commentary .02 to Rule 22.

(c) In the event of (1) a disruption or malfunction in the use or operation of any facility of the Exchange or (2) extraordinary market conditions or other circumstances in which the nullification or modification of transactions executed on the Exchange may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, a Floor Governor may review any transactions arising out of or reported through any facility of the Exchange (other than transactions in Nasdaq National Market securities which are covered by Rule 118 or transactions in listed options). A Floor Governor acting pursuant to this paragraph may declare any Amex transaction null and void or modify the terms of any such transactions if the Floor Governor determines that (1) the transaction is clearly erroneous, or (2) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that, in the absence of extraordinary circumstances, the Floor Governor shall take action pursuant to this subsection within 30 minutes of detection of the transaction, but in no event later than 3:00 p.m., Eastern Time, on the next trading day following the date of the trades at issue. A member may seek review of a Floor Governor's ruling from a three-Governor Panel as described in Rule 22(d) and Commentary .02 to Rule 22 without first seeking review of the ruling from a Floor Official or Exchange Official.

(d) Rule 390 shall not preclude a member, member organization, allied member, registered representative, or officer from sharing or agreeing to share in any losses in any customer's account with respect to securities admitted to dealings on the Exchange after the member organization has established that the loss was caused in whole or in part by the action or inaction of such member, member organization, allied member, registered representative or officer, provided, however, that this provision shall not permit a member, member organization, allied member, registered representative or officer to guarantee any customer against loss in his or her account.

** * * Commentary*

.01 A change or correction in a transaction which previously appeared on the tape, or the cancellation of a transaction which previously appeared on the tape and was properly rescinded, or the occurrence of a transaction which had been omitted from the tape, is to be published on the tape on the day of the transaction after approval of such publication is obtained from a Floor Official. If not published on such day, the same is to be published at a later date in the Exchange's Sales and Quotes Report with the approval of a Floor Official.

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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

According to the Exchange, trades may occur at clearly erroneous prices, sizes, securities, and so forth, due to human or system errors. The Exchange, accordingly, is proposing to adapt the ''obvious error'' rule that was adopted for Nasdaq securities traded at the Exchange [6] to other Amex securities traded under the Exchange's equity trading rules. Listed options are not affected by the proposed rule change.[7] The proposed Amex obvious error rule would allow the Exchange to break or revise single or multiple trades that are obviously erroneous where the parties to the trades do not agree that the trades should be cancelled or revised. Under

[6] *See* Securities Exchange Act Release No. 49941 (June 29, 2004), 69 FR 40992 (July 7, 2004) (approving Amex–2003–39). Telephone conversation between William Floyd-Jones, Associate General Counsel, Amex, and Terri L. Evans, Senior Special Counsel, Division, Commission, on February 22, 2005.

[7] The Exchange has submitted a separate rule filing regarding obvious errors involving options transactions. *See* Amex–2005–11. Telephone conversation between William Floyd-Jones, Associate General Counsel, Amex, and Terri L. Evans, Senior Special Counsel, Division, Commission, on February 22, 2005.

the proposed rule, a member may request an Amex Floor Official to review one or more transactions that are claimed to be clearly erroneous. Once a ruling is requested, a Floor Official must review the trade unless both parties agree to withdraw the application before the Floor Official makes a ruling.

The proposed rule would require a Floor Official to review a transaction or series of transactions with a view toward maintaining a fair and orderly market and the protection of investors and the public interest. Based upon this review, the Floor Official would decline to ''break'' a disputed transaction if the Floor Official believes that the transaction under dispute is not clearly erroneous. If the Floor Official determines the transaction in dispute is clearly erroneous, however, the Floor Official may declare the transaction null and void or modify one or more terms of the transaction. When adjusting the terms of a transaction, the Floor Official would seek to adjust the price and/or size of the transaction to achieve an equitable rectification of the error that would place the parties to a transaction in the same position, or as close as possible to the same position, as they would have been in had the error not occurred.

The proposed rule establishes deadlines and procedures for Floor Official review of a disputed transaction. The procedures require any member who seeks to have a transaction or series of transactions reviewed to submit the matter to a Floor Official and deliver a written complaint to the Service Desk and other members who were part of the trade within 30 minutes of the transaction. Once a complaint has been received, the complainant has up to 30 minutes, or such longer period as the Floor Official may specify, to submit any supporting written information concerning the complaint necessary for a review of the transaction. The other members involved on the trade have up to 30 minutes after being notified of the complaint, or such longer period as specified by the Floor Official, to submit any supporting written information concerning the complaint necessary for a review of the transaction. The members involved in a disputed trade may request the written information provided by the other members. Once a member involved in a disputed trade communicates that he or she does not intend to submit any further information concerning a complaint, the member may not thereafter provide additional information unless requested to do so by the Floor Official. If all members involved in a disputed trade indicate that they have no further information to provide concerning the complaint before their respective 30 minute information submission periods have elapsed, then the matter may be immediately considered by a Floor Official. Members or persons associated with members and member organizations involved in the transaction are required to provide the Floor Official with any information that he or she requests in order to resolve the matter on a timely basis.

The proposed rule change also provides that a Floor Governor may review any transactions arising out of or reported through any facility of the Exchange and cancel or revise these transactions in the event of: (1) A disruption or malfunction in the use or operation of any facility of the Exchange; or (2) extraordinary market conditions or other circumstances in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest. A Floor Governor acting pursuant to this subsection may declare any Amex transactions null and void or modify the terms of any such transactions if the Floor Governor determines that: (1) The transaction(s) is/are clearly erroneous; or (2) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that, in the absence of extraordinary circumstances, the Floor Governor must take action pursuant to this subsection within 30 minutes following detection of the transactions, but in no event later than 3 p.m., eastern time, on the next trading day following the date of the trades at issue.

A member seeking a prompt review of a Floor Official's ruling under the proposed rule would follow the procedures outlined in Amex Rule 22(d), which provide possible appeals first to an Exchange Official, next to a Floor Governor, and finally to a three Governor panel. The proposed rule change also provides that a member aggrieved by a Floor Governor's ruling under paragraph (c) of the proposed rule may appeal the ruling to a three Governor panel. Commentary .02 to Amex Rule 22 requires Floor Officials to prepare and submit a written record of their decisions as soon as practical after making a ruling. Floor Officials, consequently, would have to prepare and submit written decisions regarding rulings on trades that may be clearly erroneous. Since Exchange Officials and Floor Governors are also Floor Officials, they, too, would have to prepare and submit a written record of their decisions regarding rulings on trades that may be clearly erroneous.

In conjunction with the revisions to Rule 135 and 135A, the Exchange also is proposing to eliminate Commentary .02 to Rule 135 and replace it with new paragraph (b) to Rule 135 and paragraph (d) to Rule 135A. Commentary .02 to Rule 135 currently states that members must obtain consent from the Exchange's ''Compliance and Surveillance Division'' if they assume a trade made in error. The text of Rule 390, however, does not require any such consent. The Exchange also believes that the proposed new rule text more accurately indicates that a member or member organization does not inappropriately share in the losses of a customer account when it assumes a trade made in error.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and further the objectives of section 6(b)(5),[9] in particular, in that the proposed rule change 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; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no 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

Written comments were neither solicited nor 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:

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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*. Please include File Number SR–Amex–2004–11 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–Amex–2004–11. 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 this filing also will be available for inspection and copying at the principal office 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–2004–11 and should be submitted on or before March 24, 2005.

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, that are applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act,[10] which requires that the rules of an exchange be 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest.[11] New Amex Rule 135A will set forth formal procedures to be followed by an Exchange member that seeks to have a trade nullified or revised when the parties to the trade have not agreed that the trade should be cancelled or revised, or by an Amex Floor Governor who seeks to nullify or revise trades on his or her own motion. The Commission believes that it is proper for trade nullification and revision procedures to be codified and thus made transparent to Amex members who are parties to trades that are deemed to be clearly erroneous and to Amex Floor Officials who are called upon to review such trades. The new rule also sets forth the procedure to be followed in the event of any appeal of a determination made by an Exchange Floor Official or Floor Governor pursuant to proposed Amex Rule 135A. The Commission believes that this procedure is designed to help ensure that Amex Rule 135A is exercised in a fair and reasonable manner. In addition, the Commission believes that proposed Amex Rules 135(b) and 135A(d), which allow a member to share in customer losses that were caused in whole or in part by the member's action or inaction, are consistent with the Act.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that the proposed rule change would provide members trading non-Nasdaq equity securities with essentially the same procedures recently approved by the Commission for the nullification or adjustment of clearly erroneous transactions involving Nasdaq National Market Securities.[12] The Commission believes that because the proposal raises no new issues of regulatory concern, it is appropriate to accelerate approval of the proposed rule change so that members who trade any kind of equity securities that are admitted to dealings on the Exchange will be afforded similar processes in the event that a particular trade to which they are a party is claimed to be clearly erroneous.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change, as amended (SR–Amex–2004–11), is hereby approved, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–845 Filed 3–2–05; 8:45 am]

BILLING CODE 8010–01–P

[10] *Id.*

[11] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* Securities Exchange Act Release No. 49941, *supra* note 6.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51251; File No. SR–BSE–2004–27]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Boston Stock Exchange, Inc., Relating to the Reporting of Riskless Principal Transactions

February 24, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2004, the the Boston Stock Exchange, Inc. (''BSE'' 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. On December 23, 2004, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice and order to solicit comments on the proposed rule change, as amended, from interested persons and to grant accelerated approval to the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BSE is proposing to adopt a rule pertaining to the reporting of riskless principal transactions. Proposed new language is *italicized.*

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No.1 superseded and replaced the original proposal in its entirety.

Chapter II

Dealings on the Exchange

Secs. 1–43 No change.

Riskless Principal Transactions

Sec. 43

(1) A ''riskless principal transaction'' is a two-legged transaction in which a member, (i) after having received an order to buy a security that it holds for execution on the Exchange, contemporaneously purchases the security as principal at the same price, exclusive of markups, markdowns, commissions and other fees, to satisfy all or a portion of the order to buy or (ii) after having received an order to sell a security that it holds for execution on the Exchange, contemporaneously sells the security as principal at the same price, exclusive of markups, markdowns, commissions and other fees, to satisfy all or a portion of the order to sell.

(2) A last sale report for only the initial principal leg of the transaction shall be submitted in accordance with the rules and procedures of the market where the transaction occurred. The second ''riskless principal'' leg of the transaction must still be submitted and executed on the Exchange as with any other order, but the Exchange will not report that leg of the transaction to the respective consolidated tape. As applicable, the riskless principal leg may be submitted to the Exchange for execution as either (i) a non-tape, clearing-only order with a ''CTA no-print'' indicator if a clearing report is necessary to clear the transaction; or (ii) a non-tape, non-clearing order with a ''CTA no-print'' indicator if a clearing report is not necessary to clear the transaction.

(3) A member must have written policies and procedures to assure that its riskless principal transactions comply with this Section. At a minimum these policies and procedures must require that the customer order be received prior to the offsetting transactions, and that the offsetting transactions be executed contemporaneously with the original transaction. A member must also have supervisory systems in place that produce records that enable the member and the Exchange to accurately and readily reconstruct, in a time-sequenced manner, all orders for which a member relies on the riskless principal exemption.

* * * * *

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, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the proposed rule change, if a member of the Exchange is acting as principal for its own account, its trade would be considered a ''riskless principal transaction'' to the extent that: (i) After having received an order to buy a security that the member holds for execution on the Exchange, the member purchases the security from another firm or market to offset a contemporaneous sale to satisfy all or a portion of the original buy order at the same price, exclusive of any markup, markdown, commission, or other fee; or (ii) after having received an order to sell a security that the member holds for execution on the Exchange, the member sells the security to another firm or market to offset a contemporaneous purchase to satisfy all or a portion of the original sell order at the same price, exclusive of any markup, markdown, commission, or other fee.

The Exchange is proposing to adopt a trade reporting rule applicable to riskless principal transactions in any securities traded on the Exchange.[4] Under this proposal, the ''initial principal'' leg (the ''first leg'') of the transaction is reported to the consolidated tape by whichever market on which the trade occurs. Pursuant to this rule filing, the BSE member would apply a special marker to the second ''riskless principal'' leg (the ''second leg'') and the BSE would not report that leg to the consolidated tape. The first leg of the transaction will continue to be matched and executed on the Exchange or on another market, whichever the case may be, and disseminated for publication to the respective consolidated tape in accordance with the relevant market's requirements. For the second leg of the transaction, to the extent that any of the order is offset by the initial principal execution, the member would designate in its trade report to the BSE the proprietary order as riskless. According to BSE, this BEACON[5] modification will contemporaneously prevent priority violations.

The Exchange represents that BEACON will systematically capture every first leg of every transaction even if it occurs on another market.[6] BEACON will automatically match the first and second leg of the transaction by utilizing tag numbers to ensure that the special marker was used in a riskless principal transaction. More specifically, where a BSE member is executing a trade on another market, BEACON will automatically attach a tag number. This tag number will be matched to the second leg of the transaction. The Exchange will not report the second leg of the transaction to the respective consolidated tape.

Example: A member receives an order to sell 100 shares at $50 and holds that order for execution on the Exchange. Thereafter the member, as principal, sells 100 shares to another firm at $50 (the first leg) and then, as principal, fills the original order at $50 (the second leg). The member designates the filling of the customer order (the second leg) as the ''riskless principal'' leg of a riskless principal transaction. The Exchange reports the first leg of the transaction to the consolidated tape, but not the second leg.

Procedurally, if the first leg of the transaction occurs on the Exchange, the Exchange will report the first leg of the transaction to the consolidated tape pursuant to its rules. If the first leg of the transaction occurs on another market, that market would report the trade to the consolidated tape according to its rules. The BSE member who has a duty to report the execution[7] shall report the execution as either: (i) a non-tape, clearing-only order with a capacity indicator of ''CTA no-print,'' if a clearing report is necessary to clear the transaction; or (ii) a non-tape, non-clearing order with a capacity indicator

[4] The Exchange currently trades on an unlisted trading privilege basis securities that are listed on the New York Stock Exchange or ''Tape A'' program, the American Stock Exchange or the ''Tape B'' program, and the Nasdaq Stock Market or ''Tape C'' program.

[5] The Boston Exchange Automated Communication Order-routing Network, which is known as BEACON, is the order-routing and execution system utilized on the Exchange.

[6] *See* Letter from John Boese, Chief Regulatory Officer, BSE, to Michael Gaw, Senior Special Counsel, Division of Market Regulation, Commission, dated February 10, 2005.

[7] *See* Rules of the Board of Governors of the Boston Stock Exchange, Chapter II, Dealings on the Exchange, Section 2.

of ''CTA no-print,'' if a clearing report is not necessary to clear the transaction.

In addition to the automatic matching of orders, the Exchange will conduct surveillance to determine that both legs of a riskless principal transaction correlate to each other, particularly if one leg occurs on another market. The Exchange will also review to see that members implement written policies and procedures as described below to assure compliance with this proposed rule. To determine that there is a matched order, the two legs of the riskless principal transaction would be electronically reviewed as part of the audit trail used by the Exchange to surveil and regulate trading. On a daily basis, for each execution with an indicator of ''CTA no-print,'' the electronic review will confirm that a contemporaneous order was placed after the customer order was received and the order was executed prior to the execution of the customer order. The electronic review will also confirm that each leg of the riskless principal transaction was executed at the identical price and size. If there is no corresponding matched order, an exception will be generated, and surveillance will conduct a manual review to determine whether the execution was actually a riskless principal transaction and whether the execution should be considered a covered sale.

The Exchange believes that, if the member complies with all aspects of the proposed rule, the sell side of the second leg would be a ''recognized riskless principal sale,'' as defined in Rule 31(a)(14) of the Act.[8] Therefore, this sale would not be a ''covered sale'' as defined in Rule 31(a)(6) under the Act[9] for which the Exchange would incur a liability to the Commission under section 31 of the Act.[10] Accordingly, the second ''riskless principal'' leg would not increase the amount of fees that the member owes the Exchange pursuant to Chapter XXIII, section 2, of the Exchange's rules.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, consistent with section 6(b) of the Act,[11] in general, and section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and 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

BSE does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received in connection with the proposed rule change, as amended.

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.* Please include File Number SR–BSE–2004–27 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–BSE–2004–27. 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 BSE. 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–BSE–2004–27 and should be submitted on or before March 24, 2005.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] Specifically, the Commission believes the proposal is consistent with section 6(b)(5) of the Act,[14] which requires that the rules of an exchange be designed, among other things, 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.

The rule proposed by BSE is substantially similar to NASD Rule 6420(d)(3)(B) relating to the reporting of riskless principal transactions. The Commission previously has found the NASD riskless principal rule to be consistent with the Act.[15] The Commission believes that BSE's proposal raises no new or significant regulatory issues and is also, therefore, consistent with the Act. Based on the information provided by BSE in support of this proposed rule change, the proposal appears reasonably designed to ensure that the two contemporaneous trades for which an Exchange member acts as principal can be matched and are indeed riskless for the member.

Assuming all the requirements of BSE's rule are met, a second offsetting sale occurring on the Exchange would be a ''recognized riskless principal sale'' as defined in Rule 31(a)(14) under the Act.[16] Therefore, the sale also would be an ''exempt sale'' as defined in Rule

[8] 17 CFR 240.31(a)(14).

[9] 17 CFR 240.31(a)(6).

[10] 15 U.S.C. 78ee.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See, e.g.*, Securities Exchange Act Release No. 41606 (July 8, 1999), 64 FR 38226 (July 15, 1999).

[16] 17 CFR 240.31(a)(14).

31(a)(11) under the Act [17] and not a ''covered sale'' as defined in Rule 31(a)(6) under the Act.[18] The Commission notes, however, that BSE members must have written policies and procedures and supervisory systems in place before reporting trades as riskless pursuant to Chapter II, Section 43 of the Exchange's rules.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after publication in the **Federal Register**. The Commission believes that the rule proposed by BSE is substantially similar to NASD Rule 6420(d)(3)(B) and thus raises no new or significant regulatory issues. As such, the Commission believes that accelerated approval is appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[19] that the proposed rule change (File No. SR–BSE–2004–27), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–847 Filed 3–2–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51252; File No. SR–CBOE–2004–16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Setting Aside Earlier Order Issued by Delegated Authority and Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto Relating to an Interpretation of Paragraph (b) of Article Fifth of Its Certificate of Incorporation and an Amendment to Rule 3.16(b)

February 25, 2005.

I. Introduction

On March 4, 2004, the Chicago Board Options Exchange, Inc. (''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 3.16(b). The proposed amendment would interpret certain terms used in paragraph (b) of Article Fifth of the CBOE Certificate of Incorporation (''Article Fifth(b)''). On April 9, 2004, the CBOE filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on May 3, 2004.[4] The Commission received one comment letter on the proposed rule change.[5] On May 25, 2004, the CBOE submitted a response to the comment letter,[6] and two of the original commenters replied to CBOE's response in a letter submitted on June 14, 2004.[7] On July 15, 2004, the Commission approved, by authority delegated to the Division of Market Regulation, the proposed rule change, as amended.[8]

On August 23, 2004, Marshall Spiegel (''Petitioner'') filed with the Commission a notice of intention to file a petition for review of the Commission's approval by delegated authority,[9] and on September 13, 2004, Petitioner filed a petition for review.[10] On September 17, 2004, the Commission acknowledged receipt of these documents from Petitioner and confirmed that the automatic stay provided in Rule 431(e) of the Commission's Rules of Practice was in effect.[11]

The Commission has considered the petition and for the reasons described below, has determined to set aside the earlier action taken by delegated authority and grant approval of the proposed rule change, as amended.[12]

II. Description of the Proposed Rule Change

A. Background

As compensation for the time and money that the Board of Trade of the City of Chicago (''CBOT'') had expended in the development of the CBOE, a member of the CBOT is entitled to become a member of the CBOE without having to acquire a separate CBOE membership. This entitlement is established by Article Fifth(b) of the CBOE's Certificate of Incorporation (''Article Fifth(b)''). Article Fifth(b) provides, in relevant part:

> [E]very present and future member of the [CBOT] who applies for membership in the [CBOE] and who otherwise qualifies shall, so long as he remains a member of [the CBOT], be entitled to be a member of the [CBOE] notwithstanding any limitation on the number of members and without the necessity of acquiring such membership for consideration or value from the [CBOE] (''Exercise Rights'').

Article Fifth(b) also explicitly states that no amendment may be made to it without the approval of at least 80% of those CBOT members who have ''exercised'' their right to be CBOE members and 80% of all other CBOE members.

In 1992, the Commission approved the CBOE's proposed interpretation of the meaning of the term ''member of the [CBOT]'' as used in Article Fifth(b). The interpretation proposed by the CBOE was one agreed upon by the CBOE and the CBOT, is embodied in an agreement dated September 1, 1992 (''1992 Agreement''), and is reflected in CBOE Rule 3.16(b). CBOE Rule 3.16(b) states that ''for the purpose of entitlement to membership on the [CBOE] in accordance with * * * [Article Fifth(b)] * * * the term ''member of the [CBOT],'' as used in Article Fifth(b), is interpreted to mean an individual who is either an ''Eligible CBOT Full Member'' or an ''Eligible CBOT Full Member Delegate,'' as those terms are defined in the [1992 Agreement] * * * [13]

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[17] 17 CFR 240.31(a)(11).

[18] 17 CFR 240.31(a)(6).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Arthur B. Reinstein, Deputy General Counsel, CBOE, to Lisa N. Jones, Special Counsel, Division of Market Regulation (''Division''), Commission, dated April 8, 2004 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 49620 (April 26, 2004), 69 FR 24205 (May 3, 2004).

[5] Letter from Thomas A. Bond, Norman Friedland, Gary P. Lahey, Marshall Spiegel, Anthony Arciero, Peter C. Guth, Robert Kalmin, Sheldon Weinberg, David Carman and Jeffrey T. Kaufmann, Members, CBOE, to Jonathan G. Katz, Secretary, Commission, dated April 28, 2004 (''April 28th Comment Letter''). This comment letter includes comments on another CBOE proposed rule change, SR–CBOE–2002–01, that was withdrawn on April 7, 2004. *See* Letter from Arthur B. Reinstein, Deputy General Counsel, CBOE, to Lisa N. Jones, Special Counsel, Division, Commission, dated April 6, 2004. *See also* letters from Marshall Spiegel to Margaret H. McFarland, dated November 4, 2004 (''November 2004 Letter'') and December 22, 2004 (''December 2004 Letter'').

[6] Letter from Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE, to Jonathan G. Katz, Secretary, Commission, dated May 24, 2003.

[7] Letter from Thomas A. Bond and Gary P. Lahey, Members, CBOE, to Jonathan G. Katz, Secretary, Commission, dated June 8, 2004 (''June 8th Letter'').

[8] Securities Exchange Act Release No. 50028 (July 15, 2004), 69 FR 43644 (July 21, 2004) (''July 15th Order'').

[9] Letter from Marshall Spiegel, CBOE Equity Member, to Margaret H. McFarland, Deputy Secretary, Office of Secretary, Commission, dated August 23, 2004.

[10] Letter from Marshall Spiegel, CBOE Equity Member, to Margaret H. McFarland, Deputy Secretary, Office of the Secretary, Commission, dated September 13, 2004 (''Petition for Review'').

[11] Letter from Margaret H. McFarland, Deputy Secretary, Office of the Secretary, Commission, to Marshall Spiegel, CBOE Equity Member, dated September 17, 2004.

[12] *See* July 15th Order, *supra* note 8.

[13] In the 1992 Agreement, an ''Eligible CBOT Full Member'' is defined as an individual who at the

B. CBOE's Current Proposal

The CBOE is again proposing an interpretation of the term ''member of the [CBOT]'' as used in Article Fifth(b). The CBOE believes that this interpretation is necessary to clarify which individuals will be entitled to the Exercise Right upon distribution by the CBOT of a separately transferable interest (''Exercise Right Privilege'') representing the Exercise Right component of a CBOT membership. The CBOT's intention to issue these Exercise Right Privileges is set forth in an agreement dated September 17, 2003 between the CBOE and the CBOT (''2003 Agreement''). In the 2003 Agreement, the CBOE and CBOT agreed on an interpretation of the term ''member of the [CBOT]'' as used in Article Fifth(b) once these Exercise Right Privileges are issued. Specifically, the 2003 Agreement modifies the definitions of ''Eligible CBOT Full Member'' [14] and ''Eligible CBOT Full Member Delegate'' used in the 1992 Agreement. The CBOE's proposed rule change would revise Rule 3.16(b) to incorporate the definitions of ''Eligible CBOE Full Member'' and ''Eligible CBOT Full Member Delegate'' found in the 2003 Agreement.

III. Discussion and Commission Findings

As noted above, the Commission received a comment letter and a follow up letter on the proposed rule change from several members of the CBOE.[15] In addition, the Commission received a petition for review of the action taken by delegated authority.[16] Discussed below are these commenters' and the Petitioner's arguments as to why the Commission should not approve the proposed rule change.

A. The Commission's Jurisdiction to Consider the Proposed Rule Change

The Petitioner argues that the Commission should not approve the proposed rule change because the filing proposes to interpret contracts and instruments created in and under Illinois law and subject to ''interpretation'' under Illinois and Delaware state law.[17] Thus, Petitioner contends that the Commission is overstepping its jurisdiction and should not approve the proposal on that basis. In this regard, section 3(a)(27) of the Exchange Act defines the ''rules of an exchange'' to include, among other things, the constitution, articles of incorporation, and instruments corresponding to the foregoing of an exchange, as well as the stated policies, practices, and interpretations of such exchange.[18] Rule 19b–4 under the Exchange Act [19] defines the term ''stated policy, practice, or interpretation'' broadly to include

(1) Any statement made generally available to (a) the membership of the self-regulatory organization (''SRO''), or (b) to a group or category of persons having or seeking access to facilities of the SRO, that establishes or changes any standard, limit, or guideline with respect to the rights, obligations, or privileges of such persons, or

(2) The meaning, administration, or enforcement of an existing SRO rule.

The CBOE's Certificate of Incorporation, as well as the interpretation in CBOE Rule 3.16 of terms used in the Certificate, are ''rules of the exchange.'' As such, section 19(b)(1) of the Exchange Act requires CBOE to file with the Commission any proposed changes to those rules.[20] Once filed, section 19(b) of the Exchange Act requires the Commission to publish notice of the proposed rule change and approve it, or institute proceedings to determine whether the proposed rule change should be disapproved. Accordingly, the Commission believes that the Exchange Act establishes clearly that the proposed rule change is within its jurisdiction.

B. Petitioner's Right to Receive Notice of Commission Approval of the Proposed Rule Change

The Petitioner also claims that it is premature for the Commission to consider this Petition for Review because the Commission never served actual notice on him of its approval of CBOE's proposed rule change.[21] There, however, is no requirement that the Commission notify those who comment on a proposed rule change that it is approved. Instead, the Commission publishes its approval orders in the **Federal Register** and posts them on its Web site. Accordingly, the Commission does not believe it is premature to consider the petition for review.

C. The Commission Finds CBOE's Determination That the Proposal is an Interpretation of Article Fifth(b) To be Consistent With the Exchange Act

The commenters' and Petitioner's principal argument as to why the Commission should not approve the CBOE's proposed rule change is that the proposed rule change does not constitute an interpretation of Article Fifth(b) as CBOE claims, but an amendment to Article Fifth(b) instead. Thus, Petitioner states that the CBOE's Board of Directors (''Board'') acted inconsistently with the CBOE's Certificate of Incorporation by failing to obtain the approval of 80% of those CBOT members who exercised their right to be CBOE members and 80% of other CBOE members.[22] The commenters to the CBOE proposal made similar arguments as to why the Commission should not approve the proposal.[23] In this regard, the Petitioner's legal memorandum states that the Commission's order is not in compliance with section 19(b)(1) of the Exchange Act because the order purports to decide fundamental issues of corporate governance of the CBOE, which are matters that should fall within the province of Delaware law and the state courts, not the Commission.[24]

The CBOE filed a proposed rule change to adopt an interpretation of

time is the holder of one of 1,402 existing CBOT full memberships (''CBOT Full Memberships''), and who is in possession of all trading rights and privileges of such CBOT Full Memberships. An ''Eligible CBOT Full Member Delegate'' is defined as the individual to whom a CBOT Full Membership is delegated (*i.e.,* leased) and who is in possession of all trading rights and privileges appurtenant to such CBOT Full Membership.

[14] Under the 2003 Agreement, an individual would be deemed an Eligible CBOT Full Member (and therefore a ''member of the [CBOT]'' under Article Fifth (b)) only if such individual: (1) Held one Exercise Right Privilege; (2) held a CBOT Full Membership, which gives him all of the other rights and privileges appurtenant to CBOT membership; and (3) meets CBOT membership and eligibility requirements.

The holder of a CBOT Full Membership in respect of which an Exercise Right Privilege has not been issued shall qualify as an Eligible CBOT Full Member if the requirements of the 1992 Agreement are still satisfied without such holder having to possess an Exercise Right Privilege.

[15] *See* April 28th Comment Letter, *supra* note 5 and June 8th Letter, *supra* note 7.

[16] *See* Petition for Review, *supra* note 10.

[17] *See* Petitioner's Statement in Opposition to Action Made by Delegated Authority, October 27, 2004, at 2 (''Statement in Opposition'').

[18] 15 U.S.C. 77c(a)(27).

[19] 17 CFR 240.19b–4.

[20] 15 U.S.C. 78s(b)(1).

[21] *See* Petition for Review, *supra* note 10, at 3.

[22] *See* Statement in Opposition, *supra* note 17, at 2.

[23] For example, commenters argued that the proposed rule change is an amendment to Article Fifth(b) in that the 2003 Agreement states that disputes concerning the definitions of what constitutes a member of the CBOT will be subject to arbitration, which commenters believed would supersede the current membership process under Article Fifth(b) in which an 80% member vote is required. *See* April 28th Comment Letter, supra note 5. The Commission notes that CBOE has not proposed to change the terms of Article Fifth(b), which still applies. Further, the Commission is not approving or disapproving the terms of the 2003 Agreement.

[24] *See* Legal Memorandum of Points and Authorities in Support of the Statement of Petitioner Marshall Spiegel in Opposition to Staff Action, October 26, 2004, at 6 (''Legal Memorandum'').

Article Fifth(b) by amending CBOE Rule 3.16. Section 19(b) of the Exchange Act [25] requires that the Commission approve an exchange's proposed rule change if it finds that the proposal is consistent with the requirements of the Exchange Act, and the rules thereunder applicable to exchanges. Among other things, national securities exchanges are required under section 6(b)(1) of the Exchange Act [26] to comply with their own rules. Thus, if CBOE has failed to comply with its own Certificate of Incorporation, which is a rule of the exchange, the Commission believes that this may not only violate state corporation law, but it would also be inconsistent with the Exchange Act and, thus, the Commission could not approve the proposed rule change under section 19.

The Commission has reviewed the record in this matter and believes that the CBOE provides sufficient basis on which the Commission can find that, as a federal matter under the Exchange Act, the CBOE complied with its own Certificate of Incorporation in determining that the proposed rule change is an interpretation of, not an amendment to, Article Fifth(b). The Commission finds persuasive CBOE's analysis of the difference between ''interpretations'' and ''amendments,'' [27] and the letter of counsel that concludes that it is within the general authority of the CBOE's Board to interpret Article Fifth(b) and that the ''Board's interpretation of Article Fifth(b) contemplated by the [2003 Agreement] does not constitute an amendment to the Certificate and need not satisfy the voting requirements of Article Fifth(b) that would apply if the Article were being amended.'' [28]

Petitioner argues that the 2003 Agreement denigrates the definition of CBOT member ''by permitting CBOT members to carve up membership rights and sell them separately to third parties without extinguishing their rights to exercise CBOE membership under Article Fifth(b),'' and that ''[t]his fundamental change and augmentation in the economic and legal rights of CBOT members and the structure of CBOT membership materially and profoundly affect the economic and legal rights of CBOE membership and governance.'' [29] Accordingly, Petitioner states that ''[i]t cannot be fairly concluded that by altering the economic and corporate control relationships among CBOT members, third parties and current CBOE members in such material ways does not constitute an amendment to the provisions of Article Fifth(b).''

The Commission does not believe that Petitioner's argument refutes, to any degree, CBOE's analysis of why its proposed rule change is an interpretation to Article Fifth(b), not an amendment. As discussed further below, the Commission does not believe that either the 2003 Agreement or the proposed rule change alter CBOT membership in the way Petitioner claims. To the extent changes to CBOT memberships are being made, they are being done by the CBOT as part of its restructuring. Once the CBOT issues the exercise rights, which it states is its intent, the CBOE believes it must interpret Article Fifth(b) to address the ambiguity with respect to the definition of member of the CBOT that will be created by CBOT's actions.[30] The Commission agrees that it is circumstances external to this proposed rule change that present the question about what it means to be a ''member of the CBOT'' under Article Fifth(b).

Petitioner's legal memorandum also states that by purporting to decide issues of corporate governance, the July 15th Order [31] materially compromises the rights of CBOE members to obtain judicial review of those issues. Petitioner argues that the issues do not implicate market integrity concerns under the Exchange Act and thus the Commission should maintain neutrality on these corporate governance issues.[32] Except to the extent that the Commission's analysis of state law informs its finding that, as a federal matter under the Exchange Act, the CBOE complied with its own Certificate of Incorporation in determining that the proposed rule change is an interpretation of, not an amendment to, Article Fifth(b), the Commission is not purporting to decide a question of state law.[33]

D. The CBOT Restructuring

1. The Commission is Not Approving the CBOT's Breaking of Its Memberships into Separate, Transferable Interests

Petitioner's legal memorandum states that the 2003 Agreement amends Article Fifth(b) by redefining the term CBOT member in a manner other than was originally contemplated when Article Fifth(b) was adopted in 1972, when all of the rights and benefits that constituted a CBOT membership were an integrated whole that could not be separated and transferred to third parties, as was further confirmed in the 1992 Agreement.[34] The legal memorandum also states that the 2003 Agreement now permits CBOT members to divide membership rights and sell them separately to third parties without extinguishing the right to exercise and become a CBOE member under Article Fifth(b).[35]

The Commission believes that the Petitioner mischaracterizes the 2003 Agreement in several respects. First, the 2003 Agreement does not *permit* the CBOT to divide membership rights by issuing Exercise Right Privileges. The 2003 Agreement begins by stating that the CBOT intends to issue these Exercise Right Privileges. The purpose of the agreement is to resolve who will be a ''member of the [CBOT],'' and therefore entitled to the Exercise Right under Article Fifth(b), following the issuance of these Exercise Right Privileges. In addition, the Commission does not believe that the 1992 Agreement confirms that all the rights and benefits that constitute a CBOT membership were an integrated whole. To the contrary, the 1992 Agreement was necessitated by the division of CBOT memberships into trading rights

[25] 15 U.S.C. 78s(b).

[26] 15 U.S.C. 77(f)(b)(1).

[27] *See* Statement of Chicago Board Options Exchange in Support of Approval of Rule Under Delegated Authority, October 26, 2004, at 6 (''CBOE's Statement in Support of Approval'').

[28] Letter from Michael D. Allen, Richard, Layton & Finger, to Joanne Moffic-Silver, General Counsel and Corporate Secretary, CBOE (June 29, 2004).

[29] Legal Memorandum, *supra* note 24, at 4–5.

[30] *See id*. at 7.

[31] *See* July 15th Order, *supra* note 8.

[32] *See* Legal Memorandum, *supra* note 24, at 6.

[33] CBOE Rule 6.7A states that:

No member or person associated with a member shall institute a lawsuit or other legal proceeding against the Exchange or any director, officer, employee, contractor, agent or other official of the Exchange or any subsidiary of the Exchange, for actions taken or omitted to be taken in connection with the official business of the Exchange or any subsidiary, except to the extent such actions or omissions constitute violations of the federal securities laws for which a private right of action exists.

Prior to April 2002, CBOE Rule 6.7A only precluded lawsuits against directors, officers, employees, contractors, agents and other officials of the CBOE. *See* Securities Exchange Act Release No. 37421 (July 11, 1996), 61 FR 37513 (July 18, 1996). In April 2002, CBOE filed a proposed rule change to extend the prohibition to lawsuits against the Exchange. This change was filed under Section 19(b)(3)(A) of the Exchange Act and, therefore, became effective upon filing. *See* Securities Exchange Act Release No. 45837 (Apr. 26, 2002), 67 FR 22142 (May 2, 2002) (notice of CBOE's proposed rule change). Accordingly, the Commission did not issue an order finding that the rule change is consistent with the requirements of the Exchange Act. When there is no approval order, a court considering a contention that a rule is not consistent with the requirements of the Exchange Act, or that the rule does not preempt state law, will not have the authoritative views of the Commission on the relevant issues, and will have to resolve those claims *de novo*.

[34] *See* Legal Memorandum, *supra* note 24, at 4.

[35] *See id*.

that could be leased and ownership rights.[36]

The Commission notes that it is required under the Exchange Act to make a finding that *CBOE's* proposed interpretation is consistent with the CBOE's own rules, and the Exchange Act. The Commission is not approving either the *CBOT's* action to separate or to transfer interests in the Exercise Right or the 2003 Agreement. With regard to Petitioner's argument that the 2003 Agreement is not consistent with the 1992 Agreement, and thus cannot be an interpretation of Article Fifth(b), an exchange may propose a new interpretation or new rule that is, in practice, fundamentally different from a previous interpretation or rule, so long as the proposed interpretation is consistent with the Exchange Act.

2. The Commission Does Not Have to Consider the CBOT's Restructuring

The commenters argued that the CBOT's proposed changes to its corporate structure, which are pending, are an amendment to Article Fifth(b) of the CBOE's Certificate of Incorporation because, following the demutualization of the CBOT, CBOT will no longer be a membership organization.[37] Commenters also contended that ''[w]hen the CBOE was created in 1972, the equity of the CBOT was only contained in the 'member of the Board of Trade.' '' [38] Also, because CBOT is proposing in its demutualization that the current members of the CBOT would receive approximately 77% of the equity in a new holding company, the definition of ''member of the Board of Trade'' as used in Article Fifth(b) of the CBOE's Certificate of Incorporation is being amended.[39] Commenters also claimed that because CBOT's demutualization would affect the CBOT's governance, the CBOE's proposed rule change is an amendment to Article Fifth(b).[40]

Similarly, Petitioner asserts in his legal memorandum that the 2003 Agreement denigrates the definition of CBOT member ''by permitting CBOT members to carve up membership rights and sell them separately to third parties without extinguishing the right to exercise and become a CBOE member under Article Fifth(b).'' [41] The Commission, however, does not believe that the proposed rule change is what allows the CBOT to divide equity ownership in the CBOT into several parts and issue separately transferable securities representing each part. The proposed rule change merely sets forth how the CBOE proposes to apply its rules once the CBOT issues such securities, and does not ask the Commission to approve any action being taken by the CBOT with regard to its memberships.

The Petitioner asserts that the CBOT has moved ahead with its demutualization by separating the Exercise Right as described in this proposal, and opening its market to the trading of memberships without Exercise Rights and the trading of the Exercise Right itself.[42] Petitioner further argues in his legal memorandum that third parties controlling membership Exercise Rights will have substantial powers and influence over the future course of CBOE governance, and that altering the ''economic and corporate control relationships among CBOT members, third parties and current CBOE members in such a material way'' constitutes an amendment to Article Fifth(b).[43] The Petitioner also believes that the dilution of CBOT equity through an initial public offering expected in 2005 will allow less costly access to CBOE.[44] Thus, according to Petitioner's legal memorandum, the CBOT's impending restructuring is material to the Commission's discussion on the issues presented in the proposed rule change.[45]

The Commission does not believe that changes CBOT makes to its memberships, such as CBOT's pending restructuring, could be considered an amendment to CBOE's Certificate of Incorporation. The CBOT and CBOE are separate corporate entities. The Commission does not believe that any changes that the CBOT makes to its corporate structure should, by themselves, be considered a change to the CBOE's Certificate of Incorporation. The Commission is not approving in this order the CBOT's separation of the Exercise Rights or any other aspect of its restructuring.[46]

E. The Commission Does Not Have to Consider Proposed Rule Changes That CBOE May File in the Future

The Petitioner contends that the Commission should require the CBOE to file other agreements that the Petitioner considers relevant to the proposed rule change the Commission is currently considering.[47] In particular, Petitioner objects to the CBOE's withdrawal of its proposed rule change SR-CBOE-2002-01.[48] Petitioner claims that the interpretation of Article Fifth(b) in the August 7, 2001 agreement between the CBOE and CBOT is integrally related to the proposed rule change.[49] Subsequently, Petitioner similarly argued that the Commission should require the CBOE to file this August 7, 2001 agreement, as well as other subsequent, related agreements because [50] the CBOE and CBOT are acting to effectuate the terms of such agreements. Petitioner contends that the CBOE and CBOT should not effectuate the terms of these agreements until such agreements are filed and approved by the Commission.

As discussed above, section 19(b)(1) of the Exchange Act requires CBOE to file with the Commission any proposed changes to its rules. Once filed, section 19(b) requires the Commission to take certain actions. The Commission is not required to consider proposed rule changes that may be filed by an SRO at a future date.

The Commission also notes that agreements between SROs and third parties are not, *per se,* proposed rule changes that must be filed with the Commission. In fact, as noted above, the Commission is not approving the 2003 Agreement, but is approving only the interpretation of Article Fifth(b), which

[36] In 1992, the CBOE filed a proposed rule change with the Commission that embodied in CBOE Rule 3.16 an interpretation of ''member of the [CBOT]'' as used in Article Fifth(b). This interpretation was agreed upon by the CBOT and CBOE in a 1992 agreement between the exchanges. The Commission approved the CBOE's proposed rule change. *See* Securities Exchange Act Release No. 32430 (June 8, 1993), 58 FR 32969 (June 14, 2993) (SR–CBOE–92–42).

[37] *See* April 28th Comment Letter, *supra* note 5, at 2.

[38] *Id.*

[39] *See id.*

[40] *See id.*

[41] Legal Memorandum, *supra* note 24, at 4.

[42] *See* Statement in Opposition, *supra* note 17, at 5.

[43] *See* Legal Memorandum, *supra* note 24, at 5.

[44] *See* Statement in Opposition, *supra* note 17, at 11.

[45] *See* Legal Memorandum, *supra* note 24, at 16.

[46] Petitioner argues in his legal memorandum that the CBOT has pending with the Commission a Form S–4, which he believes is in the final stages of review. *See* Legal Memorandum, *supra* note 24, at 6. Thus, Petitioner believes that the CBOT's restructuring of its membership materially affects the rights of CBOE members under Article Fifth(b). *See id.* The Commission review of the CBOT's Form S–4 is to ensure the adequacy of disclosure about the CBOT's actions and therefore it is unclear what bearing the Commission's determination with regard to this proposal would have on the Form S–4 or CBOT's restructuring.

[47] *See* Reply of Marshall Spiegel to CBOE Response of November 10, 2004, November 17, 2004, at 3 (''Petitioner's November 2004 Reply''). *See also* November 2004 Letter, *supra* note 5; December 2004 Letter, *supra* note 5.

[48] *See* November 2004 Letter, *supra* note 5.

[49] CBOE explains that it withdrew SR–CBOE–2002–01 because CBOT's demutualization plans were suspended. *See* CBOE's Statement in Support of Approval, *supra* note 27, at 10.

[50] *See* December 2004 Letter, *supra* note 5.

references certain terms as used in the 2003 Agreement. Whether or not agreements entered into by the CBOE are proposed rule changes is a judgment that, in the first instance, CBOE must make. To the extent, however, that any part of an agreement is a ''policy, practice, or interpretation'' of CBOE's rules and that ''policy, practice, or interpretation'' has not been approved by the Commission it would be a violation of section 19(b) of the Exchange Act and the Commission could take appropriate action against the CBOE.

F.The Commission Does Not Have to Find That the Proposed Rule Change is Consistent with the 1992 Agreement

Commenters have contended that the entire 1992 Agreement is part of CBOE Rule 3.16(b) and, therefore, any change to the terms of that agreement is an amendment of Article Fifth(b), which Rule 3.16(b) interprets.[51] In particular, commenters noted that the 1992 Agreement states that a CBOT ''exercise member shall not have the right to transfer * * * their CBOE regular memberships or any other trading rights and privileges appurtenant thereto.'' [52] Petitioner argues that the 2003 Agreement is not consistent with the 1992 Agreement because the 1992 Agreement prohibits the un-bundling of CBOE trading rights.[53] The commenters also contended that the proposed rule change allows the CBOT to demutualize into A, B, and C shares, which are separately transferable, in contravention of the 1992 Agreement.[54] Similarly, Petitioner asserts that the CBOE's new interpretation of Article Fifth(b) contradicts the 1992 Agreement's meaning of what a CBOT member is and changes the structure of CBOT memberships in a way not contemplated in Article Fifth(b).[55]

The Commission notes that it did not approve the 1992 Agreement itself. Instead, the Commission approved CBOE Rule 3.16(b), which refers to the 1992 Agreement only for the definitions of ''Eligible CBOT Full Member'' and ''Eligible CBOT Full Member Delegate'' contained in that agreement. Thus, the Commission disagrees with commenters' contention that the entire 1992 Agreement is part of CBOE Rule 3.16(b). In addition, as discussed above, the Commission does not believe that the proposed rule change is what allows CBOT to demutualize and separate its memberships into A, B, and C shares. Because the 1992 Agreement is not part of the CBOE's rules, the Commission does not believe it is inconsistent with the Exchange Act if the new interpretation of Article Fifth(b) contradicts that agreement. Agreements between the CBOE and CBOT may be amended without Commission approval unless such an amendment is a proposed rule change that must be filed under section 19(b). In the matter before it, the Commission must find that the CBOE's proposal is consistent with the Exchange Act, not the 1992 Agreement.

G. The Commission Has Considered Whether the Proposed Rule Change Promotes Efficiency, Competition and Capital Formation

Petitioner argues in its legal memorandum that the proposed rule change is not consistent with efficiency, competition and capital formation because CBOE's Board actions were contrary to its powers under the Certificate of Incorporation and adversely affect efficiency, competition and capital formation by creating legal uncertainties, necessitating litigation and compromising the rights of CBOE equity holders.[56] Section 3(f) of the Exchange Act requires, in the review of an SRO rule, the Commission to *consider* whether the action will promote efficiency, competition, and capital formation.[57] The Commission is not required to make a finding under section 3(f) in all cases. The Commission has considered whether the proposal promotes efficiency, competition, and capital formation, and believes that it is important to clarify that Petitioner's claim is not that the proposed interpretation itself compromises the rights of CBOE equity holders, but instead that the Board's action to approve the proposed interpretation without a vote under Article Fifth(b) has compromised CBOE equity holders' rights.

H. Prescribing New Conditions to Membership Not Permitted Without a Vote of CBOE Members

The Petitioner's legal memorandum states that the 2003 Agreement is invalid because it alters the conditions of membership by introducing a new membership eligibility regime never before contemplated.[58] Petitioner contends that section 2.2 of CBOE's Constitution provides that ''membership shall be limited to individuals, partnerships, and corporations, subject to their meeting the conditions of approval as stated in the Constitution.'' [59] Petitioner then concludes that because section 2.1(a) of the CBOE Constitution provides that ''membership in the Exchange shall be made available by the Exchange * * * and * * * shall be proposed by the Board and approved by the affirmative vote of the majority of voting members * * *'' the CBOE Board usurped the exclusive power of the voting members of CBOE to make, alter, or repeal the Constitution. Section 2.2 of CBOE's Constitution, however, states in relevant part:

''[m]embership shall be limited to individuals, partnerships, and corporations, subject to their meeting the conditions of approval as stated in the Constitution *and Rules*.'' *Emphasis added*.

Thus, a full reading of the CBOE's Constitution indicates that CBOE may introduce new conditions of membership in accordance with its rules which would not necessitate an affirmative majority vote by CBOE members.

I. Timeliness of Petitioner's FOIA Requests

The Petitioner argues that the Commission is depriving him of his due process rights by not timely complying with his FOIA requests. However, the records that Petitioner seeks in his FOIA requests are also available as part of the public file in this matter. Thus, the FOIA request is not relevant to Petitioner's due process rights.

J. The Proposal Is Consistent With Section 6(b)(5) and Section 6(c)(3)(A) of the Exchange Act

The Petitioner's legal memorandum states that the proposal is not consistent with section 6(b)(5) of the Exchange Act because it circumvents the requirements of CBOE's Certificate of Incorporation which cannot be deemed to promote just and equitable principles of trade or to protect investors and the public interest.[60] Section 6(b)(5) of the Exchange Act requires that the rules of the exchange be designed to, among other things, promote just and equitable principles of trade.[61] As discussed above, in approving the proposed rule change, the Commission is not deciding whether the Board's action was consistent with state corporation law.

[51] *See* April 28th Comment Letter, *supra* note 5, at 2–3.

[52] *See* 1992 Agreement, Section 3(a).

[53] *See* Statement in Opposition, *supra* note 17, at 11.

[54] *See* April 28th Comment Letter, *supra* note 5, at 2.

[55] *See* Statement in Opposition, *supra* note 17, at 11.

[56] *See* Legal Memorandum, *Supra* note 24, at 7.

[57] 15 U.S.C. 78c(f).

[58] *See* Legal Memorandum, *Supra* note 24, at 14.

[59] *See id.* at 14–15.

[60] *See id.* at 7.

[61] 15 U.S.C. 78f(b)(5).

Rather, the Commission finds that the proposed interpretation of Article Fifth(b) is consistent with the Exchange Act, including section 6(b)(5).

The Petitioner's legal memorandum states that the proposal is not consistent with section 6(c)(3)(A) of the Exchange Act ''because the proposed rule does not address the qualifications of CBOT members to become CBOE members in accordance with the voting rights and procedures established by Article Fifth(b).'' [62] Section 6(c)(3)(A) of the Exchange Act provides that an exchange ''may deny membership to, or condition the membership of, a registered broker-dealer'' if, among other things, such broker-dealer does not meet financial responsibility or operational capability standards set forth in the exchange's rules.[63] This provision is further qualified by section 6(c)(4) of the Exchange Act, which permits an exchange to limit the number of members of the exchange, provided that the exchange does not decrease the number of memberships below such number in effect on May 1, 1975.[64] Article Fifth(b) states that a member of the CBOT is entitled to be a member of the CBOE, notwithstanding any limitation on the number of CBOE members, if such CBOT member applies for membership and otherwise qualifies for membership. The CBOE is proposing to interpret the meaning of the term ''member of the [CBOT]'' as used in Article Fifth(b). This interpretation does not implicate Section 6(c)(3)(A) and is consistent with Section 6(c)(4) because the CBOE is not proposing to reduce the number of members of the exchange.

VI. Conclusion

It is therefore ordered, that the earlier action taken by delegated authority [65] is set aside and the proposed rule change (SR–CBOE–2004–16), as amended, is approved pursuant to section 19(b)(2) of the Exchange Act.[66]

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–833 Filed 3–2–05; 8:45 am]

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[62] Legal Memorandum, *Supra* note 24, at 7–8.

[63] 15 U.S.C. 78f(c)(3)(A).

[64] 15 U.S.C. 78f(c)(4).

[65] July 15th Order, *Supra* note 8.

[66] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51255; File No. SR–EMCC–2004–01]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Withdrawal of a Proposed Rule Change To Amend Its Rules With Regard to the Imposition of Fines Upon Its Members

February 25, 2005.

On January 12, 2005, the Emerging Markets Clearing Corporation (''EMCC'') submitted to the Securities and Exchange Commission (''Commission'') a withdrawal of a proposed rule change which was filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] The purpose of the proposed rule change was to expand EMCC's rules with regard to the imposition of fines upon its members and to more specifically identify the actions or inactions of members that will result in the imposition of fines. Notice of the proposal was published in the **Federal Register** on May 3, 2004.[2]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–842 Filed 3–2–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51256; File No. SR–ISE–2005–10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by the International Securities Exchange, Inc., Relating to Listing Standards for Options on Narrow-Based Securities Indexes

February 25, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 14, 2005, the International Securities Exchange, Inc. (''ISE'' 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 ISE. On February 23, 2005, the Exchange amended its proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and is approving the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 49623 (April 27, 2004), 69 FR 24208.

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its rules relating to listing standards for options on narrow-based security indexes. The text of the proposed rule change is as follows (*italics* indicate additions; [brackets] indicate deletions):

* * * * *

Rule 2002. Designation of an Index

(a) No Change.

(b) The Exchange may trade options on a narrow-based index pursuant to Rule 19b–4(e) of the Securities Exchange Act of 1934, if each of the following conditions is satisfied:

(1) No Change.

(2) The index is capitalization-weighted, price-weighted, [or] equal dollar-weighted, *or modified capitalization-weighted,* and consists of 10 or more component securities;

(3)–(4) No Change.

(5) In a capitalization-weighted index *or a modified capitalization-weighted index,* the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30 percent of the total number of component securities in the index each have had an average monthly trading volume of at least 2,000,000 shares over the past six months;

(6)–(12) No Change.

(c) The following maintenance listing standards shall apply to each class of index options originally listed pursuant to paragraph (b) above:

(1)–(3) No Change.

(4) In a capitalization-weighted index *or a modified capitalization-weighted index,* the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30 percent of the total number of stocks in the index each have had an average

[3] *See* Amendment No. 1, dated February 23, 2005 (''Amendment No. 1''). In Amendment No. 1, the Exchange supplemented its description of the modified market capitalization methodology. Amendment No. 1 replaced the ISE's original filing in its entirety.

monthly trading volume of at least 1,000,000 shares over the past six months. In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth herein, the Exchange shall not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the SEC concurs in that determination, or unless the continued listing of that class of index options has been approved by the SEC under Section 19(b)(2) of the Exchange Act.

* * * * *

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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in item III below. The self-regulatory organization 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 ISE is proposing to amend ISE Rule 2002(b). ISE Rule 2002(b) contains generic listing standards for narrow-based index options pursuant to Rule 19b–4(e) of the Act.[4] 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,[5] if the Commission has approved, pursuant to section 19(b) of the Act,[6] the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivatives securities product, and the self-regulatory organization has a surveillance program for the product class.[7] Thus, ISE Rule 2002(b) allows the Exchange to list options on a narrow-based securities index pursuant to Rule 19b–4(e) under the Act without having to submit a formal rule change under section 19(b) of the Act as long as the requisite criteria provided for under ISE Rule 2002(b) are met.[8] One of these criteria, provided under ISE Rule 2002(b)(2), requires that the subject index be capitalization-weighted, price-weighted, or equal-dollar weighted and consist of ten or more component securities.

The Exchange hereby proposes to amend ISE Rule 2002(b)(2) to include a ''modified capitalization-weighted'' methodology as an acceptable generic listing standard for options on a narrow-based index.[9] The modified capitalization-weighted methodology is already an approved criterion for securities indexes [10] and is an established method of weighting securities indexes.[11] Accordingly, the ISE proposes to adopt the modified capitalization-weighted methodology as a standard for listing options on narrow-based indexes that satisfy the Exchange's generic listing criteria for options on narrow-based securities indexes under ISE Rule 2002(b).

2. Basis

The Exchange believes the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change, as amended, is consistent with section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The adoption of the proposed rule change, as amended, would enable the ISE to begin listing and trading options on new narrow-based indexes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change, as amended, does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change, as amended. The Exchange has not received any unsolicited written comments from members or other interested parties.

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.* Please include File Number SR–ISE–2005–10 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–ISE–2005–10. 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 Commissions 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

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[4] 17 CFR 240.19b–4(e).

[5] 17 CFR 240.19b–4(c)(1).

[6] 15 U.S.C. 78s(b).

[7] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (the ''19b–4(e) Order''). Telephone conversation between Samir Patel, Assistance General Counsel, ISE, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, on February 24, 2005.

[8] *See* Securities Exchange Act Release No. 47749 (April 25, 2003); 68 FR 23507 (May 2, 2003) (Order approving rules relating to trading options on indices, including ISE Rule 2002(b)—Generic Narrow-Based Index Option Listing Criteria).

[9] A modified capitalization-weighted index is similar to a capitalization-weighted index where the components are weighted according to the total market value of the outstanding shares, except that an adjustment to the weighting of one or more of the component occurs. This type of methodology is expected to: (1) Retain the economic attributes of capitalization weighting; (2) promote portfolio weight diversification; (3) reduce performance distortion by preserving the capitalization ranking of companies; and (4) reduce market impact on the smallest component securities from necessary weight rebalancing.

[10] The Chicago Board Options Exchange's (''CBOE'') generic listing standards for micro narrow-based securities indexes, CBOE Rule 24.2(d)(2), includes modified capitalization-weighted methodology as an approved criteria. *See* Securities Exchange Act Release No. 49932 (June 28, 2004); 69 FR 40994 (July 7, 2004) (Order approving CBOE's micro narrow-based securities index generic listing standards).

[11] For example, the Nasdaq-100 Index is calculated using the modified capitalization-weighted methodology.

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 ISE. 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–ISE–2005–10 and should be submitted by March 24, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) thereunder.[12] The proposed rule change would facilitate the listing and trading of options on certain types of narrow-based securities indexes on the Exchange for the benefit of its members and their customers, specifically those that are calculated using the modified capitalization-weighted methodology and otherwise meet all applicable generic listing standards under ISE Rule 2002(b). Accordingly, the Commission believes that approving this proposed rule change, as amended, would promote a fair, orderly, and competitive options market.

The Exchange has requested that this proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.[13] The Commission finds good cause for approving this proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that accelerating the effectiveness of the proposed rule change, as amended, would facilitate the availability of additional investment choices to investors. In addition, the Commission notes that it has previously approved the modified market capitalization methodology in generic listing standards for other derivative products. Accordingly, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act,[14] to approve the proposal, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR–ISE–2005–10), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–848 Filed 3–2–05; 8:45 am]

BILLING CODE 8010–01–P

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(1).

[14] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51264; File No. SR–NYSE–2005–07]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Proposed Changes to Exchange Rules 440F (''Public Short Sale Transactions Effected on the Exchange'') and 440G (''Transactions in Stocks and Warrants for the Accounts of Members, Allied Members and Member Organizations'')

February 25, 2005.

On January 11, 2005, the New York Stock Exchange, Inc. (the ''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''SEC'' or the ''Commission'') the proposed rule change pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change relating to the inclusion of certain short-exempt sales on Reports of Short Interest (*i.e.,* NYSE Forms SS20 and 121). This order approves the proposed rule change.

The proposed rule change was published for notice and comment in the **Federal Register** on January 26, 2005.[4] The Commission did not receive comments on the foregoing proposed rule change.

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange [5] and, in particular, the requirements of section 6 of the Exchange Act.[6] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and national market system, and in general to protect investors and the public interest; and the prompt and accurate clearance and settlement of securities transactions.[7]

The Commission notes that the NYSE proposal amends Exchange Rule 440F, which requires members and member organizations to report round-lot short sale transactions for public customers on Form SS20, and Exchange Rule 440G, which requires members and member organizations to report round-lot short sale transactions for members, allied members or member organizations on Form 121, to include certain short-exempt sale transactions. Currently, short-exempt sales are excluded when computing the total short interest on the forms, under Rules 440F and 440G, respectively. However, the Commission's Pilot Order issued pursuant to Rule 202T of Regulation SHO [8] greatly increased the number of short-exempt sales transactions. Under the terms of the Commission's Pilot Order, sales in certain ''designated securities'' should be marked ''short-exempt.'' [9] The Commission finds that

[1] 15 U.S.C. 78s(b)(1)

[2] 15 U.S.C. 78a *et seq.*

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 51054 (January 18, 2005), 70 FR 3758.

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 242.202T.

[9] *See* Securities Exchange Act Release No. 50104 (July 28, 2004), 69 F.R. 48032 (August 6, 2004) (''Pilot Order''), available at *http://www.sec.gov/rules/other/34-50104.htm; see also* Securities Exchange Act Release No. 50747 (November 29, 2004), 69 FR 70480 (December 6, 2004), available at *http://www.sec.gov/rules/other/34-50747.htm* (Second Pilot Order). The Pilot Order provided for a one-year pilot program (''Pilot Program''), under which short sale price tests are suspended for short sales in: (1) Certain ''designated securities'' identified in Appendix A to the SEC's Pilot Order; (2) any security included in the Russell 1000 Index effected between 4:15 p.m. EST and the open of the consolidated tape on the following day; and (3) any security not included in (1) and (2) above effected

Continued

including the designated securities subject to the Pilot Order, regardless as to whether they are marked ''short-exempt,'' is consistent with the requirements of the Exchange Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act, that the proposed rule change (SR–NYSE–2005–07) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–846 Filed 3–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51249; File No. SR–NYSE–2005–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Requirements for Listing Stock Index Warrants

February 24, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 7, 2005, the New York Stock Exchange, Inc. (''Exchange'' or ''NYSE'') 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 NYSE filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate Exchange Rules 414(l) and 414(n). The Exchange also proposes to amend section 703.17 of the NYSE's Listed Company Manual (''Manual'') to incorporate those provisions.

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 the proposed rule change is available on NYSE's Web site (*http://www.nyse.com*), at the NYSE's Office of the Secretary, and at the Commission's Public Reference Room. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 414(l) requires that stock index warrants base settlement value on opening prices when 25 percent or more of the value of the index consists of securities primarily traded in the United States. Exchange Rule 414(n) requires that issuers of stock index warrants to notify the Exchange immediately of any changes in the number of warrants outstanding that the Exchange may prescribe due to the early exercise of the warrants. The Exchange believes it is appropriate that the requirements set forth in Exchange Rules 414(l) and 414(n) be set forth in the Manual rather than in Exchange Rules, as the Exchange Rules are generally applicable only to member organizations while the Manual is generally applicable to listed companies. The Exchange represents that the proposed amendments to Section 703.17 of the Manual incorporate the substantially similar provisions of Exchange Rules 414(l) and (n).

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,[5] in general, and section 6(b)(5) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[7] and Rule 19b–4(f)(6) thereunder.[8] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NYSE has asked that the Commission waive the 30-day operative delay and the five-day pre-filing notice requirement. The Commission believes that waiver of the five-day pre-filing notice requirement is consistent with the protection of investors and the public interest, since the proposed rule change relocates provisions from the Exchange Rules to the Manual, without substantial change to the rule text. Thus, the Commission waives this pre-filing notice provision. However, waiver of the 30-day operative period is unnecessary because the Exchange currently does not trade stock index warrants.[9]

in the period between the close of the consolidated tape (*i.e.,* after 8 p.m. EST) and the open of the consolidated tape the following day. The Commission's Second Pilot Order delayed the start date of the Pilot Program to May 2, 2005.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] Telephone conference between John Carey, Assistant General Counsel, NYSE, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, Commission, on February 24, 2005.

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.* Please include File Number SR–NYSE–2005–05 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–NYSE–2005–05. 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 principal office of the Exchange. 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–NYSE–2005–05 and should be submitted on or before March 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–849 Filed 3–2–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51240; File Nos. SR–NASD–2005–022; SR–NYSE–2005–12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes by the National Association of Securities Dealers, Inc. To Provide an Exemption From the Research Analyst Qualification Examination for Certain Associated Persons Who Prepare Technical Research Reports and the New York Stock Exchange, Inc. Relating to an Alternative Qualification Standard for the Research Analyst Qualification Examination Requirement for Technical Analysts

February 23, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2005 the New York Stock Exchange (''NYSE'' or the ''Exchange''), and on February 4, 2005, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes as described in items I, II, and III below, which items have been prepared by the respective self-regulatory organizations (''SROs''). The SROs have designated the proposed rule changes as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule series under paragraph (f)(1) of Rule 19b–4 under the Act,[3] which renders the proposals effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

A. NASD

NASD is filing with the Securities and Exchange Commission a proposed rule change to amend NASD Rule 1050 to provide for an exemption from the analytical portion of the Research Analyst Qualification Examination (Series 86) for certain applicants who prepare only ''technical research reports'' and have passed Levels I and II of the Chartered Market Technician (''CMT'') certification examination administered by the Market Technicians Association (''MTA'').

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

1050. Registration of Research Analysts

(a) All persons associated with a member who are to function as research analysts shall be registered with NASD. Before registration as a Research Analyst can become effective, an applicant shall:

(1) be registered pursuant to Rule 1032 as a General Securities Representative; and

(2) pass a Qualification Examination for Research Analysts as specified by the Board of Governors.[4]

(b) For the purposes of this Rule 1050, ''research analyst'' shall mean an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report.

(c) Upon written request pursuant to the Rule 9600 Series, NASD will grant a waiver from the analytical portion of the Research Analyst Qualification Examination (Series 86) upon verification that the applicant has passed:

(1) Levels I and II of the Charter Financial Analyst *(''CFA'')* Examination*; or*

(2) if the applicant functions as a research analyst who prepares only technical research reports as defined in paragraph (e), Levels I and II of the Chartered Market Technician (''CMT'') Examination; and

(3) has either [(1)] functioned as a research analyst continuously since having passed the Level II *CFA or CMT* examination or [(2)] applied for registration as a research analyst within two years of having passed the Level II *CFA or CMT* examination.

(d) An applicant who has been granted [such] an exemption *pursuant to paragraph (c)* still must become registered as a General Securities Representative and then complete the regulatory portion of the Research Analyst Qualification Examination

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(1).

[4] Correspondence between SEC staff and NASD staff.

(Series 87) before that applicant can be registered as a Research Analyst.

(e) For the purposes of paragraph (c)(2), a ''technical research report'' shall mean a research report, as that term is defined in Rule 2711(a)(8), that is based solely on stock price movement and trading volume and not on the subject company's financial information, business prospects, contact with subject company's management, or the valuation of a subject company's securities.

* * * * *

B. NYSE

The NYSE hereby proposes an interpretation to Rule 344 to establish an alternative qualification standard for the Research Analyst Qualification Examination for Technical Analysts. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Rule 344 Research Analysts and Supervisory Analysts/01 Research Analysts

* * * * *

Exemptions

Successful completion of Levels I and II of the Charter Financial Analyst (''CFA'') Examination administered by the CFA Institute allows a Research Analyst candidate to request an exemption from Part I (Series 86) of the Research Analyst Qualification Examination. If an exemption is granted for Part I (Series 86), a candidate will be qualified as a Research Analyst after passing Part II (Series 87) [only] *and the prerequisite examination (i.e., Series 7, 17, or 37/38 examinations).*

Successful completion of Levels I and II of the Chartered Market Technician Program (''CMT'') administered by the Market Technician Association (''MTA'') allows a Research Analyst candidate who prepares only technical research reports to request an exemption from Part I (Series 86) of the Research Analyst Qualification Examination. If an exemption is granted for Part I (Series 86), a candidate will be qualified as a Research Analyst only after passing Part II (Series 87) and the prerequisite examination (i.e., Series 7, 17, or 37/38 examinations).

To qualify for a CFA *or CMT* exemption a Research Analyst candidate must have: (i) completed the CFA [Part]*Level* II *or CMT Level II* within two years of application for registration or (ii) functioned as a research analyst continuously since having passed the CFA [Part]*Level* II *or CMT Level II.* Applicants that have completed the CFA [Part]*Level* II *or CMT Level II* that do not meet criteria (i) or (ii) may where good cause is shown based upon previous related employment experience make a written request to the Exchange for an exemption.

A technical research report is a research report as defined in Rule 472.10(2) that is based solely on stock price movement and trading volume and not on the subject company's financial information, business prospects, contact with the subject company's management, or the valuation of a subject company's securities.

* * * * *

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, NASD and the NYSE included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in item IV below. NASD and the NYSE have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. NASD's Purpose

NASD Rule 1050 requires an associated person who functions as a research analyst to register as such with NASD and pass a qualification examination. Rule 1050 is intended to ensure that research analysts possess a certain competency level to perform their jobs effectively and in accordance with applicable rules and regulations. In the context of this requirement, Rule 1050 defines ''research analyst'' as ''an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report.'' The term ''research report'' in Rule 1050 has the meaning as defined in Rule 2711(a)(8): ''a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.''

Pursuant to Rule 1050, and in conjunction with the NYSE, NASD has implemented the Research Analyst Qualification Examination (Series 86/87). The examination consists of an analysis part (Series 86) and a regulatory part (Series 87). Prior to taking either the Series 86 or 87, a candidate also must have passed the General Securities Registered Representative Examination (Series 7), the Limited Registered Representative (Series 17), or the Canada Module of Series 7 (Series 37 or 38). Persons who were functioning as research analysts on the effective date of March 30, 2004, and submitted a registration application to NASD by June 1, 2004, have until April 4, 2005, to meet the registration requirements.

Rule 1050 provides an exemption from the Series 86 examination for an applicant that has passed Levels I and II of the Chartered Financial Analyst (''CFA'') examination and has either (1) functioned continuously as a research analyst since having passed Level II of the CFA examination or (2) passed Level II of the CFA examination within two years of application for registration as a research analyst.

The Series 86 examination consists of 100 multiple-choice questions that test fundamental analysis and valuation of equity securities. In contrast, technical research is a discipline that eschews fundamental analysis of companies and valuation of their securities and instead focuses on stock price movements and trading volume. For the purposes of Rule 2711, technical research of securities is treated the same as fundamental research because the same conflicts that the rule addresses can exist, and investors similarly benefit from the required disclosures under the rule, including, for example, price charts. However, the content of the Series 86 examination focuses exclusively on fundamental analysis and does not test technical research concepts.

The MTA and CMT. The MTA was established in 1973 and began the development of the CMT examination program in 1985. The program was developed by conducting job analysis surveys and working with a group of subject matter experts to determine the tasks and knowledge required to perform the job of a technical research analyst.

MTA first administered the exam in 1988. Through 2002, MTA relied on outside consultants to revise and update the examination program. According to the MTA, these consultants also contributed to the development of the CFA examination program. In 2002, the MTA retained the Chauncey Group [5] to manage the CMT Examination Program. As part of its review, Chauncey utilized

[5] Chauncey recently merged with Thomson Prometric, and is now known as Thomson Prometric.

subject matter and testing experts to review the exam and developed one form of each examination for the past three administrations. In addition, the MTA retained Chauncey to conduct a job analysis study, otherwise referred to as a body of knowledge study. Such studies are conducted periodically to ensure that the existing job analysis/body of knowledge reflects current practice.

In sum, the MTA has subjected its examination program to standard testing practices that includes job analysis studies and regular updating of the CMT examination in consultation with content experts. These activities conform to the Standards for Educational and Psychological Testing (1999) [6] that were developed jointly by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education. These same standards are followed for the development and maintenance of NASD qualification examinations.

NASD has reviewed descriptions of the subject matter that is covered on the CMT examination and compared it to the subject matter that is covered on the Series 86 examination. The results of the review indicate that the subject matter is different. As such, the Series 86 examination does not test for the job functions identified by the MTA as applicable to technical analysts. In addition, staff has analyzed the process in which the MTA has developed its examination and is satisfied that it meets generally accepted test development procedures. NASD believes that investors will be better served by proposing a qualification standard directly applicable to persons preparing technical research reports, which will demonstrate their competency based on the job functions and knowledge needed to perform such functions.

The proposed rule change therefore would add an exemption from the Series 86 for certain associated persons who function as a research analyst but prepare only technical research reports. Like the CFA exemption, such analysts would be eligible for an exemption from the Series 86 if they have passed both Levels I and II of the CMT examination and also have functioned continuously as a research analyst since having passed Level II of the CMT examination or passed Level II of the CMT examination within two years of application for registration as a research analyst. Eligible applicants would remain obligated to meet all other qualification requirements, including the Series 7 or an equivalent examination (*e.g.,* Series 17, 37 or 38 examination) and the Series 87 before being qualified as a research analyst.

For the purposes of eligibility for the exemption, the proposed rule change would establish a definition of a ''technical research report'' as a research report (as that term is defined in Rule 2711(a)(8)) that is based solely on stock price movement and trading volume and not on the subject company's financial information, business prospects, contact with subject company's management, or the valuation of a subject company's securities.

NASD believes that the proposed exemption is appropriate for this specific class of research analysts because the Series 86 does not test the functions associated with technical analysis. NASD has reviewed the CMT examination development program and found it to meet generally established psychometric standards.

Importantly, the exemption is available only to research analysts who *exclusively* prepare technical research reports. An associated person who prepares any research report or whose name appears on a research report that does not meet this definition of a ''technical research report'' would be required to pass the Series 86 or qualify for another exemption or waiver.

2. NASD's Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which require, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that that the proposed rule change is consistent with the provisions of the Act noted above in that it will ensure that those functioning as research analysts possess a minimum competency level and knowledge of applicable laws, rules and regulations, thereby enhancing investor protection.

3. NYSE's Purpose

Recent amendments to Rule 344 (''Research Analysts and Supervisory Analysts'') require Research Analysts to be registered with, qualified by, and approved by the Exchange. The Exchange is proposing to adopt a new interpretation to Rule 344 to establish an alternative qualification standard for Part I (Series 86) of the Research Analyst Qualification Examination.

Background. In July 2003, the Commission approved amendments to Exchange Rules: 472 (''Communications with the Public''), 351 (''Reporting Requirements''), 344 (''Research Analysts and Supervisory Analysts''), and 345A (''Continuing Education for Registered Persons'').[7] The amendments included, among others, a new registration category and qualification examination for research analysts. The amendments were the culmination of joint regulatory efforts among the NYSE, NASD and the SEC to address potential conflicts of interest relating to research analysts.

During the comment period for this rule proposal, it was noted that with regard to acknowledging, for qualification purposes, research analysts who have passed other professional examinations, the Exchange would study the appropriateness of providing such comity. Accordingly, as discussed in more detail below, Exchange staff, after thorough review, is proposing that research analysts who prepare only technical research reports and who otherwise demonstrate competency to be exempt from Part I of the Research Analyst Qualification Examination.

Research Analyst Qualification Examination. In February 2004, the SEC published notice of the Study Outline for the Research Analyst Qualification Examination.[8] The Research Analyst Qualification Examination is part of the SROs regulatory effort to safeguard the investing public from potential conflicts of interest. The purpose of requiring a qualification examination was to protect the investing public by helping to ensure that research analysts are competent to perform their jobs and are knowledgeable about the new regulatory requirements affecting them. Given the scope and magnitude of these requirements, the SROs developed an examination with a part designed specifically to address the new SRO Rule requirements.

The Research Analyst Qualification Examination (Series 86/87) is a five-and-a-half hour examination, consisting of 150 questions. The exam is divided into two parts. Part I, the Series 86, consists of 100 questions, which address fundamental security analysis and

[6] The Standards for Educational and Psychological Testing is a technical guide that provides criteria for evaluating tests, testing practices and the effects of test use.

[7] *See* Securities Exchange Act Release No. 48252 (July 29, 2003), 68 FR 45875 (August 4, 2003) (SR–NYSE–2002–49) (giving notice of the proposed rule change).

[8] *See* Securities Exchange Act Release No. 34–49253 (February 13, 2004), 69 FR 8257 (February 29, 2004) (SR–NYSE–2003–41). *See* also NYSE Information Memo 04–5, dated February 3, 2004, for the Study Outline for the Examination.

valuation of equity securities. Part II, the Series 87, consists of 50 questions, which primarily address pertinent SRO and SEC rules and regulations, including the recent Research Analysts' Conflicts Rules.

The requirement to take and pass the Series 86/87 examination applies to all research analysts, as the term is defined in Exchange Rule 344.10. Exchange Rule 344.10 provides that the term ''research analyst'' includes a member, allied member, or employee who is primarily responsible for the preparation of the substance of a research report and/or whose name appears on such report. Research analysts, as defined in Exchange Rule 344.10, must be registered with, qualified and approved by the Exchange. The registration and qualification requirements became effective March 30, 2004. Candidates who have been functioning as research analysts as of the effective date of March 30, 2004, have been given one year, until April 4, 2005, to meet the qualification requirement.

In March 2004, the SEC approved an interpretation to Rule 344 establishing certain prerequisites to and exemptions from the Research Analysts Qualification Examination.[9] The interpretation to Rule 344 requires, among other things, that each candidate pass either the General Securities Registered Representative Examination (Series 7), the United Kingdom (''UK'') Limited Registered Representative (Series 17) Examination or the Canadian Limited Registered Representative (Series 37/38) Examination (prior to taking either Part I or Part II of the examination). Persons qualified to conduct a general public securities business in the UK and Canada can also be qualified for the same in the U.S. by taking the Series 17 or the Series 37/38 respectively in lieu of the Series 7. These examinations are intended to cover subject matter unique to the U.S. securities markets otherwise not covered by the UK/Canada examinations.

The interpretation to Rule 344 also allows a research analyst candidate that has passed both Level I and Level II of the Chartered Financial Analyst (''CFA'') Examination administered by the CFA Institute, to request an exemption from Part I (Series 86) of the Research Analyst Qualification Examination. The CFA Examination consists of 10 general topic areas which provide a framework for making investment decisions. Each level of the CFA Examination has a different learning focus: Level I focuses on tools and concepts that apply to investment valuation and portfolio management; and Level II focuses on asset valuation and applying the tools and concepts from Level I. Candidates who receive an exemption from the Series 86 must still satisfy the Series 7, 17, or 37/38 prerequisite examination and pass the Series 87 to be registered and qualified as Research Analysts.

To qualify for the CFA exemption from the examination requirement a Research Analyst candidate must have: (i) Completed the CFA Level II within 2 years of application or registration or (ii) functioned as a research analyst continuously since having passed the CFA Level II. Applicants that have completed the CFA Level II that do not meet either of the above criteria may, upon a showing of good cause based upon previous related employment experience, make a written request to the Exchange for an exemption.

Proposed Exemptive Relief. Beginning March 2004, the Exchange and NASD held several conference calls/meetings and have exchanged correspondences with the Market Technicians Association, Inc. (''MTA'') Task Force with regard to its efforts to seek exemptive relief from the Series 86 examination for individuals who have passed Levels I and II of the Chartered Market Technician Program (''CMT'') who prepare technical research reports.

The CMT Levels I and II are in total six-hour examinations, consisting of a total of 270 multiple-choice questions. CMT Level I tests the working knowledge of the basic tools of technical analysis, including: basic definitions and information; methods of charting; establishing price targets; market trend determination; and bond, commodity, currency, futures, index and option analysis. Level II tests more technical analytical techniques and the ability to apply the principles tested in Level I.

As noted above, an interpretation of Rule 344 provides an exemption from the Series 86 examination for individuals who have passed Levels I and II of the CFA examination. The Exchange is proposing a similar exemption for research analysts who only prepare technical research reports and who have passed Levels I and II of the CMT. For purposes of the exemption, a ''technical research report'' is a research report as defined in Rule 472.10(2)[10] that is based solely on stock price movement and trading volume and not on the subject company's financial information, business prospects, contact with the subject company's management, or the valuation of a subject company's securities. The proposed definition builds on the core definition of ''research report'' in Rule 472 and incorporates, in relevant part, the substance of the definition (discussed below) of ''technical research report'' in the Global Research Analyst Settlement.[11]

The proposed exemption would be similarly conditioned on passing the Series 7, 17, or 37/38 prerequisite examination and Series 87 examination as well as the time limitations also noted above. Further, if such analysts were to prepare a research report (*e.g.*, a fundamental equity analysis report) as defined in Exchange Rule 472.10(2), they would be required to pass either the Series 86 examination or have obtained the CFA exemption as well as pass the Series 87 examination. While exempt from the Series 86 examination, these analysts would still be subject to all other Exchange rules governing communications with the public and still be subject to the supervision of their firms.

Exchange staff believes that it is appropriate, and consistent with its regulatory objectives, to provide exemptive relief to technical analysts similar to that which has been provided for fundamental analysts. First, the genesis of the Research Analyst Qualification Examination was to help address the conflicts of interest inherent with respect to the interaction between research analysts, investment bankers and subject companies in obtaining and retaining investment banking relationships.

The Series 86 exam was developed by NYSE and NASD staffs in conjunction with a committee of fundamental analysts and is intended to test fundamental securities analysts. This is quite clear from the exam's Study Outline. Technical analysis is quite different than fundamental and therefore such analysts should not unnecessarily be subjected to taking an examination, when there is a superior alternative to demonstrate competency. Indeed, securities regulators recognize the distinctions among various types of research disciplines. In this regard, the recently approved amendments to the

[9] *See* Securities Exchange Act Release No. 49464 (March 24, 2004), 69 FR 16628 (March 30, 2004) (SR–NYSE–2004–03). *See* also NYSE Information Memo 04–16, dated April 1, 2004.

[10] Rule 472.10(2) defines a research report as written or electronic communication, which includes an analysis of equity securities of individual companies or industries and provides information reasonably sufficient upon which to base an investment decision.

[11] *See* SEC Litigation Release No. 18438 (October 31, 2003).

Global Research Analyst Settlement make this distinction by providing for the following definition:

The term ''technical research report'' means any written (including electronic) communication that is furnished by the firm to investors in the U.S. and includes an analysis of the securities of an issuer or issuers, that is based solely on prices and trading volume and not on the issuer's financial information, business prospects, or contact with issuer management, and that provides information reasonably sufficient upon which to base an investment decision.

The Exchange reviewed descriptions of the subject matter that is covered on the CMT examination and compared it to the subject matter that is covered on the Series 86 examination. The results of the review indicate that the subject matter is different, and confirms that the work process and product of a technical analyst is distinctly different from the work of a fundamental analyst. In addition, staff has analyzed the process in which the MTA has developed its examination and is satisfied that it meets generally accepted test development procedures. The Exchange believes that investors will be better served by proposing a qualification standard directly applicable to persons preparing technical research reports, which will demonstrate their competency based on the work functions and knowledge needed to perform such functions.

The MTA and CMT. The MTA was established in 1973, and began the development of the CMT examination program in 1985, by conducting job analysis surveys and working with a group of subject matter experts to determine the tasks and knowledge required to perform the job of a Technical Research Analyst.

In 1988, the original examinations were administered. From 1988 through 2002, the examination continued to be revised and updated by employing outside consultants. According to the MTA, these consultants were also contributors to the CFA examination process, which the SEC approved as exemptions to both Part II of the Supervisory Analyst (Series 16) Examination [12] and Part I (Series 86) of the Research Analyst Qualification Examination.

In 2002, the MTA retained the Chauncey Group to manage the CMT Examination Program. As part of its review, Chauncey utilized subject matter and testing experts to review the exam and developed one form of each examination for the past three administrations. In addition, the MTA retained Chauncey to conduct a job analysis study, otherwise referred to as a body of knowledge study. Such studies are conducted periodically to ensure that the existing job analysis body of knowledge is reflective of current practice.

In sum, the MTA with its professional consultants have subjected the examination to standard testing practices that the Exchange believes sufficient to allow it to be used to provide an exemption for the Series 86 examination. This is evidenced by the fact that the MTA has been conducting job analysis studies, updating the CMT examinations periodically, and involving content experts in such studies and updates of the examinations. Such activities conform to the Standards for Educational and Psychological Testing (1999),[13] which were developed jointly by the American Psychological Association (APA), the American Educational Research Association (AERA), and the National Council on Measurement in Education (NCME). These same standards are followed for the development and maintenance of NYSE qualification examinations.

For purposes of consistency, the Exchange is also amending the text of the interpretation to Rule 344 by inserting the term ''Level'' in place of ''Part'' when referencing the CFA examination.

4. NYSE's Statutory Basis

The statutory basis for this proposed rule change is section 6(b)(5) [14] and section 6(c)(3)(B) [15] of the Act. Under section 6(b)(5), the rules of the Exchange must be designed to protect investors and the public interest. By requiring a qualification standard directly applicable to persons preparing technical research reports, which will demonstrate their competency based on the work functions and knowledge needed to perform such functions, investors will be better protected.

Under section 6(c)(3)(B) it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. In addition, under section 6(c)(3)(B), the Exchange may bar a natural person from becoming a member or person associated with a member, if such natural person does not meet such standards of training, experience and competence as prescribed by the rules of the Exchange. Pursuant to this statutory obligation, the Exchange has: (1) Developed an examination that will be administered to establish that Research Analysts have attained specified levels of competence and knowledge; and (2) provided for exemptions from Part I of the examination were candidates have their competency based on their work functions and the knowledge they need to perform such functions (*e.g.*, passing Levels I and II of the CFA or CMT).

B. Self-Regulatory Organizations' Statement on Burden on Competition

NASD and the NYSE do not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD and the NYSE has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The proposed rule changes have been filed by NASD and the NYSE as stated policies, practices, or interpretations with respect to the meaning, administration, or enforcement of an existing rule under Rule 19b–4(f)(1) under the Act.[16] Consequently, they have become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder.

At any time within 60 days of the filing of the proposed rule changes, the Commission may summarily abrogate these proposals 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 changes are consistent with the Act. Comments may be submitted by any of the following methods:

[12] *See* Securities Exchange Act Release No. 41021 (February 4, 1999), 64 FR 7680 (February 16, 1999) (SR–NYSE–98–44).

[13] The Standards for Educational and Psychological Testing is a technical guide that provides criteria for evaluating tests, testing practices and the effects of test use.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(c)(3)(B).

[16] 17 CFR 240.19b–4(f)(1).

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*. Please include File Number SR–NASD–2005–022 and/or SR–NYSE–2005–12 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 Numbers SR–NASD–2005–022 and/or SR–NYSE–2005–12. These file numbers 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 the NASD and the NYSE. 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 Numbers SR–NASD–2005–022 and/or SR–NYSE–2005–12 and should be submitted on or before March 24, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–850 Filed 3–2–05; 8:45 am]

BILLING CODE 8010–01–P

[17] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended Alteration to Existing System of Records and New Routine Use Disclosure

AGENCY: Social Security Administration (SSA).

ACTION: Altered systems of records, including proposed new routine use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (11)), we are issuing public notice of our intent to alter two existing systems of records, the Recovery of Overpayments, Accounting and Reporting, 60–0094 and the Supplemental Security Income Record and Special Veterans Benefits, 60–0103. The proposed alterations will result in the following changes to these two systems of records:

(1) Expansion of the categories of individuals covered by the systems to include former beneficiaries and representative payees of Social Security payments and former recipients of Supplemental Security Income (SSI) payments who received an overpayment and owe a delinquent debt to the SSA;

(2) Expansion of the purposes for which SSA uses information maintained in the systems; and

(3) A proposed new routine use disclosure in each system providing for the release of information to employers to assist SSA in collecting delinquent debts owed to the Agency from the disposable pay of the debtors described above.

All of the proposed alterations are discussed in the **SUPPLEMENTARY INFORMATION** section below. We invite public comment on this proposal.

DATES: We filed a report of the proposed new routine use disclosures with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 22, 2005. The proposed altered systems of records, including the proposed new routine use respective to those systems, will become effective on April 3, 2005, unless we receive comments warranting them not to become effective.

ADDRESSES: Interested individuals may comment on this publication by writing to the Executive Director, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION: Contact Joan Peddicord, Social Insurance Specialist, Strategic Issues Team, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, in Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone at (410) 966–6491, e-mail: *joan.peddicord@ssa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Proposed Alterations to the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits System

A. General Background

Administrative wage garnishment (AWG) is authorized by the Debt Collection Improvement Act (DCIA) of 1996. Section 31001(o)(1) of Public Law 104–134 (1996) amended Chapter 37, subchapter II of Title 31, United States Code by adding section 3720D to permit Federal agencies to use AWG to recover overdue debts. SSA will use AWG to collect program overpayments arising under the Title II and Title XVI programs owed by former beneficiaries and representative payees of Social Security payments and former recipients of SSI payments. SSA plans to use AWG to collect delinquent debts owed to the Agency from the disposable pay of the debtor by sending a non-judicial order to his or her employer.

SSA is developing AWG as an automated system. Using automated routines, SSA will identify Title II and Title XVI debtors who meet the criteria for AWG. SSA will send an automated notice to the debtors informing them about the planned action, providing them with opportunity to repay the debt and avoid AWG, and also providing them with their due process rights. If the debtor does not respond to the notice, SSA will launch AWG no sooner than 60 days after the date of the notice. SSA will launch AWG by sending the non-judicial garnishment order to the last known employer of the debtor. The garnishment order directs the employer to withhold 15 percent of the debtor's disposable wages consistent with the DCIA and send them to SSA each payday as payment toward the delinquent debt. AWG will generally continue until the debt is repaid or disposed of in some other way.

B. Discussion of Proposed Alterations to the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits System

1. Expansion of the Categories of Individuals Covered by the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits System

We are adding one new category of individuals to the Recovery of Overpayments, Accounting and Reporting system and the Supplemental Security Income Record and Special Veterans Benefits system: Former beneficiaries and representative payees of Social Security payments and former recipients of SSI payments who received an overpayment and have a delinquent debt to the SSA. See the ''Categories of individuals covered by the system'' section in the Recovery of Overpayments, Accounting and Reporting system and the Supplemental Security Income Record and Special Veterans Benefits system notices below for the inclusion of this additional category of individuals and a full description of the information maintained therein.

2. Additional Use of Information in the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits System

We are expanding the purposes for which we use the information maintained in the Recovery of Overpayments, Accounting and Reporting system and the Supplemental Security Income Record and Special Veterans Benefits system to include use of the information by SSA's central office personnel involved in identifying individuals who meet the criteria for AWG and who will effectuate the operational processes necessary to collect the overpayments.

II. Proposed New Routine Use Disclosure of Data Maintained in the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits System

A. Establishment of New Routine Use

We are proposing to establish a new routine use which allows disclosure of information maintained in the Recovery of Overpayments, Accounting and Reporting system and the Supplemental Security Income Record and Special Veterans Benefits system to employers to assist SSA in collecting delinquent debts owed to the Agency from the disposable pay of the debtor. As described above, these debtors are former beneficiaries and representative payees of Social Security payments and former recipients of SSI payments who received an overpayment and owe a delinquent debt to the SSA.

The new routine use in the Recovery of Overpayments, Accounting and Reporting system, numbered 8, provides for disclosure of information and is proposed as follows:

''To employers to assist SSA in the collection of debts owed by former beneficiaries and representative payees of Social Security payments who received an overpayment and owe a delinquent debt to SSA. Disclosure under this routine use is authorized under the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and implemented through administrative wage garnishment provisions of this Act (31 U.S.C. 3720D).''

The new routine use in the Supplemental Security Income Record and Special Veterans Benefits system, numbered 37, provides for disclosure of information and is proposed as follows:

''To employers to assist SSA in the collection of debts owed by former recipients of Supplemental Security Income (SSI) payments who received an overpayment and owe a delinquent debt to SSA. Disclosure under this routine use is authorized under the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and implemented through administrative wage garnishment provisions of this Act (31 U.S.C. 3720D).''

B. Compatibility of Proposed New Routine Use Disclosure

The Privacy Act (5 U.S.C. 552a(a)(7) and (b)(3)) and SSA's disclosure regulation (20 CFR part 401) permit us to disclose information under a published routine use for a purpose that is compatible with the purpose for which we collected the information. Section 401.150(c) of the regulations permits us to disclose information under a routine use where necessary to carry out SSA programs or assist other agencies in administering similar programs. The proposed new routine use in each of these two systems will assist SSA in administering administrative wage garnishment as authorized by the DCIA of 1996. Thus, the proposed new routine use disclosure is appropriate and meets the relevant statutory and regulatory criteria.

III. Effect of the Proposed Alterations and New Routine Use Disclosure on the Rights of Individuals

The proposed alterations and new routine use disclosure to the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits system pertain to SSA's responsibilities in collecting, maintaining, and disclosing information about individuals who are former Social Security beneficiaries and representative payees and former SSI recipients who owe a delinquent debt to the SSA which the Agency may collect under the AWG as authorized by the DCIA of 1996. We will adhere to all applicable statutory requirements, including those under the Social Security Act and the Privacy Act, in carrying out our responsibilities. Therefore, we do not anticipate that the proposed alterations and new routine use disclosure will have an unwarranted adverse effect on the right of individuals.

IV. Minor Housekeeping Changes to the Notice of the Recovery of Overpayments, Accounting and Reporting System and the Supplemental Security Income Record and Special Veterans Benefits System

Authority for Maintenance of the System—We have revised this section of the notice of the Recovery of Overpayments, Accounting and Reporting system and the Supplemental Security Income Record and Special Veterans Benefits system by adding reference to the DCIA of 1996, which authorizes collection of Federal agency debt through administrative wage garnishment.

Dated: February 22, 2005.

Jo Anne B. Barnhart,

Commissioner.

System Number:

60–0094.

SYSTEM NAME:

Recovery of Overpayments, Accounting and Reporting, Social Security Administration, Office of Retirement and Survivors Insurance Systems.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of Telecommunications and Systems Operations, 6401 Security Boulevard, Baltimore, MD 21235.

PSCs (See Appendix A for PSC address information).

Social Security Administration, Office of Disability Operations, 1500 Woodlawn Drive, Baltimore, MD 21241.

Lists of overpaid individuals, which are produced by this computer system, are maintained at each of SSA's field

offices. (See Appendix F to this publication for address and telephone information.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Social Security beneficiaries and former beneficiaries who may have received an overpayment of benefits; persons holding conserved (accumulated) funds received on behalf of a Social Security beneficiary; and persons who received Social Security payments on behalf of a beneficiary and were overpaid or who are suspected to have misused those payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying characteristics of each overpayment or instance of misused or conserved funds (*e.g.*, name, SSN and address of the individual(s) involved, recovery efforts made and the date of each action, and planned future actions).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 204(a) of the Social Security Act (42 U.S.C. 404(a)) and the Debt Collection Improvement Act (DCIA) of 1996 (Pub. L. 104–134) and implementing provisions of the DCIA for administrative wage garnishment (31 U.S.C. 3720D).

PURPOSE(S):

The users of this system are employees of the Social Security field offices, as well as selected personnel of SSA's Program Service Centers (PSC) and the Office of Disability Operations (ODO). The data are used to maintain control of overpayments and misused or conserved funds from the time of discovery to the final resolution and for the proper adjustments of payment and refund amounts. Data adjustments produce accounting and statistical reports at specified intervals. The users of this system also include central office personnel involved in identifying individuals who meet the criteria for administrative wage garnishment and who will effectuate the operational processes necessary to collect the overpayments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below. However, disclosure of any information constituting tax ''returns or return information'' within the scope of the Internal Revenue Code will not be made unless disclosure is authorized by that statute.

(1) To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

(2) To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or a third party on his/her behalf.

(3) To third party contacts such as private collection agencies and credit reporting agencies under contract with SSA and State motor vehicle agencies for the purpose of their assisting SSA in recovering overpayments.

(4) Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

(5) Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the NARA Act of 1984.

(6) To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

(a) SSA, or any component thereof; or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components,

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, the court or other tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Wage and other information which are subject to the disclosure provisions of the IRC (26 U.S.C. 6103) will not be disclosed under this routine use unless disclosure is expressly permitted by the IRC.

(7) To student volunteers and other workers, who technically do not have the status of Federal employees, when they are performing work for SSA as authorized by law, and they need access to personally identifiable information in SSA records in order to perform their assigned Agency functions.

(8) To employers to assist SSA in the collection of debts owed by former beneficiaries and representative payees of Social Security payments who received an overpayment and owe a delinquent debt to the SSA. Disclosure under this routine use is authorized under the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and implemented through administrative wage garnishment provisions of this Act (31 U.S.C. 3720 D).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 5520(b)(12) may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 as amended (31 U.S.C. 3701, *et seq.*) or the Social Security Domestic Employment Reform Act of 1994, Pub. L. 103–387, 42 U.S.C. 404(f). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government, typically, to provide an incentive for debtors to repay delinquent Federal government debts by making these part of their credit records. Disclosure of records is limited to the individual's name, address, SSN, and other information necessary to establish the individual's identity; the amount, status, and history of the claim and the Agency or program under which the claim arose. The disclosure will be made only after the procedural requirements of 31 U.S.C. 3711(e) have been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic cartridges, microfiche and paper form.

RETRIEVABILITY:

Records are retrieved by SSN.

SAFEGUARDS:

System security for automated records has been established in accordance with the Systems Security Handbook. This includes maintaining automated records in a secured building, the SSA National Computer Center, and limiting access to the building to employees who have a need to enter in the performance of their official duties. Paper and other non-ADP records are protected through standard security measures (*e.g.*, maintenance of

the records in buildings which are manned by armed guards). (See Appendix G for additional information relating to safeguards SSA employs to protect personal information.)

RETENTION AND DISPOSAL:

Magnetic cartridges are updated daily and retained for 75 days. The magnetic cartridges produced in the last operation of the month are retained in security storage for a period of 75 days, after which the tapes are erased and returned to stock. The microfiche records are updated monthly, retained for 3 years after the month they are produced, and then destroyed by application of heat.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Retirement and Survivors Insurance Systems, Division of Title II Payments and Accounting, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him/her by contacting the appropriate processing office (*e.g.*, PSC, ODO or the most convenient Social Security field office). (See Appendices A and F to this publication for address information), by writing to the systems manager(s) at the above address and providing his/her name, SSN or other information that may be in the system of records that will identify him/her. An individual requesting notification of records in person should provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license or some other means of identification, such as a voter registration card, credit card, etc. If an individual does not have any identification documents sufficient to establish his/her identity, the individual must certify in writing that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

If notification is requested by telephone, an individual must verify his/her identity by providing identifying information that parallels the record to which notification is being requested. If it is determined that the identifying information provided by telephone is insufficient, the individual will be required to submit a request in writing or in person. If an individual is requesting information by telephone on behalf of another individual, the subject individual must be connected with SSA and the requesting individual in the same phone call. SSA will establish the subject individual's identity (his/her name, SSN, address, date of birth and place of birth along with one other piece of information such as mother's maiden name) and ask for his/her consent in providing information to the requesting individual.

If a request for notification is submitted by mail, an individual must include a notarized statement to SSA to verify his/her identity or must certify in the request that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense. These procedures are in accordance with SSA Regulations (20 CFR 401.40).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Also, requesters should reasonably specify the record contents they are seeking. These procedures are in accordance with SSA Regulations (20 CFR 401.40(c)).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is untimely, incomplete, inaccurate or irrelevant. These procedures are in accordance with SSA Regulations (20 CFR 401.65(a)).

RECORD SOURCE CATEGORIES:

The information for the computer files is received directly from beneficiaries, from Social Security field offices, and as the result of earnings enforcement operations. The paper listings are updated as a result of the computer operations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

System number:

60–0103.

SYSTEM NAME:

Supplemental Security Income Record and Special Veterans Benefits, Social Security Administration, Office of Systems, Office of Disability and Supplemental Security Income Systems (ODSSIS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of Telecommunications and Systems Operations, 6401 Security Boulevard, Baltimore, MD 21235.

Records also may be located in the Social Security Administration (SSA) Regional and field offices (individuals should consult their local telephone directories for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This file contains a record for each individual who has applied for Supplemental Security Income (SSI) payments, including individuals who have requested an advance payment; SSI recipients and former SSI recipients who have been overpaid; and ineligible persons associated with an SSI recipient. This file also covers those individuals who have applied for and who are entitled to the Special Veterans Benefits (SVB) under Title VIII of the Social Security Act. (This file does not cover applicants who do not have a Social Security number (SSN).)

CATEGORIES OF RECORDS IN THE SYSTEM:

This file contains data regarding SSI eligibility; citizenship; residence; Medicaid eligibility; eligibility for other benefits; alcoholism or drug addiction data, if applicable (disclosure of this information may be restricted by 21 U.S.C. 1175 and 42 U.S.C. 290dd–3 and ee–3); income data; resources; payment amounts, including the date and amount of advance payments; overpayment amounts, including identifying characteristics of each overpayment (*e.g.*, name, SSN, address of the individual(s) involved, recovery efforts made and the date of each action and planned future actions); and date and amount of advance payments; living arrangements; case folder location data; appellate decisions, if applicable; SSN used to identify a particular individual, if applicable; information about representative payees, if applicable; and a history of changes to any of the persons who have applied for SSI payments. For eligible individuals, the file contains basic identifying information, income and resources (if any) and, in conversion cases, the State welfare number.

THIS FILE ALSO CONTAINS INFORMATION ABOUT APPLICANTS FOR SVB.

The information maintained in this system of records is collected from the applicants for Title VIII SVB, and other systems of records maintained by SSA. The information maintained includes a data element indicating this is a Title VIII SVB claim. It will also include:

identifying information such as the applicant's name, Social Security number (SSN) and date of birth (DOB); telephone number (if any); foreign and domestic addresses; the applicant's sex; income data, payment amounts (including overpayment amounts); and other information provided by the applicant relative to his or her entitlement for SVB.

If the beneficiary has a representative payee, this system of records includes data about the representative payee such as the payee's SSN; employer identification number, if applicable; and mailing address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1602, 1611, 1612, 1613, 1614, 1615, 1616, 1631, 1633, 1634 of title XVI and title VIII of the Social Security Act (42 U.S.C. 1382, 1382a, 1382b, 1382c, 1382d, 1382e, 1383, 1383b, 1383c and the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and implementing provisions of this Act for administrative wage garnishment (31 U.S.C. 3720D).

PURPOSE(S):

SSI records begin in Social Security field offices where an individual or couple files an application for SSI payments. SVB records begin in Social Security field offices and Veterans Affairs Regional Offices (VARO) where an individual files an application for SVB payments. The SSI and SVB applications contain data which may be used to prove the identity of the applicant, to determine his/her eligibility for SSI or SVB payments and, in cases where eligibility is determined, to compute the amount of the payment. Information from the application, in addition to data used internally to control and process SSI and SVB cases, is used to create the Supplemental Security Income Record (SSR). The SSR also is used as a means of providing a historical record of all activity on a particular individual's or couple's record. Data from these records will also be used to identify the individuals who meet the criteria for administrative wage garnishment and to effectuate the operational processes necessary to collect the overpayments.

In addition, statistical data are derived from the SSR for actuarial and management information purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below. However, disclosure of any information defined as tax ''returns or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code (IRC) will not be made unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the Department of the Treasury to prepare SSI, Energy Assistance, and SVB checks to be sent to claimants or beneficiaries.

2. To the States to establish the minimum income level for computation of State supplements.

3. To the following Federal and State agencies to prepare information for verification of benefit eligibility under section 1631(e) of the Social Security Act: Bureau of Indian Affairs; Office of Personnel Management; Department of Agriculture; Department of Labor; U.S. Citizenship and Immigration Services; Internal Revenue Service; Railroad Retirement Board; State Pension Funds; State Welfare Offices; State Worker's Compensation; Department of Defense; United States Coast Guard; and Department of Veterans Affairs.

4. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

5. To the appropriate State agencies (or other agencies providing services to disabled children) to identify Title XVI eligibles under the age of 16 for the consideration of rehabilitation services in accordance with section 1615 of the Act, 42 U.S.C. 1382d.

6. To contractors under contract to SSA or under contract to another agency with funds provided by SSA for the performance of research and statistical activities directly relating to this system of records.

7. To State audit agencies for auditing State supplementation payments and Medicaid eligibility consideration.

8. To State agencies to effect and report the fact of Medicaid eligibility of Title XVI recipients in the jurisdiction of those States which have elected Federal determinations of Medicaid eligibility of Title XVI eligibles and to assist the States in administering the Medicaid program.

9. To State agencies to identify Title XVI eligibles in the jurisdiction of those States which have not elected Federal determinations of Medicaid eligibility in order to assist those States in establishing and maintaining Medicaid rolls and in administering the Medicaid program.

10. To State agencies to enable those agencies which have elected Federal administration of their supplementation programs to monitor changes in applicant/recipient income, special needs, and circumstances.

11. To State agencies to enable those agencies which have elected to administer their own supplementation programs to identify SSI eligibles in order to determine the amount of their monthly supplementary payments.

12. To State agencies to enable them to assist in the effective and efficient administration of the SSI program.

13. To State agencies to enable those which have an agreement with SSA to carry out their functions with respect to Interim Assistance Reimbursement pursuant to section 1631(g) of the Social Security Act.

14. To State agencies to enable them to locate potentially eligible individuals and to make eligibility determinations for extensions of social services under the provisions of Title XX of the Social Security Act.

15. To State agencies to assist them in determining initial and continuing eligibility in their income maintenance programs and for investigation and prosecution of conduct subject to criminal sanctions under these programs.

16. To the United States Postal Service for investigating the alleged theft, forgery or unlawful negotiation of SSI and SVB checks.

17. To the Department of the Treasury for investigating the alleged theft, forgery or unlawful negotiation of SSI and SVB checks.

18. To the Department of Education for determining the eligibility of applicants for Basic Educational Opportunity Grants.

19. To Federal, State or local agencies (or agents on their behalf) for administering cash or non-cash income maintenance or health maintenance programs (including programs under the Social Security Act). Such disclosures include, but are not limited to, release of information to:

(a) The Department of Veterans Affairs (DVA) upon request for determining eligibility for, or amount of, DVA benefits or verifying other information with respect thereto in accordance with 38 U.S.C. 5106;

(b) the RRB for administering the Railroad Unemployment Insurance Act;

(c) State agencies to determine eligibility for Medicaid;

(d) State agencies to locate potentially eligible individuals and to make determinations of eligibility for the food stamp program;

(e) State agencies to administer energy assistance to low income groups under programs for which the States are responsible; and

(f) Department of State and its agents to assist SSA in administering the Social Security Act in foreign countries, the

American Institute on Taiwan and its agents to assist in administering the Social Security Act in Taiwan, the VA, Philippines Regional Office and its agents to assist in administering the Social Security Act in the Philippines, and the Department of Interior and its agents to assist in administering the Social Security Act in the Northern Mariana Islands.

20. To IRS, Department of the Treasury, as necessary, for the purpose of auditing SSA's compliance with safeguard provisions of the Internal Revenue Code (IRC) of 1986, as amended.

21. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or a third party on his/her behalf.

22. Upon request, information on the identity and location of aliens may be disclosed to the DOJ (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating and, where necessary, taking legal action against suspected Nazi war criminals in the United States.

23. To third party contacts such as private collection agencies and credit reporting agencies under contract with SSA and State motor vehicle agencies for the purpose of their assisting SSA in recovering overpayments.

24. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter a contractual or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

25. Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by the NARA Act of 1984, for the use of those agencies in conducting records management studies.

26. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

(a) SSA, or any component thereof, or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components,

is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Disclosure of any information defined as tax ''returns or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code (IRC) will not be made unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

27. To representative payees, when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting SSA in administering its representative payment responsibilities under the Act and assisting the representative payees in performing their duties as payees, including receiving and accounting for benefits for individuals for whom they serve as payees.

28. To third party contacts (*e.g.,* employers and private pension plans) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for, or entitlement to, benefits under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable to provide certain types of information when:

(i) He/she is incapable or of questionable mental capability;

(ii) he/she cannot read or write;

(iii) he/she cannot afford the cost of obtaining the information;

(iv) he/she has a hearing impairment, and is contacting SSA by telephone through a telecommunications relay system operator;

(v) a language barrier exists; or

(vi) 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:

(i) His/her eligibility for benefits under the Social Security program;

(ii) The amount of his/her benefit payment; or

(iii) Any case in which the evidence is being reviewed as a result of suspected fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

29. To the Rehabilitation Services Administration (RSA) for use in its program studies of, and development of enhancements for, State vocational rehabilitation programs. These are programs to which applicants or beneficiaries under Titles II and or XVI of the Social Security Act may be referred. Data released to RSA will not include any personally identifying information (such as names or SSNs).

30. Addresses of beneficiaries who are obligated on loans held by the Secretary of Education or a loan made in accordance with 20 U.S.C. 1071, *et seq.* (the Robert T. Stafford Student Loan Program) may be disclosed to the Department of Education as authorized by section 489A of the Higher Education Act of 1965.

31. To student volunteers and other workers, who technically do not have the status of Federal employees, when they are performing work for SSA as authorized by law, and they need access to personally identifiable information in SSA records in order to perform their assigned Agency functions.

32. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, if information is necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace and the operation of SSA facilities, or

(b) To assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.

33. Corrections to information that resulted in erroneous inclusion of individuals in the Death Master File (DMF) may be disclosed to recipients of erroneous DMF information.

34. Information as to whether an individual is alive or deceased may be disclosed pursuant to section 1106(d) of the Social Security Act (42 U.S.C. 1306(d)), upon request, for purposes of an epidemiological or similar research project, provided that:

(a) SSA determines in consultation with the Department of Health and Human Services, that the research may reasonably be expected to contribute to a national health interest; and

(b) The requester agrees to reimburse SSA for the costs of providing the information; and

(c) The requester agrees to comply with any safeguards and limitations specified by SSA regarding re-release or re-disclosure of the information.

35. Disclosure may be made to a Federal, State, or congressional support agency (*e.g.*, Congressional Budget Office and the Congressional Research Staff in the Library of Congress) for research, evaluation, or statistical studies. Such disclosures include, but are not limited to, release of information in assessing the extent to which one can predict eligibility for Supplemental Security Income (SSI) payments or Social Security disability insurance (SSDI) benefits; examining the distribution of Social Security benefits by economic and demographic groups and how these differences might be affected by possible changes in policy; analyzing the interaction of economic and non-economic variables affecting entry and exit events and duration in the Title II Old Age, Survivors, and Disability Insurance and the Title XVI SSI disability programs; and analyzing retirement decisions focusing on the role of Social Security benefit amounts, automatic benefit recomputation, the delayed retirement credit, and the retirement test, if SSA:

a. Determines that the routine use does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the proposed use is to be made:

(i) Cannot reasonably be accomplished unless the record is provided in a form that identifies individuals;

(ii) Is of sufficient importance to warrant the effect on, or risk to, the privacy of the individual which such limited additional exposure of the record might bring;

(iii) There is reasonable probability that the objective of the use would be accomplished;

(iv) Is of importance to the Social Security program or the Social Security beneficiaries or is for an epidemiological research project that relates to the Social Security program or beneficiaries;

c. Requires the recipient of information to:

(i) Establish appropriate administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record and agree to on-site inspection by SSA's personnel, its agents, or by independent agents of the recipient agency of those safeguards;

(ii) Remove or destroy the information that enables the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient receives written authorization from SSA that it is justified, based on research objectives, for retaining such information;

(iii) Make no further use of the records except:

(a) Under emergency circumstances affecting the health and safety of any individual following written authorization from SSA;

(b) For disclosure to an identified person approved by SSA for the purpose of auditing the research project;

(iv) Keep the data as a system of statistical records. A statistical record is one which is maintained only for statistical and research purposes and which is not used to make any determination about an individual;

d. Secures a written statement by the recipient of the information attesting to the recipient's understanding of, and willingness to abide by, these provisions.

36. To the social security agency of a foreign country, for the purpose of verifying Social Security numbers, to carry out the purposes of an international social security agreement entered into between the United States and the other country, pursuant to section 233 of the Social Security Act (42 U.S.C. 433).

37. To employers to assist SSA in the collection of debts owed by former recipients of SSI payments who received an overpayment and owe a delinquent debt to the SSA. Disclosure under this routine use is authorized under the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and implemented through administrative wage garnishment provisions of this Act (31 U.S.C. 3720D).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701, *et seq.*) as amended. The disclosure will be made in accordance with 31 U.S.C. 3711(e) when authorized by sections 204(f), 808(e) or 1631(b)(4) of the Social Security Act (42 U.S.C. 404(f), 1008(e) or 1383(b)(4)). The purpose of this disclosure is to aid in the collection of outstanding debts owed the Federal government, typically, to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records. The information to be disclosed is limited to the individual's name, address, SSN, and other information necessary to establish the individual's identity; the amount, status, and history of the debt and the Agency or program under which the debt arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media (*e.g.*, magnetic tape) and in microform and microfiche form.

RETRIEVABILITY:

Records are indexed and retrieved by SSN.

SAFEGUARDS:

Systems security for automated records has been established in accordance with the Systems Security Handbook. This includes maintaining all magnetic tapes and magnetic disks within an enclosure attended by security guards. Anyone entering or leaving that enclosure must have special badges which are only issued to authorized personnel. All authorized personnel having access to the magnetic records are subject to the penalties of the Privacy Act. The microfiche are stored in locked cabinets, and are accessible to employees only on a need-to-know basis. All SSR State Data Exchange records are protected in accordance with agreements between SSA and the respective States regarding confidentiality, use, and re-disclosure.

RETENTION AND DISPOSAL:

Original input transaction tapes received which contain initial claims and posteligibility actions are retained indefinitely although these are processed as received and incorporated into processing tapes which are updated to the master SSR tape file on a monthly basis. All magnetic tapes appropriate to SSI information furnished to specified Federal, State, and local agencies for verification of eligibility for benefits and under section 1631(e) are retained, in accordance with the PA accounting requirements, for at least 5 years or the life of the record, whichever is longer.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Associate Commissioner, Office of Disability and Supplemental Security Income Systems (ODSSIS), Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURES:

An individual can determine if this system contains a record about him/her by writing to or visiting any Social Security field office and providing his or her name and SSN. (Individuals should consult their local telephone directories for Social Security office address and telephone information.)

Applicants for SVB who reside in the Philippines should contact VARO, Philippines. (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and prevent delay.)

An individual requesting notification of records in person should provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license or some other means of identification. If an individual does not have any identification documents sufficient to establish his/her identity, the individual must certify in writing that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

If notification is requested by telephone, an individual must verify his/her identity by providing identifying information that parallels the record to which notification is being requested. If it is determined that the identifying information provided by telephone is insufficient, the individual will be required to submit a request in writing or in person. If an individual is requesting information by telephone on behalf of another individual, the subject individual must be connected with SSA and the requesting individual in the same phone call. SSA will establish the subject individual's identity (his/her name, SSN, address, date of birth and place of birth along with one other piece of information such as mother's maiden name) and ask for his/her consent in providing information to the requesting individual.

If a request for notification is submitted by mail, an individual must include a notarized statement to SSA to verify his/her identity or must certify in the request that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense. These procedures are in accordance with SSA Regulations (20 CFR 401.40).

RECORD ACCESS PROCEDURES:

Same as Notification procedures. Requesters should also reasonably specify the record contents being sought. An individual who requests notification of, or access to, a medical record shall, at the time he or she makes the request, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of, or access to, a minor's medical record shall at the time he or she makes the request designate a physician or other health professional (other than a family member) who will be willing to review the record and inform the parent or guardian of its contents at the physician's or health professional's discretion. These procedures are in accordance with SSA Regulations (20 CFR 401.40(c) and 401.55)).

CONTESTING RECORD PROCEDURES:

Same as Notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate or irrelevant. These procedures are in accordance with SSA Regulations (20 CFR 401.65(a)).

RECORD SOURCE CATEGORIES:

Data contained in the SSR are obtained for the most part from the applicant for SSI and SVB payments and are derived from the Claims Folders System, 60–0089 and the Modernized Supplemental Security Income Claims System. The States and other Federal agencies such as the Department of Veterans Affairs also provide data affecting the SSR.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 05–4094 Filed 2–2–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4969]

Industry Advisory Panel: Meeting Notice

The Industry Advisory Panel of the Overseas Buildings Operations will meet on Tuesday, April 12, 2005, from 9:45 a.m. until 3:30 p.m. Eastern Standard Time. The meeting will be held at the Department of State, 2201 C Street, NW., (entrance on 23rd Street), Room 1107, Washington, DC. The majority of the meeting is devoted to an exchange of ideas between the Department's Bureau of Overseas Buildings Operations' senior management and the panel members, on design, operations and building maintenance. Members of the public are asked to kindly refrain from joining the discussion until Director Williams opens the discussion to the public.

Due to limited seating space for members of the public, we ask that you kindly e-mail your information. To participate in this meeting, simply register by e-mail at *IAPR@STATE.GOV* before April 1, 2005. Your email should include the following information: date of birth, social security number, company name and title. This information is required to issue a temporary pass to enter the building.

For questions, please contact *PinzinoLE3@state.gov* or call tel: 703/875–6872, Ms. Gina Pinzino; or *SpragueMA@state.gov*, tel: 703/875–7173, for Michael Sprague.

Dated: February 23, 2005.

Charles E. Williams,

Director/Chief Operating Officer, Overseas Buildings Operations, Department of State.

[FR Doc. 05–4120 Filed 3–2–05; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Notice of Availability and Request for Public Comment on Interim Environmental Review of United States-Andean Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of availability and request for public comment.

SUMMARY: The Office of the U.S. Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), seeks comment on the interim environmental review of the proposed U.S.-Andean Free Trade Agreement (FTA). The interim environmental review is available at *http://www.ustr.gov/Trade_Sectors/Environment/Environmental_Reviews/Section_Index.html.* Copies of the review will also be sent to interested members of the public by mail upon request.

DATES: Comments on the draft environmental review are requested by April 15, 2005 to inform negotiations. Comments received after April 15, 2005 will be taken into account in the preparation of the review of the final agreement.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Questions concerning the

environmental review, or requests for copies, should be addressed to David Brooks, Environment and Natural Resources Section, Office of the USTR, telephone (202) 395–7320.

SUPPLEMENTARY INFORMATION: The Trade Act of 2002, signed by the President on August 6, 2002, provides that the President shall conduct environmental reviews of [certain] trade agreements consistent with Executive Order 13121—Environmental Review of Trade Agreements (64 FR 63,169, Nov. 18, 1999) and its implementing guidelines (65 FR 79,442, Dec. 19, 2000) and report on such reviews to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The Order and guidelines are available at *http://www.ustr.gov/Trade_Sectors/Environment/Section_Index.html.*

The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives, and to help shape appropriate responses if environmental impacts are identified. Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. USTR and the Council on Environmental Quality jointly oversee implementation of the Order and Guidelines. USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

Written Comments

In order to facilitate prompt processing of submissions of comments, the Office of the United States Trade Representative strongly urges and prefers e-mail submissions in response to this notice. Persons submitting comments by e-mail should use the following e-mail address: *FR0422@ustr.eop.gov* with the subject line: AUS—Andean FTA Interim Environmental Review.'' Documents should be submitted as a Word Perfect, MSWord, or text (.TXT) file. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. If submission by e-mail is impossible, comments should be made by facsimile to (202) 395–6143, attention: Gloria Blue.

Written comments will be placed in a file open to public inspection in the USTR Reading Room at 1724 F Street, NW., Washington DC. An appointment to review the file may be made by calling (202) 395–6186. The Reading Room is open to the public from 10–12 a.m. and from 1–4 p.m., Monday through Friday.

General information concerning the Office of the United States Trade Representative may be obtained by accessing its Internet Web site (*http://www.ustr.gov*).

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 05–4153 Filed 3–2–05; 8:45 am]

BILLING CODE 3190–W5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Pueblo Memorial Airport, Pueblo, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Pueblo Memorial Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before March 21, 2005.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. Craig Sparks, Manager, Federal Aviation Administration, Northwest Mountain region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, Colorado 80249.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Daniel E. Centa, Director of Public Works and Aviation, Pueblo Memorial Airport, 31201 Bryan Circle, Pueblo, Colorado 81001.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Nelson, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, Colorado 80249.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Pueblo Memorial Airport under the provisions of the AIR 21. On December 17, 2004, the FAA determined that the request to release property at the Pueblo Memorial Airport submitted by the City of Pueblo met the procedural requirements of the Federal Aviation Regulations, part 155. The FAA may approve the request, in whole or in part, no later than April 29, 2005.

The following is a brief overview of the request: The Pueblo Memorial Airport requests the release of 6.02 acres of non-aeronautical airport property to the City of Pueblo, Colorado. The purpose of this release is to allow the City of Pueblo to sell the subject land that was conveyed to the City by the United States acting through the War Assets Administration by Quit Claim Deed dated July 20, 1948. The sale of this parcel will provide funds for airport improvements.

Any person may inspect the request by appointment at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, inspect the application, notice and other documents germane to the application in person at Pueblo Memorial Airport 31201 Bryan Circle, Pueblo, CO 81001.

Issued in Denver, Colorado on January 22, 2005.

Craig Sparks,

Manager, Denver Airports District Office.

[FR Doc. 05–4137 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice to the Public on Proposed Cancellation of Non-Directional (NDB) Instrument Flight Procedures

AGENCY: Federal Aviation Administration.

The Federal Aviation Administration (FAA) is considering canceling the following Non-Directional Beacon (NDB) Instrument Approach Procedures:

Ted Stevens Anchorage Intl, Anchorage, AK (ANC), NDB Rwy 6R
Aniak, Aniak, AK (ANI), NDB–A
Wiley Post-Will Rogers Memorial, Barrow, AK (BRW), NDB Rwy 24
Wiley Post-Will Rogers Memorial, Barrow, AK (BRW), NDB Rwy 6
Bethel, Bethel, AK (BET), NDB Rwy 18

Bettles, Bettles, AK (BTT), NDB–A
Cold Bay, Cold Bay, AK (CDB), NDB Rwy 14
Merle K (Mudhole) Smith, Cordova, AK (CDV), NDB–A
Merle K (Mudhole) Smith, Cordova, AK (CDV), NDB/DME Rwy 27
Deadhorse, Deadhorse, AK (SCC), NDB–A
Dillingham, Dillingham, AK (DLG), NDB Rwy 1
Fairbanks International, Fairbanks, AK (FAI), NDB Rwy 19R
Fort Yukon, Fort Yukon, AK (FYU), NDB Rwy 21
Gulkana, Gulkana, AK (GKN), NDB–A
Gustavus, Gustavus, AK (GST), NDB–A
Homer, Homer, AK (HOM), NDB–A
Kenai Municipal, Kenai, AK (ENA), NDB–A
King Salmon, King Salmon, AK (AKN), NDB Rwy 11
Ralph Wein Memorial, Kotzebue, AK (OTZ), NDB–A
McGrath, McGrath, AK (MCG), NDB–B
Nome, Nome, AK (OME), NDB Rwy 27
St. George, St. George, AK (PBV), NDB–A
St. Mary's, St. Mary's, AK (KSM), NDB Rwy 16
St. Mary's, St. Mary's, AK (KSM), NDB/DME Rwy 16
St. Mary's, St. Mary's, AK (KSM), NDB Rwy 34
St. Paul Island, St. Paul Island, AK (SNP), NDB/DME Rwy 18
Talkeetna, Talkeetna, AK (TKA), NDB Rwy 36
Ralph M. Calhoun Memorial, Tanana, AK (TAL), NDB–B
Unalakleet, Unalakleet, AK (UNK), NDB Rwy 14
Yakutat, Yakutat, AK (YAK), NDB Rwy 11
Auburn-Opelika Robert G. Pitts, Auburn, AL (AUO), NDB Rwy 36
Bessemer, Bessemer, AL (EKY), NDB Rwy 5
Birmingham International, Birmingham, AL (BHM), NDB Rwy 24
Birmingham International, Birmingham, AL (BHM), NDB Rwy 6
Huntsville-Intl-Carl T. Jones Field, Huntsville, AL (HSV), NDB Rwy 18R
Mobile Regional, Mobile, AL (MOB), NDB Rwy 14
Tuscaloosa Regional, Tuscaloosa, AL (TCL), NDB Rwy 4
Fort Smith, Fort Smith, AR (FSM), NDB Rwy 25
Fort Smith Regional, Fort Smith, AR (FSM), NDB Rwy 7
Memorial Field, Hot Springs, AR (HOT), NDB Rwy 5
Adams Field, Little Rock, AR (LIT), NDB Rwy 22R
Adams Field, Little Rock, AR (LIT), NDB Rwy 4L
Kirk Field, Paragould, AR (PGR), NDB Rwy 4
Rogers Municipal-Carter Field, Rogers, AR (ROG), NDB Rwy 19 Searcy Municipal, Searcy, AR (SRC), NDB Rwy 1 Texarkana Regional-Webb Field, Texarkana, AR (TXK), NDB Rwy 22
Walnut Ridge Regional, Walnut Ridge, AR (ARG), NDB Rwy 18
West Memphis Municipal, West Memphis, AR (AWM), NDB Rwy 17
Chandler Municipal, Chandler, AZ (CHD), NDB Rwy 4R
Flagstaff Pulliam, Flagstaff, AZ (FLG), NDB/DME Rwy 21
Arcata, Arcata-Eureka, CA (ACV), NDB or GPS–A
Meadows Field, Bakersfield, CA (BFL), NDB Rwy 30R
Bob Hope, Burbank, CA (BUR), NDB Rwy 8
Fresno Yosemite International, Fresno, CA (FAT), NDB Rwy 29R
Fresno-Chandler Downtown, Fresno, CA (FCH), NDB or GPS–B
General Wm. J. Fox Airfield, Lancaster, CA (WJF), NDB–C
Long Beach (Daugherty Field), Long Beach, CA (LGB), NDB Rwy 30
Yuba County, Marysville, CA (MYV), NDB Rwy 14
Modesto City-County, Harry Sham Field, Modesto, CA (MOD), NDB Rwy 28R
Monterey Peninsula, Monterey, CA (MRY), NDB Rwy 10R
Metropolitan Oakland International, Oakland, CA (OAK), NDB Rwy 27R
Ontario International, Ontario, CA (ONT), NDB Rwy 26L
Red Bluff Municipal, Red Bluff, CA (RBL), NDB Rwy 33
Redding Municipal, Redding, CA (RDD), NDB Rwy 34
Sacramento Executive, Sacramento, CA (SAC), NDB Rwy 2
Sacramento International, Sacramento, CA (SMF), NDB Rwy 16L
Sacramento International, Sacramento, CA (SMF), NDB Rwy 16R
Sacramento International, Sacramento, CA (SMF), NDB Rwy 34L
San Diego International, San Diego, CA (SAN), NDB Rwy 27
San Diego International, San Diego, CA (SAN), NDB Rwy 9
John Wayne Airport-Orange County, Santa Ana, CA (SNA), NDB Rwy 1L
John Wayne Airport-Orange County, Santa Ana, CA (SNA), NDB Rwy 19R
Stockton Metropolitan, Stockton, CA (SCK), NDB Rwy 29R
Visalia Municipal, Visalia, CA (VIS), NDB Rwy 30
City Of Colorado Springs Municipal, Colorado Springs, CO (COS), NDB Rwy 35L
Centennial, Denver, CO (APA), NDB Rwy 35R
Fort Collins-Loveland Municipal, Fort Collins (Loveland), CO (FNL), NDB Rwy 33
Pueblo Memorial, Pueblo, CO (PUB), NDB Rwy 26R
Pueblo Memorial, Pueblo, CO (PUB), NDB Rwy 8L
Hartford-Brainard, Hartford, CT (HFD), NDB Rwy 2
Meriden Markham Municipal, Meriden, CT (MMK), NDB Rwy 36
Waterbury-Oxford, Oxford, CT (OXC), NDB Rwy 36
Bradley International, Windsor Locks, CT (BDL), NDB Rwy 6
Ronald Reagan Washington National, Washington, DC (DCA), NDB or GPS Rwy 1
Washington Dulles International, Washington, DC (IAD), NDB Rwy 1R
Summit, Middletown, DE (EVY, NDB or GPS–A
New Castle County, Wilmington, DE (ILG), NDB Rwy 1
Bob Sikes, Crestview, FL (CEW), NDB Rwy 17
Daytona Beach International, Daytona Beach, FL (DAB), NDB Rwy 7L
Fort Lauderdale Executive, Fort Lauderdale, FL (FXE), NDB Rwy 8
Fort Lauderdale-Hollywood International, Fort Lauderdale, FL (FLL), NDB Rwy 13
Page Field, Fort Myers, FL (FMY), NDB Rwy 5
Gainesville Regional, Gainesville, FL (GNV), NDB Rwy 28
Jacksonville International, Jacksonville, FL (JAX), NDB Rwy 31
Jacksonville International, Jacksonville, FL (JAX), NDB Rwy 7
Melbourne International, Melbourne, FL (MLB), NDB Rwy 9R
Miami International, Miami, FL (MIA), NDB Rwy 27
Naples Municipal, Naples, FL (APF), NDB Rwy 5
Naples Municipal, Naples, FL (APF), NDB Rwy 23
Ocala Regional/Jim Raylor Field, Ocala, FL (OCF), NDB Rwy 36
Executive, Orlando, FL (ORL), NDB Rwy 7
Kissimmee Gateway, Orlando, FL (ISM), NDB Rwy 15
Panama City-Bay County International, Panama City, FL (PFN), NDB Rwy 14
Pensacola Regional, Pensacola, FL (PNS), NDB Rwy 35
Pensacola Regional, Pensacola, FL (PNS), NDB Rwy 17
St. Petersburg-Clearwater International, St. Petersburg-Clearwater, FL (PIE), NDB Rwy 17L
Sarasota/Bradenton International, Sarasota (Bradenton), FL (SRQ), NDB Rwy 32
Tallahassee Regional, Tallahassee, FL (TLH), NDB Rwy 36
Tampa International, Tampa, FL (TPA), NDB or GPS Rwy 18L
Nasa Shuttle Landing Facility, Titusville, FL (X68), NDB–A (USAF)

Vero Beach Municipal, Vero Beach, FL (VRB), NDB Rwy 29L
Vero Beach Municipal, Vero Beach, FL (VRB), NDB Rwy 11R
Palm Beach International, West Palm Beach, FL (PBI), NDB Rwy 9L
Souther Field, Americus, GA (ACJ), NDB Rwy 23
Augusta Regional At Bush Field, Augusta, GA (AGS), NDB Rwy 35
Augusta Regional At Bush Field, Augusta, GA (AGS), NDB Rwy 17
Decatur County Industrial Airpark, Bainbridge, GA (BGE), NDB Rwy 27
Brunswick Golden Isles, Brunswick, GA (BQK), NDB Rwy 7
Malcolm-McKinnon, Brunswick, GA (SSI), NDB Rwy 4
Dalton Municipal, Dalton, GA (DNN), NDB Rwy 14
Douglas Municipal, Douglas, GA (DQH), NDB Rwy 4
W. H. Bud Barron, Dublin, GA (DBN), NDB Rwy 2
Greene County Regional, Greensboro, GA (3J7), NDB Rwy 24
Jackson County, Jefferson, GA (19A), NDB Rwy 34
Middle Georgia Regional, Macon, GA (MCN), NDB Rwy 5
Newnan-Coweta County, Newnan, GA (CCO), NDB Rwy 32
Savannah/Hilton Head International, Savannah, GA (SAV), NDB Rwy 9
Statesboro-Bulloch County, Statesboro, GA (TBR), NDB Rwy 32
Vidalia Regional, Vidalia, GA (VDI), NDB Rwy 24
Waycross-Ware County, Waycross, GA (AYS), NDB Rwy 18
Honolulu International, Honolulu, HI (HNL), NDB Rwy 8L
Kahului, Kahului, HI (OGG), NDB Rwy 20
Ames Municipal, Ames IA (AMW), NDB Rwy 1
Southeast Iowa Regional, Burlington, IA (BRL), NDB Rwy 36
The Eastern Iowa, Cedar Rapids, IA (CID), NDB Rwy 9
Clinton Municipal, Clinton, IA (CWI), NDB Rwy 3
Des Moines International, Des Moines, IA (DSM), NDB Rwy 31
Estherville Municipal, Estherville, IA (EST), NDB Rwy 34
Fort Dodge Regional, Fort Dodge, IA (FOD), NDB Rwy 6
Marshalltown Municipal, Marshalltown, IA (MIW), NDB Rwy 12
Mason City Municipal, Mason City, IA (MCW), NDB Rwy 35
Boise Air Terminal (Gowen Field), Boise, ID (BOI), NDB Rwy 10L
Boise Air Terminal (Gowen Field), Boise, ID (BOI), NDB Rwy 10R
Idaho Falls Regional, Idaho Falls, ID (IDA), NDB Rwy 20
Pocatello Regional, Pocatello, ID (PIH), NDB Rwy 21
Scott Afb/Midamerica, Belleville, IL (BLV), NDB Rwy 32R
Saint Louis Downtown, Cahokia/St. Louis, IL (CPS), NDB Rwy 30L
Chicago Midway International, Chicago, IL (MDW), NDB Rwy 4R
Chicago Midway International, Chicago, IL (MDW), NDB or GPS Rwy 31C
Chicago-O'Hare International, Chicago, IL (ORD), NDB Rwy 14L
Chicago-O'Hare International, Chicago, IL (ORD), NDB Rwy 27R
Chicago-O'Hare International, Chicago, IL (ORD), NDB Rwy 9R
Chicago-O'Hare International, Chicago, IL (ORD), NDB Rwy 14R
De Kalb Taylor Municipal, De Kalb, IL (DKB), NDB Rwy 27
Decatur, Decatur, IL (DEC), NDB Rwy 6
Greater Peoria Regional, Peoria, IL (PIA), NDB Rwy 31
Greater Rockford, Rockford, IL (RFD), NDB Rwy 1
Virgil I. Grissom Municipal, Bedford, IN (BFR), NDB Rwy 13
Virgil I. Grissom Municipal, Bedford, IN (BFR), NDB Rwy 31
Monroe County, Bloomington, IN (BMG), NDB Rwy 35
Mettel Field, Connersville, IN (CEV), NDB Rwy 18
Huntingburg, Huntingburg, IN (HNB), NDB Rwy 27
Indianapolis International, Indianapolis, IN (IND), NDB Rwy 5R
Indianapolis International, Indianapolis, IN (IND), NDB Rwy 23L
Indianapolis International, Indianapolis, IN (IND), NDB Rwy 32
Indianapolis International, Indianapolis, IN (IND), NDB Rwy 5L
Purdue University, Lafayette, IN (LAF), NDB Rwy 10
Terre Haute International-Hulman Field, Terre Haute, IN (HUF), NDB Rwy 5
Porter County Municipal, Valparaiso, IN (VPZ), NDB Rwy 27
Renner Field/Goodland Municipal, Goodland, KS (GLD), NDB Rwy 30
Hays Regional, Hays, KS (HYS), NDB Rwy 34
Hutchinson Municipal, Hutchinson, KS (HUT), NDB Rwy 13
Lawrence Municipal, Lawrence, KS (LWC), NDB Rwy 33
Newton-City-County, KS (EWK), NDB Rwy 17
Newton-City-County, KS (EWK), NDB Rwy 35
Johnson County Executive, Olathe, KS (OJC), NDB Rwy 36
Johnson County Executive, Olathe, KS (OJC), NDB Rwy 18
New Century Aircenter, Olathe, KS (IXD), NDB Rwy 35
Salina Municipal, Salina, KS (SLN), NDB Rwy 35
Forbes Field, Topeka, KS (FOE), NDB Rwy 13
Forbes Field, Topeka, KS (FOE), NDB Rwy 31
Philip Billard Municipal, Topeka, KS (TOP), NDB Rwy 13
Wichita Mid-Continent, Wichita, KS (ICT), NDB Rwy 1R
Strother Field, Winfield-Arkansas City, KS (WLD), NDB Rwy 35
Fleming-Mason, Flemingsburg, KY (FGX), NDB Rwy 25
Glasgow Municipal, Glasgow, KY (GLW), NDB Rwy 7
Blue Grass, Lexington, KY (LEX), NDB Rwy 22
Blue Grass, Lexington, KY (LEX), NDB Rwy 4
Louisville International-Standiford Field, Louisville, KY (SDF), NDB Rwy 29
Kyle-Oakley Field, Murray, KY (CEY), NDB Rwy 23
Owensboro-Daviess County, Owensboro, KY (OWB), NDB Rwy 36
Somerset-Pulaski County-J.T. Wilson Field, Somerset, KY (SME), NDB Rwy 4
Baton Rouge Metropolitan, Ryan Field, Baton Rouge, LA (BTR), NDB Rwy 13
Beauregard Parish, De Ridder, LA (DRI), NDB Rwy 36
Lake Charles Regional, Lake Charles, LA (LCH), NDB Rwy 15
Monroe Regional, Monroe, LA (MLU), NDB Rwy 4
Louis Armstrong New Orleans International, New Orleans, LA (MSY), NDB Rwy 10
Shreveport Regional, Shreveport, LA (SHV), NDB Rwy 14
Southland Field, Sulphur, LA (L75), NDB Rwy 15
Vicksburg Tallulah Regional, Tallulah/Vicksburg, LA (TVR), NDB Rwy 36
General Edward Lawrence Logan International, Boston, MA (BOS), NDB Rwy 4R
General Edward Lawrence Logan International, Boston, MA (BOS), NDB Rwy 22L
Barnstable Municipal-Boardman/Polando Field, Hyannis, MA (HYA), NDB Rwy 24
New Bedford Regional, New Bedford, MA (EWB), NDB Rwy 5
Norwood Memorial, Norwood, MA (OWD), NDB Rwy 35
Plymouth Municipal, Plymouth, MA (PYM), NDB Rwy 6
Provincetown Municipal, Provincetown, MA (PVC), NDB Rwy 25
Barnes Municipal, Westfield, MA (BAF), NDB Rwy 20
Worcester Regional, Worcester, MA (ORH), NDB Rwy 29
Martin State, Baltimore, MD (MTN), NDB Rwy 15
Martin State, Baltimore, MD (MTN), NDB Rwy 33
Montgomery County Airpark, Gaithersburg, MD (GAI), NDB Rwy 14

Bangor International, Bangor, ME (BGR), NDB Rwy 33
Portland International Jetport, Portland, ME (PWM), NDB Rwy 11
Gratiot Communicipality, Alma, MI (AMN), NDB Rwy 9
Antrim County, Bellaire, MI (ACB), NDB Rwy 2
Detroit Metropolitan Wayne County, Detroit, MI (DTW), NDB Rwy 27R
Detroit Metropolitan Wayne County, Detroit, MI (DTW), NDB Rwy 4R
Bishop International, Flint, MI (FNT), NDB Rwy 9
Gerald R. Ford International, Grand Rapids, MI (GRR), NDB Rwy 26L
Muskegon County, Muskegon, MI (MKG), NDB Rwy 32
Mbs International, Saginaw, MI (MBS), NDB Rwy 5
Chippewa County International, Sault Ste Marie, MI (CIU), NDB Rwy 16
Chandler Field, Alexandria, MN (AXN), NDB Rwy 31
Bemidji-Beltrami County, Bemidji, MN (BJI), NDB Rwy 31
Duluth International, Duluth, MN (DLH), NDB Rwy 9
Minneapolis-St Paul International (Wold-Chamberlain), Minneapolis, MN (MSP), NDB Rwy 30R
Minneapolis-St Paul International (Wold-Chamberlain), Minneapolis, MN (MSP), NDB Rwy 4
Minneapolis-St Paul International (Wold-Chamberlain), Minneapolis, MN (MSP), NDB Rwy 30L
Rochester International, Rochester, MN (RST), NDB Rwy 31
St Cloud Regional, St. Cloud, MN (STC), NDB Rwy 31
Ava Bill Martin Memorial, Ava, MO (AOV), NDB Rwy 31
Columbia Regional, Columbia, MO (COU), NDB Rwy 2
Dexter Municipal, Dexter, MO (DXE), NDB Rwy 36
Waynesville Regional Airport At Forney Field, Fort Leonard Wood, MO (TBN), NDB/DME Rwy 14
Waynesville Regional Airport At Forney Field, Fort Leonard Wood, MO (TBN), NDB Rwy 32
Jefferson City Memorial, Jefferson City, MO (JEF), NDB Rwy 12
Jefferson City Memorial, Jefferson City, MO (JEF), NDB Rwy 30
Joplin Regional, Joplin, MO (JLN), NDB Rwy 13
Lee C. Fine Memorial, Kaiser/Lake Ozark, MO (AIZ), NDB Rwy 21
Kansas City International, Kansas City, MO (MCI), NDB Rwy 1L
Kansas City International, Kansas City, MO (MCI), NDB Rwy 19L
Kansas City International, Kansas City, MO (MCI), NDB Rwy 9
Rosecrans Memorial, St. Joseph, MO (STJ), NDB Rwy 35
Rosecrans Memorial, St. Joseph, MO (STJ), NDB Rwy 17
Springfield-Branson Regional, Springfield, MO (SGF), NDB Rwy 2
Springfield-Branson Regional, Springfield, MO (SGF), NDB Rwy 14
Greenwood-Leflore, Greenwood, MS (GWO), NDB Rwy 18
Grenada Municipal, Grenada, MS (GNF), NDB Rwy 13
Gulfport-Biloxi International, Gulfport, MS (GPT), NDB Rwy 14
Hawkins Field, Jackson, MS (HKS), NDB Rwy 16
Jackson International, Jackson, MS (JAN), NDB Rwy 16L
Key Field, Meridian, MS (MEI), NDB Rwy 1
University-Oxford, Oxford, MS (UOX), NDB Rwy 9
Tupelo Regional, Tupelo, MS (TUP), NDB Rwy 36
Billings Logan International, Billings, MT (BIL), NDB Rwy 10L
Gallatin Field, Bozeman, MT (BZN), NDB Rwy 12
Wokal Field/Glasgow International, Glasgow, MT (GGW), NDB Rwy 30
Helena Regional, Helena, MT (HLN), NDB or GPS–D
Frank Wiley Field, Miles City, MT (MLS), NDB Rwy 4
Stanly County, Albemarle, NC (VUJ), NDB or GPS Rwy 22L
Asheville Regional, Asheville, NC (AVL), NDB Rwy 16
Asheville Regional, Asheville, NC (AVL), NDB Rwy 34
Michael J. Smith Field, Beaufort, NC (MRH), NDB Rwy 14
Michael J. Smith Field, Beaufort, NC (MRH), NDB Rwy 21
Burlington-Alamance Regional, Burlington, NC (BUY), NDB Rwy 6
Charlotte/Douglas International, Charlotte, NC (CLT), NDB Rwy 5
Sampson County, Clinton, NC (CTZ), NDB Rwy 6
Elizabeth City Coast Guard Air Station/ Regional, Elizabeth City, NC (ECG), NDB Rwy 10
Fayetteville Regional/Grannis Field, Fayetteville, NC (FAY), NDB Rwy 4
Piedmont Triad International, Greensboro, NC (GSO), NDB Rwy 14
Pitt-Greenville, Greenville, NC (PGV), NDB Rwy 20
Hickory Regional, Hickory, NC (HKY), NDB Rwy 24
Ashe County, Jefferson, NC (GEV), NDB Rwy 28
Duplin County, Kenansville, NC (DPL), NDB Rwy 23
Kinston Regional Jetport At Stallings Field, Kinston, NC (ISO), NDB Rwy 5
Lincolnton-Lincoln County Regional, Lincolnton, NC (IPJ), NDB or GPS Rwy 23
Lumberton Municipal, Lumberton, NC (LBT), NDB Rwy 13
Lumberton Municipal, Lumberton, NC (LBT), NDB Rwy 5
Dare County Regional, Manteo, NC (MQI), NDB Rwy 17
Laurinburg-Maxton, Maxton, NC (MEB), NDB Rwy 5
Monroe Regional, Monroe, NC (EQY), NDB Rwy 5
Wilkes County, North Wilkesboro, NC (UKF), NDB Rwy 1
Raleigh-Durham International, Raleigh/ Durham, NC (RDU), NDB Rwy 23L
Raleigh-Durham International, Raleigh/ Durham, NC (RDU), NDB Rwy 5R
Rocky Mount-Wilson Regional, Rocky Mount, NC (RWI), NDB Rwy 4
Person County, Roxboro, NC (TDF), NDB Rwy 6
Rutherford County-Marchman Field, Rutherfordton, NC (FQD), NDB Rwy 1
Rowan County, Salisbury, NC (RUQ), NDB Rwy 20
Sanford Lee Co Regional, Sanford, NC (TTA), NDB Rwy 3
Shelby Municipal, Shelby, NC (EHO), NDB Rwy 5
Statesville Municipal, Statesville, NC (SVH), NDB Rwy 10
Warren Field, Washington, NC (OCW) NDB Rwy 5
Wilmington International, Wilmington, NC (ILM), NDB Rwy 35
Smith Reynolds, Winston-Salem, NC (INT), NDB Rwy 33
Devils Lake Municipal, Devils Lake, ND (DVL), NDB Rwy 31
Dickinson Municipal, Dickinson, ND (DIK), NDB Rwy 32
Hector International, Fargo, ND (FAR), NDB Rwy 17
Alliance Municipal, Alliance, NE (AIA), NDB Rwy 30
Beatrice Municipal, Beatrice, NE (BIE), NDB Rwy 13
Broken Bow Municipal, Broken Bow, NE (BBW), NDB Rwy 14
Chadron Municipal, Chadron, NE (CDR), NDB Rwy 20
Chadron Municipal, Chadron, NE (CDR), NDB Rwy 2
Columbus Municipal, Columbus, NE (OLU), NDB Rwy 14
Freemont Municipal, Fremont, NE (FET), NDB Rwy 13
Central Nebraska Regional, Grand Island, NE (GRI) NDB Rwy 35
Grant Municipal, Grant, NE (GGF), NDB Rwy 15
Hastings Municipal, Hastings, NE (HIS), NDB Rwy 14
Kearney Municipal, Kearney, NE (EAR), NDB Rwy 36
Jim Kelly Field, Lexington, NE (LXN), NDB Rwy 14
North Platte Regional/Airport Lee Bird Field, North Platte, NE (LBF), NDB Rwy 30
Eppley Airfield, Omaha, NE (OMA), NDB Rwy 14R

Eppley Airfield, Omaha, NE (OMA), NDB Rwy 32L
Berlin Municipal, Berlin, NH (BML), NDB Rwy 18
Skyhaven, Rochester, NH (DAW), NDB Rwy 33
Newark Liberty International, Newark, NJ (EWR), NDB Rwy 4L
Newark Liberty International, Newark, NJ (EWR), NDB Rwy 4R
Trenton Mercer, Trenton, NJ (TTN), NDB or GPS Rwy 6
Clovis Municipal, Clovis, NM (CVN), NDB Rwy 4
Las Cruces International, Las Cruces, NM (LRU), NDB Rwy 30
Raton Municipal/Crews Field, Raton, NM (RTN), NDB Rwy 2
Roswell Industrial Air Center, Roswell, NM (ROW), NDB Rwy 21
Santa Fe Municipal, Santa Fe, NM (SAF), NDB Rwy 2
Grant County, Silver City, NM (SVC), NDB Rwy 26
Buffalo Niagara International, Buffalo, NY (BUF), NSB Rwy 23
Elmira/Corning Regional, Elmira, NY (ELM), NDB Rwy 24
Randall, Middletown, NY, (06N), NDB Rwy 26
Orange County, Montgomery, NY (MGJ), NDB Rwy 3
La Guardia, New York, NY (LGA), NDB Rwy 22
La Guardia, New York, NY (LGA), NDB Rwy 4
Stewart International, Newburgh, NY (SWF), NDB Rwy 9
Niagara Falls International, Niagara Falls, NY (IAG), NDB or GPS Rwy 28R
Ogdensburg International, Ogdensburg, NY (OGS), NDB Rwy 27
Greater Rochester International, Rochester, NY (ROC), NDB Rwy 28
Syracuse Hancock International, Syracuse, NY (SYR), NDB Rwy 28
Oneida County, Utica, NY (UCA), NDB Rwy 33
Oneida County, Utica, NY (UCA), NDB or GPS Rwy 15
Francis S. Gabreski, Westhampton Beach, NY (FOK), NDB Rwy 24
Westchester County, White Plains, NY (HPN), NDB Rwy 16
Ohio University Snyder Field, Athens (Albany), OH (UNI), NDB Rwy 25
Bellefontaine Regional, Bellefontaine, OH (EDJ), NDB Rwy 07
Bellefontaine Regional, Bellefontaine, OH (EDJ), NDB Rwy 25
Cincinnati-Blue Ash, Cincinnati, OH (ISZ), NDB Rwy 24
Ohio State University, Columbus, OH (OSU), NDB Rwy 9R
Port Columbus International, Columbus, OH (CMH), NDB Rwy 28R
Port Columbus International, Columbus, OH (CMH), NDB Rwy 28L
Port Columbus International, Columbus, OH (CMH), NDB Rwy 10R
Port Columbus International, Columbus, OH (CMH), NDB Rwy 10L
James M. Cox Dayton International, Dayton, OH (DAY), NDB Rwy 6L
Toledo Express, Toledo, OH (TOL), NDB Rwy 7
Ardmore Municipal, Ardmore, OK (ADM), NDB Rwy 31
Bartlesville Municipal, Bartlesville, OK (BVO), NDB Rwy 17
Clinton-Sherman, Clinton, OK (CSM), NDB Rwy 17R
Eaker-Field, Durant, OK (DUA), NDB Rwy 35
El Reno Municipal Airpark, El Reno, OK (F28), NDB Rwy 35
Elk City Municipal, Elk City, OK (ELK), NDB Rwy 17
Enid Woodring Regional, Enid, OK (WDG) NDB Rwy 35
McAlester Regional, McAlester, OK (MLC), NDB Rwy 1
Davis Field, Muskogee, OK (MKO), NDB Rwy 31
University of Oklahoma Westheimer, Norman, OK (OUN), NDB Rwy 3
Will Rogers World, Oklahoma City, OK (OKC), NDB Rwy 17R
Will Rogers World, Oklahoma City, OK (OKC), NDB Rwy 35R
Will Rogers World, Oklahoma City, OK (OKC), NDB Rwy 35L
Okmulgee Regional, Okmulgee, OK (OKM), NDB Rwy 17
Ponca City Regional, Ponca City, OK (PNC), NDB Rwy 17
Stillwater Regional, Stillwater, OK (SWO), NDB Rwy 17
Tulsa International, Tulsa, OK (TUL), NDB Rwy 36R
Tulsa International, Tulsa, OK (TUL), NDB Rwy 18L
Corvallis Municipal, Corvallis, OR (CVO), NDB Rwy 17
Mahlon Sweet Field, Eugene, OR (EUG), NDB Rwy 16
Newport Municipal, Newport, OR (ONP), NDB Rwy 16
Roberts Field, Redmond, OR (RDM), NDB or GPS Rwy 22
Mcnary Field, Salem, OR (SLE), NDB Rwy 31
Lehigh Valley International, Allentown, PA (ABE), NDB Rwy 6
Philadelphia International, Philadelphia, PA (PHL), NDB Rwy 27L
Allegheny County, Pittsburgh, PA (AGC), NDB Rwy 28
Quakertown, Quakertown, PA (UKT), NDB or GPS Rwy 29
Reading Regional/Carl A. Spaatz, Reading, PA (RDG), NDB Rwy 36
Somerset County, Somerset, PA (2G9), NDB Rwy 24
Washington County, Washington, PA (AFJ), NDB or GPS Rwy 27
Luis Munoz Marin International, San Juan, PR (SJU), NDB Rwy 10
Theodore Francis Green State, Providence, RI (PVD), NDB Rwy 5
Charleston AFB/International, Charleston, SC (CHS), NDB Rwy 15
Charleston Executive, Charleston, SC (JZI), NDB Rwy 9
Florence Regional, Florence, SC (FLO), NDB Rwy 9
Greenville-Spartanburg International, Greer, SC (GSP), NDB Rwy 4
Grand Strand, North Myrtle Beach, SC (CRE), NDB Rwy 23
Rock Hill/York County/Bryant Field, Rock Hill, SC (UZA), NDB Rwy 2
Rapid City Regional, Rapid City, SD (RAP), NDB Rwy 32
Joe Foss Field, Sioux Falls, SD (FSD), NDB Rwy 3
Tri-Cities Regional, Bristol-Johnson-Kingsport, TN (TRI), NDB Rwy 23
Tri-Cities Regional, Bristol-Johnson-Kingsport, TN (TRI), NDB Rwy 05
Maury County, Columbia-Mount Pleasant, TN (MRC), NDB Rwy 24
Dickson Municipal, Dickson, TN (M02), NDB Rwy 17
Dyersburg Municipal, Dyersburg, TN (DYR), NDB Rwy 4
Fayetteville Municipal, Fayetteville, TN (FYM), NDB Rwy 20
Mckellar-Sipes Regional, Jackson, TN (MKL), NDB Rwy 2
Mcghee-Tyson, Knoxville, TN (TYS), NDB Rwy 5L
Warren County Memorial, McMinnville, TN (RNC), NDB Rwy 23
Memphis International, Memphis, TN (MEM), NDB Rwy 9
Nashville International, Nashville, TN (BNA), NDB Rwy 20R
Scott Municipal, Oneida, TN (SCX), NDB Rwy 23
Henry County, Paris, TN (PHT), NDB or GPS Rwy 2
Savannah-Hardin County, Savannah, TN (SNH), NDB Rwy 19
Abilene Regional, Abilene, TX (ABI), NDB Rwy 35R
Rick Husband Amarillo International, Amarillo, TX (AMA), NDB Rwy 4
Brazoria County, Angleton/Lake Jackson, TX (LBX), NDB Rwy 17
Southeast Texas Regional, Beaumont-Port Arthur, TX (BPT), NDB Rwy 12
Jones Field, Bonham, TX (F00), NDB Rwy 17
Brenham Municipal, Brenham, TX (11R), NDB Rwy 16
Brownsville/South Padre Island International, Brownsville, TX (BRO), NDB Rwy 13R
Easterwood Field, College Station, TX (CLL), NDB Rwy 34
Corpus Christi International, Corpus Christi, TX (CRP), NDB Rwy 13
Addison, Dallas, TX (ADS), NDB Rwy 15
Dallas-Fort Worth International, Dallas-Fort Worth, TX (DFW), NDB Rwy 35C

Dallas-Fort Worth International, Dallas-Fort Worth, TX (DFW), NDB Rwy 17R
Del Rio International, Del Rio, TX (DRT), NDB Rwy 13
El Paso International, El Paso, TX (ELP), NDB Rwy 22
Fort Worth International, Fort Worth, TX (FTW), NDB Rwy 16
Valley International, Harlingen, TX (HRL), NDB Rwy 17R
Valley International, Harlingen, TX (HRL), NDB Rwy 17L
David Wayne Hooks Memorial, Houston, TX (DWH), NDB Rwy 17R
Ellington Field, Houston, TX (EFD), NDB Rwy 22
George Bush Intercontinental Airport, Houston, TX (IAH), NDB Rwy 26
Houston-Southwest, Houston, TX (AXH), NDB Rwy 9
Sugar Land Regional, Houston, TX (SGR), NDB Rwy 35
Lubbock International, Lubbock, TX (LBB), NDB Rwy 26
Lubbock International, Lubbock, TX (LBB), NDB Rwy 17R
Angelina County, Lufkin, TX (LFK), NDB Rwy 7
McAllen Miller International, McAllen, TX (MFE), NDB Rwy 13
Midland International, Midland, TX (MAF), NDB Rwy 10
Mineral Wells, Mineral Wells, TX (MWL), NDB Rwy 31
Roy Hurd Memorial, Monahans, TX (E01), NDB Rwy 12
L. Mangham Jr. Regional, Nacogdoches, TX (OCH), NDB Rwy 36
Palestine Municipal, Palestine, TX (PSN), NDB Rwy 18
San Angelo Regional/Mathis Field, San Angelo, TX (SJT), NDB Rwy 3
San Antonio International, San Antonio, TX (SAT), NDB Rwy 3
San Antonio International, San Antonio, TX (SAT), NDB Rwy 12R
San Antonio International, San Antonio, TX (SAT), NDB Rwy 30L
San Marcos Municipal, San Marcos, TX (HYI), NDB Rwy 13
Tyler Pounds Regional, Tyler, TX (TYR), NDB Rwy 13
Tstc Waco, Waco, TX (CNW), NDB Rwy 17L
Waco Regional, Waco, TX (ACT), NDB Rwy 19
Cedar City Regional, Cedar City, UT (CDC), NDB Rwy 20
Charlottesville-Albemarle, Charlottesville, VA (CHO), NDB Rwy 3
Emporia-Greensville Regional, Emporia, VA (EMV), NDB Rwy 33
Mountain Empire, Marion/Wytheville, VA (MKJ), NDB Rwy 26
Blue Ridge, Martinsville, VA (MTV), NDB Rwy 30
Accomack County, Melfa, VA (MFV), NDB Rwy 3
Chesapeake Regional, Norfolk, VA (CPK), NDB Rwy 5
Dinwiddie County, Petersburg, VA (PTB), NDB Rwy 5
Hanover County Municipal, Richmond/Ashland, VA (OFP), NDB Rwy 16
Roanoke Regional/Woodrum Field, Roanoke, VA (ROA), NDB Rwy 33
Mecklenburg-Brunswick Regional, South Hill, VA (AVC), NDB Rwy 1
Shenandoah Valley Regional, Staunton-Waynesboro-Harrisonburg, VA (SHD), NDB or GPS Rwy 5
Suffolk Municipal, Suffold, VA (SFQ), NDB Rwy 4
Henry E Rohlsen, Christiansted, St. Croix, VI (STX), NDB Rwy 10
Burlington International, Burlington, VT (BTV), NDB Rwy 15
Bellingham International, Bellingham, WA (BLI), NDB Rwy 16
Snohomish County (Paine Field), Everett, WA (PAE), NDB Rwy 16R
Grant County International, Moses Lake, WA (MWH), NDB Rwy 32R
Seattle-Tacoma International, Seattle, WA (SEA), NDB Rwy 34R
Seattle-Tacoma International, Seattle, WA (SEA), NDB Rwy 16R
Spokane International, Spokane, WA (GEG), NDB Rwy 21
Walla Walla Regional, Walla Walla, WA (ALW), NDB Rwy 20
Outagamie County Regional, Appleton, WI (ATW), NDB Rwy 3
Outagamie County Regional, Appleton, WI (ATW), NDB Rwy 29
Austin Straubel International, Green Bay, WI (GRB), NDB Rwy 6
Sawyer County, Hayward, WI (HYR), NDB Rwy 20
Dane County Regional-Truax Field, Madison, WI (MSN), NDB Rwy 36
General Mitchell International, Milwaukee, WI (MKE), NDB Rwy 1L
General Mitchell International, Milwaukee, WI (MKE), NDB Rwy 7R
Wittman Regional, Oshkosh, WI (OSH), NDB Rwy 36
Sheboygan County Memorial, Sheboygan, WI (SBM), NDB Rwy 21
Shell Lake Municipal, Shell Lake, WI (SSQ), NDB Rwy 32
Greenbrier Valley, Lewisburg, WV (LWB), NDB Rwy 4
Natrona County International, Casper, WY (CPR), NDB Rwy 8
Gillette-Campbell County, Gillette, WY (GCC), NDB Rwy 34
Rock Springs-Sweetwater County, Rock Springs, WY (RKS), NDB–C

SUMMARY: The Federal Aviation Administration (FAA) is continuing to expand the availability and capability of area navigation (RNAV) to improve safety and efficiency within the National Airspace System (NAS). A major enhancement is the introduction of Wide Area Augmentation System (WAAS) capable RNAV instrument approach procedures that provide for near-precision vertical guidance.

The number of instrument approach procedures available to the public has nearly doubled over the past decade and will continue to grow with the public's demand for new WAAS procedures. The cost of maintaining the existing ground-based navigational infrastructure while expanding new RNAV capability is challenging to the FAA's projected budget over the next five years. Maintenance of existing ground-based procedures places the greatest strain on limited FAA resources.

To meet the public's demand for WAAS capable RNAV procedures, the FAA must manage the growth in the number of instrument approach procedures by eliminating redundant ground-based procedures. Specifically, the agency has identified NDB procedures for cancellation at runway ends that are also served by an RNAV procedure and a second ground-based procedure (*i.e.,* a ground-based procedure other than the NDB). The FAA resources currently used to maintain these NDB procedures will be applied to the development of new WAAS capable RNAV procedures in the NAS.

DATES Please submit, in writing, any comments regarding the impact of the proposed NDB procedure cancellations on or before April 4, 2005.

This proposal is subject to change after review of public comments.

ADDRESSES: Please address all comments concerning this notice to following mailing address: DOT/FAA Mike Monroney Aeronautical Center, National Flight Procedures Office, PO Box 25082, Building 5 (ANF–1), Room 101, Oklahoma City, OK 73125 or physical address for overnight submissions as follows: DOT/FAA Mike Monroney Aeronautical Center, National Flight Procedures Office, 6500 S. MacArthur, Building 5 (ANF–1), Room 101, Oklahoma City, OK 73169.

SUPPLEMENTARY INFORMATION: You may submit comments by sending electronic mail (e-mail) to *debra.e.sullivan@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Debra Sullivan, 405–954–3027.

Issued in Oklahoma City, Oklahoma, on February 22, 2005.

Thomas C. Accardi,

Director of Aviation System Standards.

[FR Doc. 05–4135 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Consensus Standards, Light-Sport Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces the availability of certain consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule issued July 16, 2004, and effective September 1, 2004. ASTM International Committee F37 on Light Sport Aircraft developed these standards with FAA participation. By this Notice, the FAA finds these standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule.

DATES: Comments must be received on or before May 2, 2005.

ADDRESSES: Comments may be mailed to: Federal Aviation Administration, Small Airplane Directorate, Programs and Procedures Branch, ACE–114, Attention: Larry Werth, Room 301, 901 Locust, Kansas City, Missouri 64106. Comments may also be e-mailed to: *Comments-on-LSA-Standard@faa.gov.* All comments must be marked: Consensus Standards Comments, and must specify the standard being addressed by ASTM designation and title.

FOR FURTHER INFORMATION CONTACT: Larry Werth, Light-Sport Aircraft Program Manager, Programs and Procedures Branch (ACE–114), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4147; e-mail: *larry.werth@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces the availability of certain consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule. ASTM International Committee F37 on Light Sport Aircraft developed these standards.

Comments Invited: Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the consensus standard number and be submitted to the address specified above. All communications received on or before the closing date for comments will be forwarded to ASTM International Committee F37 for consideration. The standards may be changed in light of the comments received. The FAA will address all comments received during the recurring review of the consensus standards and will participate in the consensus standards revision process.

Background: Under the provisions of the Sport Pilot and Light-Sport Aircraft rule, and revised Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'', dated February 10, 1998, industry and the FAA have been working with ASTM International to develop consensus standards for light-sport aircraft. These consensus standards satisfy the FAA's goal for airworthiness certification and a verifiable minimum safety level for light-sport aircraft. Instead of developing airworthiness standards through the rulemaking process, the FAA participates as a member of Committee F37 in developing these standards. The use of the consensus standard process assures government and industry discussion and agreement on appropriate standards for the required level of safety.

The FAA has reviewed the fifteen standards presented in this NOA for compliance with the regulatory requirements of the rule. Any light-sport aircraft issued a special light-sport airworthiness certificate, which has been designed, manufactured, operated and maintained, in accordance with these consensus standards provides the public with the appropriate level of safety established under the regulations. Manufacturers who choose to produce these aircraft and certificate these aircraft under 14 CFR part 21, §§ 21.190 or 21.191 are subject to the applicable consensus standard requirements. The FAA will post a listing of all accepted standards at *afs600.faa.gov*.

In developing the Sport Pilot and Light-Sport Aircraft rule, the FAA had expected that certain consensus standards, such as quality assurance and continued airworthiness, would be similar across the range of light-sport aircraft. For the consensus standards found acceptable in this NOA, the FAA acknowledges that there are differences in depth and detail of the consensus standards between light-sport airplanes and the other light-sport aircraft. The FAA will monitor service experience to see if differences in aircraft complexity continue to justify these differences.

The consensus standards listed in this notice are the standards that are currently approved by ASTM International Committee F37. The FAA is aware that the committee continues the development of additional consensus standards including some that are needed to certificate aircraft under 14 CFR, part 21, §§ 21.190 or 21.191. This ongoing work involves:

a. Sailplane design, quality assurance, and continued operational safety.

b. Powered parachute wing interface documentation.

c. Weight shift aircraft design, continued airworthiness, quality assurance, production testing, design testing, and required product information.

d. Light-sport aircraft required equipment information.

e. Light-sport aircraft propeller design.

f. Lighter than air design, and required product information.

g. Gyroplane quality assurance.

h. Maintenance manual content.

i. Guide for noise.

The FAA anticipates that these additional standards will be available in the near future. The FAA will review all forthcoming standards for compliance to appropriate regulatory requirements, and will publish notices of availability as these are finalized.

The Effective Period of Use

The consensus standards listed in this notice may be used unless the FAA publishes a specific notification otherwise.

The Consensus Standards

The FAA finds the following consensus standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule:

a. ASTM Designation 2240–03, titled: Standard Specification for Manufacturer Quality Assurance Program for Powered Parachute Aircraft.

b. ASTM Designation 2241–03, titled: Standard Specification for Continued Airworthiness System for Powered Parachute Aircraft.

c. ASTM Designation 2242–03, titled: Standard Specification for Production Acceptance Testing System for Powered Parachute Aircraft.

d. ASTM Designation 2243–03, titled: Standard Specification for Required Product Information to be provided with Powered Parachute Aircraft.

e. ASTM Designation 2244–03, titled: Standard Specification for Design and Performance Requirements for Powered Parachute Aircraft.

f. ASTM Designation F2245–04, titled: Standard Specification for the Design and Performance of a Light Sport Airplane.

g. ASTM Designation F2279–03, titled: Standard Practice for Quality Assurance in the Manufacture of Light Sport Airplanes.

h. ASTM Designation F2295–03, titled: Standard Practice for the Continued

Operational Safety Monitoring of a Light Sport Airplane.

i. ASTM Designation F2316–03, titled: Standard Specification for Airframe Emergency Parachutes for Light Sport Aircraft.

j. ASTM Designation F2339–04, titled: Standard Practice for the Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft.

k. ASTM Designation F2352–04, titled: Standard Specification for Design and Performance of Light Sport Gyroplane Aircraft.

l. ASTM Designation F2353–04, titled: Standard Specification for Manufacturers Quality Assurance Program for Lighter Than Air Light Sport Aircraft.

m. ASTM Designation F2354–04, titled: Standard Specification for Continued Airworthiness System for Lighter Than Air Light Sport Aircraft.

n. ASTM Designation F2356–04, titled: Standard Specification for Production Acceptance Testing System for Lighter Than Air Light Sport Aircraft.

o. ASTM Designation F2415–04, titled: Standard Practice for Continued Airworthiness System for Light Sport Gyroplane Aircraft.

The Preamble to the Sport Pilot and Light-Sport Aircraft rule states the FAA will evaluate the service experience of gyroplanes manufactured and operated in accordance with the applicable consensus standards. The FAA may revise the rule based on its evaluation of service experience permitting gyroplanes to obtain the special airworthiness certificate for a light-sport aircraft.

Availability

The consensus standards above are copyrighted by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959. Individual reprints of these standards (single or multiple copies, or special compilations and other related technical information) may be obtained by contacting ASTM at this address, or at (610) 832–9585 (phone), (610) 832–9555 (fax), through *service@astm.org* (e-mail), or through the ASTM Web site at *http://www.astm.org.* To inquire about standard content and/or membership, or about ASTM International Offices abroad, contact Daniel Schultz, Staff Manager for Committee F37 on Light Sport Aircraft: (610) 832–9716, *dschultz@astm.org.*

Issued in Washington, DC, on February 16, 2005.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 05–4136 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Dallas Area Rapid Transit

[Docket Number FRA–2004–20000]

Dallas Area Rapid Transit (DART), located in Dallas, TX, seeks a permanent waiver of compliance from Title 49 of the CFR for operation of a light rail line at a ''limited connection'' with the Dallas Garland and Northeastern Railroad (DGNO). *See* Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000); *see also* Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).

DART is currently expanding its light rail operations and will double in size to 93 miles by 2014. Expansion will include shared corridor operation with the DGNO, with up to 50 or more limited connections at shared highway-rail grade crossings anticipated.

Based on the foregoing, DART is seeking waiver of compliance from the provisions of the Federal Railroad Locomotive Safety Standards, 49 CFR 229.125—Headlights and Auxiliary Lights, and 49 CFR 234.105—Activation Failure.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2004–20000) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC, on February 18, 2005.

Grady C. Cothen,

Deputy Associate Administrator for Safety.

[FR Doc. 05–4141 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Hillsborough Area Regional Transit

[Renewal with Amendment to Waiver Petition Docket Number FRA–2002–13398]

Hillsborough Area Regional Transit (HARTLine), located in Tampa, Florida, seeks renewal, with amendment, of the conditions of its permanent waiver of compliance from Title 49 of the CFR for continued operation of its TECO Line streetcar system at a ''limited connection'' with the CSXT Railroad. See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000); see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light

Rail Transit Systems, 65 FR 42626 (July 10, 2000).

In September 2004, the FRA Railroad Safety Board granted an extension of HARTLine's original waiver and its conditions for a period of eight months. HARTLine is now notifying the FRA of some modifications to its operating plan and equipment, and is requesting a permanent waiver of compliance, to include these modifications.

Based on the foregoing and with some modifications, HARTLine is seeking to renew its existing waiver of compliance from the provisions of the Code of Federal Regulations, 49 CFR part 219—Control of Alcohol and Drug Use, 49 CFR part 223 Safety Glazing Standards, and 49 CFR part 238—Passenger Equipment Safety Standards.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2002–13398) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC, on February 23, 2005.

Grady C. Cothen,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 05–4140 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

New Jersey Transit

[Docket Number FRA–2004–18577]

New Jersey Transit (NJ Transit) seeks a modification to its waiver granted September 29, 2004. NJ Transit was granted a waiver of compliance from the provisions of the Federal Track Safety Standards, 49 CFR 213.345, subpart G, regarding use of instrumented wheelset tests (IWS) for vehicle qualification testing of its new COMET V coach equipment. In lieu of the IWS tests, NJ Transit demonstrated similarity with in-service COMET IV coach equipment through testing with accelerometers. The testing verified that the design and performance of each type of equipment was substantially the same and NJ Transit was granted a waiver allowing its COMET V coach equipment to operate at maximum speed of 100 mph and three inches of cant deficiency on AMTRAK's NEC between Newark, NJ and Philadelphia, PA.

NJ Transit is asking the Federal Railroad Administration to modify the language of the waiver to extend the operating limits of this equipment to New York City, NY, in order to eliminate operational issues and the need to list equipment on the Northeast Corridor (NEC) timetable with different speeds for different locations. NJ Transit seeks further modification so that the original waiver will also apply to identical Metro North Railroad (MNCW) COMET V coach equipment (NJ Transit operates MNCW's Port Jervis, NY Line from Port Jervis, NY to Hoboken, NJ) that is used interchangeably by NJ Transit in NEC trainsets between Newark, NJ and Philadelphia, PA.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2004–18577) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Issued in Washington, DC, on February 18, 2005.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety.

[FR Doc. 05–4139 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified.

FOR FURTHER INFORMATION CONTACT: Delmer Billings, Office of Hazardous Materials Exemptions and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant.

2. Extensive public comment under review.

3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.

4. Staff review delayed by other priority issues or volume of exemption applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
X—Renewal.

PM—Party to application with modification request.

Issued in Washington, DC, on February 28, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety, Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
12381–N	Ideal Chemical & Supply Co., Memphis, TN	2	04–30–2005
12950–N	Walnut Industries, Inc., Bensalem, PA	4	04–30–2005
13183–N	Becton Dickinson, Sandy, UT	4	04–30–2005
13176–N	Union Pacific Railroad Company, Omaha, NE	4	04–30–2005
13422–N	Puritan Bennett, Plainfield, IN	3	04–30–2005
13054–N	CHS Transportation, Mason City, IA	4	04–30–2005
13188–N	General Dynamics, Lincoln, NE	3	04–30–2005
13281–N	The Dow Chemical Company, Midland, MI	4	04–30–2005
13265–N	Aeropres Corporation, Shreveport, LA	4	03–31–2005
13776–N	MHF Logistical Solutions, Cranberry Twp., PA	4	04–30–2005
13599–N	Air Products and Chemicals, Inc., Allentown, PA	4	03–31–2005
13636–N	Timberline Environmental Services, Cold Springs, CA	4	04–30–2005
13582–N	Linde Gas LLC (Linde), Independence, OH	4	04–30–2005
13563–N	Applied Companies, Valencia, CA	4	04–30–2005
13547–N	CP Industries, McKeesport, PA	4	04–30–2005
13482–N	U.S. Vanadium Corporation (Subsidiary of Strategic Minerals Corporation), Niagara Falls, NY	4	03–31–2005
13346–N	Stand-By-Systems, Inc., Dallas, TX	1	04–30–2005
13347–N	ShipMate, Inc., Torrance, CA	4	04–30–2005
13856–N	Dow Chemical Company, Midland, MI	4	03–31–2005
13858–N	US Ecology Idaho, Inc. (USEI), Grand View, ID	4	03–31–2005
13859–N	Degussa Corporation, Parsippany, NJ	4	04–30–2005
13860–N	United States Enrichment Corporation (USEC), Paducah, KY	4	04–30–2005
13341–N	National Propane Gas Association, Washington, DC	1	04–30–2005
13302–N	FIBA Technologies, Inc., Westboro, MA	4	04–30–2005
13314–N	Sunoco Inc., Philadelphia, PA	4	04–30–2005
13309–N	OPW Engineered Systems, Lebanon, OH	4	04–30–2005
13295–N	Taylor-Wharton, Harrisburg, PA	1	04–30–2005
13266–N	Luxfer Gas Cylinders, Riverside, CA	1	04–30–2005
13228–N	AirSep Creekside Corp., Buffalo, NY	4	04–30–2005
7277–M	Structural Composites Industries, Pomona, CA	3	04–30–2005
10319–M	Amtrol, Inc. West Warwick, RI	4	03–31–2005
12284–M	The American Traffic Safety Services Assn. (ATSSA), Fredericksburg, VA	1	04–30–2005
6263–M	Amtrol, Inc., West Warwick, RI	4	03–31–2005
11536–M	The Boeing Company, Los Angeles, CA	4	03–31–2005
13027–M	Hernco Fabrication & Services, Midland, TX	4	03–31–2005
11579–M	Dyno Nobel, Inc., Salt Lake City, UT	4	03–31–2005
11241–M	Rohm and Haas Co., Philadelphia, PA	1	03–31–2005
7280–M	Department of Defense, Ft. Eustis, VA	4	03–31–2005
10019–M	Structural Composites Industries, Pomona, CA	3	04–30–2005
8162–M	Structural Composites Industries, Pomona, CA	3	04–30–2005
10915–M	Luxfer Gas Cylinders (Composite Cylinder Division), Riverside, CA	1	03–31–2005
10878–M	Tankcon FRP Inc., Boisbriand, Qc	1, 3	03–31–2005
9421–M	Taylor-Wharton (Gas & Fluid Control Group), Harrisburg, PA	4	03–31–2005
12022–M	Taylor-Wharton (Gas & Fluid Control Group), Harrisburg, PA	4	03–31–2005
8718–M	Structural Composites Industries, Pomona, CA	3	04–30–2005
9649–X	U.S. Department of Defense, Fort Eustis, VA	1	04–30–2005

[FR Doc. 05–4155 Filed 3–2–05; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. RSPA–04–18757; Notice 2]

Pipeline Safety: Grant of Waiver; Columbia Gas Transmission

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; grant of waiver.

SUMMARY: The Office of Pipeline Safety (OPS) is granting Columbia Gas Transmission's (Columbia) petition for a waiver of the pipeline safety regulations to install fiberglass reinforced polyethylene pipe in its high pressure natural gas storage field operations.

SUPPLEMENTARY INFORMATION:

Background

Columbia has petitioned OPS for a waiver from compliance with 49 CFR 192.53(c), 192.121, 192.123, and 192.619(a) to allow for installation and operation of fiberglass reinforced polyethylene pipe in its high pressure natural gas storage field operations. Columbia is proposing to install approximately 4,200 feet of 4-inch Fiber® spooled, non-metallic composite line pipe in its Dundee Storage Field.

On September 8, 2004, OPS published a notice in the **Federal Register** requesting public comment on Columbia's waiver request (69 FR 054345). The cities of Charlottesville and Richmond, Virginia (jointly referred to as ''Cities'') submitted several comments in response to the Notice.

As Columbia customers, the Cities are concerned that granting this waiver may diminish Columbia's ability to provide reliable firm storage and natural gas transportation service. The Cities contends that if Columbia's ability is diminished, then, the Cities reliability to deliver natural gas to its customers may be diminished as well.

The following are the Cities comments regarding Columbia's petition for waiver:

(1) Fiberspar's® fiberglass reinforced polyethylene plastic pipe has no track record thus it is difficult to determine whether or not the proposed material is reliable over the long term.

This waiver requires Columbia to schedule five inspections to perform both non-destructive and destructive testing on this pipe material after installation. The inspections and tests will be performed 1, 2.5, 5, 7.5, and 10 years after installation. This waiver requires Columbia to remove a minimum ten foot pipe segment for inspection during each inspection; non-destructive testing will focus on the composition and degradation of the pipe material and destructive testing will be a hydrotest to burst pressure.

(2) The Cities commented that the Fiber® pipe material has not been tested by an independent research authority.

Columbia and Fibers® have been engaged in meetings and discussion regarding the research involved in the development of this pipe material. OPS is aware that Fiber® has not had this pipe material tested and rated before the American Society for Testing and Materials (ASTM)—an independent research authority recognized by OPS—OPS also believes that vendors like Fiberspar's® should submit their product(s) for proper testing and development and meet ASTM standards. For this reason and as a condition of this waiver, OPS will limit Columbia's use of this pipe material to five years unless Fiber®rdquo; submits this pipe material to ASTM for testing and have this material listed as an acceptable material meeting ASTM requirement for new materials and have a listing with the plastics pipe institute (PPI) within five years of the pipe's original installation. If Fiber®rdquo; fails to submit this pipe material to ASTM for testing, Columbia will be required to discontinue use of this pipe material at the end of the 5th year following installation and conform to the regulatory requirements of 49 CFR §§ 192.53(c), 192.121, 192.123, and 192.619(a). If it is determined that the commodity transported in this pipeline is not compatible with, and proves detrimental to, this pipe material, OPS reserves the right, as a condition of this waiver, to curtail or discontinue the use of this pipe material.

(3)The Cities commented that it will be unable to deliver firm storage service to its customers if Columbia determines this pipe material to be unreliable.

Columbia's responsibility to provide reliable gas service to its customers is not diminished by this waiver or its use of this pipe material. By issuing this waiver, OPS believes Columbia will continue to provide reliable service to its customers. If it is determined that the commodity transported in this pipeline is not compatible with, and proves detrimental to, this pipe material, OPS reserves the right, as a condition of this waiver, to curtail or discontinue the use of this pipe material.

(4) The Cities commented that the 0.67 service (design) factor contained in the design formula results in a lower safety factor than the 0.32 design factor contained in the design formula under § 192.121.

Columbia seeks approval to use the following design formula from API 15HR:

$P_r = S_s \times S_f \times (Ri^2 - R0^2) / (R0^2 + Ri^2)$

Where:

P_r = Fiber® Line Pipe Standard Pressure Rating, psig

S_s = 95 percent Lower Confidence Limit (LCL) of the Long-Term Hydrostatic Strength (LTHS) @ 20 years per ASTM D 2992, Procedure B, psig

S_f = 0.67 service (design) factor per API 15 HR.

R_0 = radius of the pipe at the outside of the minimum reinforced wall thickness, inches

R_i = radius of the pipe at the inside of the minimum reinforced wall thickness, inches

Fiberspar® uses a service factor in its calculation of the Standard Pressure Rating, P_r, which is 25% less than the maximum service factor required by API 15HR. API 15HR requires a service factor of 0.67. By using a service factor which is 25% less, the result is an increase in the long-term reliability of this pipe material.

(5) The Cities commented that Columbia's choice to use plastic pipe increases the risk of pipe damage by a backhoe.

This waiver does not waive Columbia's responsibility to meet the excavation requirements of the Federal pipeline safety standards. Columbia is required to have excavation procedures in their Operations and Maintenance manual and their personnel are expected to be familiar with and follow those procedures whenever construction near the pipeline is being performed.

(6) The Cities commented that Columbia did not specify how they intend to comply with the requirements of one-call notification.

Columbia is required to have a damage prevention program in place and documented in their Operations and Maintenance manual. Columbia's personnel are expected to be familiar with and follow that program whenever events required them to do so. The waiver does not relieve Columbia from its responsibility to meet the one-call notification requirements of the Federal pipeline safety standards.

Grant of Waiver

Based on the above information, OPS hereby grants Columbia's request for waiver from the requirements of 49 CFR §§ 192.53(c), 192.121, 192.123, and 192.619(a). The waiver allows Columbia

to install and operate approximately 4,200 feet of four inch Fiberspar® fiberglass reinforced polyethylene plastic pipe in its Dundee Storage Field located in Schulyer County, New York.

As a condition of the grant of this waiver, Columbia must—

- Apply this waiver only to piping within its Dundee Storage Field;
- Apply this waiver in non High Consequence Area(s);
- Apply this waiver in Class 1 location(s) only;
- Develop qualifications on joining methods through Fiberspar® installation training courses and field training; qualifications and joining methods must be available to OPS Eastern Region upon request;
- Apply this waiver to five storage wells and six lines as stated in the waiver request;
- Perform initial pipeline installation with qualified Fiberspar® personnel present and overseeing the installation; notify OPS Eastern Region of the date, time, and location of initial installation and provide opportunity for OPS Eastern Region to witness installation;
- Schedule five inspections for 1, 2.5, 5, 7.5, and 10 years after installation; remove a minimum ten foot pipe segment for inspection and perform both non-destructive and destructive testing on the pipe material. Non-destructive testing shall focus on the composition and degradation of the fiberglass reinforced polyethylene plastic pipe material and the destructive testing shall be a hydrotest to burst pressure. The results of the inspections and tests must be available to OPS Eastern Region upon request; and
- Submit Fiberspar® fiberglass reinforced polyethylene plastic pipe to ASTM for testing. If Fiberspar® fails to submit this pipe material to ASTM for testing and have this material listed as an acceptable material meeting ASTM requirement for new materials and have a listing with the plastics pipe institute (PPI) within five years of the pipe's original installation, Columbia must discontinue use of this pipe material at the end of the 5th year following initial installation and comply with the regulatory requirements of 49 CFR §§ 192.53(c), 192.121, 192.123, and 192.619(a). If it is determined that the commodity transported in this pipeline is not compatible with, and proves detrimental to, this pipe material, OPS reserves the right, as a condition of this waiver, to curtail or discontinue the use of this pipe material.

If Columbia does not comply with any of these requirements, or if circumstances indicate that the waiver compromises the safety of the pipeline, people or property, OPS reserves the right to terminate this waiver.

Authority: 49 U.S.C. 60118(c) and 49 CFR 1.53.

Issued in Washington, DC, on February 25, 2005.

Theodore L. Willke,

Deputy Associate Administrator for Pipeline Safety.

[FR Doc. 05–4121 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. RSPA–05–20323; Notice 1]

Pipeline Safety: Petition for Waiver; Northern Natural Gas Company

AGENCY: Office of Pipeline Safety (OPS), Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice; petition for waiver.

SUMMARY: Northern Natural Gas Company (NNG) petitioned the Office of Pipeline Safety (OPS) for a waiver from the requirements of 49 CFR 192.625(b)(3), Ordorization of gas. This section requires that a transmission line located in a Class 3 or Class 4 location that transports a combustible gas in a distribution line must contain a natural odorant or be odorized so that the gas is readily detectable by a person with a normal sense of smell unless, in the case of a lateral line which transports gas to a distribution center, at least 50 percent of the line is in a Class 1 or Class 2 location.

DATES: Persons interested in submitting written comments on the waiver request described in this Notice must do so by April 4, 2005. Late filed comments will be considered so far as practicable.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Alternatively, you may submit written comments to the docket electronically at the following Web address: *http://dms.dot.gov.*

All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to *http://dms.dot.gov*, click on ''Comment/Submissions.'' You can also read comments and other material in the docket. General information about the Federal pipeline safety program is available at *http://ops.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, business, labor union, etc.).

FOR FURTHER INFORMATION CONTACT: James Reynolds by phone at 202–366–2786, by fax at 202–366–4566, by mail at DOT, PHMSA, OPS, 400 7th Street, SW., Washington, DC 20590, or by e-mail at *james.reynolds@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The gas pipeline safety regulation at 49 CFR 192.625(b)(3) requires that a transmission line located in a Class 3 or Class 4 location that transports a combustible gas in a distribution line must contain a natural odorant or be ordorized so that the gas is readily detectable by a person with a normal sense of smell unless, in the case of a lateral line which transports gas to a distribution center, at least 50 percent of the line is in a Class 1 or Class 2 location.

NNG is requesting a waiver from the regulatory requirements of § 192.625(b)(3) for three of its transmission lines. The transmission lines are located in, and transport natural gas to, town border stations (TBS) located in Ripley, Iowa; LaCrescent, Minnesota; and LaCrosse, Wisconsin.

Justification

NNG is requesting the waiver for the following reasons:

- The integrity assessment of the Rippey, Iowa, LaCrescent, Minnesota, and LaCrosse, Wisconsin Branch Lines show a low likelihood of failure. The installation of odorization equipment in the road right-of-way of the Rippey, Iowa Branch Line would present a safety hazard to the public and require above ground piping. This would increase the likelihood of outside force damage to the Rippey, Iowa Branch Line.
- The take-off for the LaCrescent, Minnesota Branch Line is situated in a wetland area in the flood plain of the Mississippi River; installation of an odorizer on this line could cause an environmental impact to the river. In

addition, regular maintenance and odorant delivery to the LaCrescent, Minnesota Branch Line could present a traffic hazard and the potential for a hazardous material spill in a wetland area.

• The take-off for the LaCrosse, Wisconsin Branch Line is in a low, sandy, Mississippi River flood plain area. Installation of an odorizer on this line could cause an environmental impact to the Mississippi River flood plain. Lastly, access to this line is limited. This would make it difficult to deliver odorant to the pipeline.

NNG provided the following additional information on its pipelines for consideration of its waiver request:

1. Rippey, Iowa Branch Line—IAB64601 (Mile Post (MP) 0.000–0.034)

Line IAB64601 is 2-inch in diameter, 0.034 miles (180 feet) in length, and begins at a side valve on the Perry, Iowa branch line, IAB64401. Line IAB64601 supplies gas to the town of Ripley, Iowa through the Rippey #1 TBS. This entire line is in Class 3 area.

2. LaCrescent, Minnesota Branch Line—MNB73701 (MP 0.000–0.369)

Line MNB73701 is 4-inch in diameter, 0.369 miles (1,848 feet) in length, and begins at a side valve on the LaCrosse branch line, MNB73201. Line MNB73701 is located in a wetland area that is part of the Mississippi River flood plain and supplies gas to the town of LaCrescent, Minnesota through the LaCrescent #1 TBS. Line MNB73701 is Class 1 from MP 0.000–0.051 and Class 3 from MP 0.051–0.369.

3. LaCrosse, Wisconsin Branch Line—WIB24101 (MP 0.000–0.119)

Line WIB24101 is 12-inch in diameter, 0.119 miles (628 feet) in length, and begins at a buried tap on the Tomah, Wisconsin, branch line WIB11901. Line WIB24101 supplies gas to the town of LaCrosse, Wisconsin through the LaCrosse #1 TBS. This entire line is in Class 3 area.

NNG believes it considered all practical alternatives for the placement of odorization equipment on its pipelines. They concluded that none were feasible.

Proposed Alternatives

NNG proposes the following alternatives and believes that these alternatives provide a higher level of safety than those required by the pipeline safety regulations. NNG proposes to:

• Perform leak surveys along the entire length of the Ripley, Iowa; LaCrescent, Minnesota; and LaCrosse, Wisconsin pipelines. All surveys will be performed quarterly and with leak detection equipment.

• Install and maintain additional pipeline markers along each pipeline.

OPS Review

OPS is publishing this notice in the **Federal Register** to provide an opportunity for public comment. After OPS has considered any comments it receives in response to this Notice, it will make a final determination granting or denying the waiver as proposed, or with modifications. If the waiver is granted, and OPS subsequently determines that the effect of the waiver is no longer consistent with pipeline safety, OPS may revoke the waiver at its sole discretion. This Notice is OPS's only request for public comment before making its final decision in this matter. At the conclusion of the comment period, OPS will make a determination on the proposed waiver and publish its decision in the **Federal Register**.

Authority: 49 U.S.C. 60118 (c) and 49 CFR 1.53.

Issued in Washington, DC, on February 25, 2005.

Theodore L. Willke,

Deputy Associate Administrator for Pipeline Safety.

[FR Doc. 05–4124 Filed 3–2–05; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34661]

Columbia Basin Railroad Company, Inc.—Lease and Operation Exemption—Clark County, WA

Columbia Basin Railroad Company, Inc. (CBRW),[1] a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease and to operate approximately 19 miles of rail line owned by Clark County, WA, between milepost 14.1 at Battle Ground, WA, and milepost 33.1 at or near Chelatchie, WA.[2]

CBRW certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or a Class I rail carrier. The transaction was scheduled to be consummated on or after February 10, 2005, the effective date of the exemption.

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. 34661, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Also, a copy of each pleading must be served on Rose-Michele Weinryb, 1300 19th Street, NW., 5th Floor, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 22, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–4100 Filed 3–2–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34660]

Georgia Central Railway, L.P.—Acquisition and Operation Exemption—Rail line of CSX Transportation, Inc.

Georgia Central Railway, L.P. (Georgia Central), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by purchase from CSX Transportation, Inc. (CSXT) and operate approximately 57.2 miles of rail line between milepost SK 0.8 at Macon, and milepost SK 58.0 at East Dublin, in Bibb, Twiggs, Wilkinson, and Laurens Counties, GA.[1]

Georgia Central indicates that the parties contemplate consummating the transaction on or about February 28, 2005. Georgia Central certifies that its

[1] CBRW states that it will conduct these operations under the name ''Portland Vancouver Junction Railroad.''

[2] As filed, CBRW seeks to lease and operate approximately 33.1 miles of rail line in Clark County, WA. However, in *Columbia Basin Railroad Company, Inc.—Lease and Operation Exemption—Clark County, WA,* STB Finance Docket No. 34472 (STB served Mar. 11, 2004), CBRW was authorized to acquire by lease and operate approximately 14.1 miles of the 33.1 miles of rail line, between milepost 0.0 at or near North Vancouver/Vancouver Junction, WA, and milepost 14.1 at Battle Ground, WA. Because CBRW has already been granted authority to lease and operate this segment of the involved line, authority will only be granted here for CBRW to lease and operate the 19-mile segment between milepost 14.1 and milepost 33.1.

[1] Georgia Central currently leases the line and underlying right-of-way (ROW) from CSXT. After the transaction, Georgia Central will own the line but continue to lease the underlying ROW from CSXT. Georgia Central will also continue to be the operator of the line.

projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.[2]

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34660, 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 Andrew B. Kolesar III, 1224 17th Street, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 25, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–4101 Filed 3–2–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 225X)]

Union Pacific Railroad Company—Abandonment Exemption—in Cerro Gordo County, IA

On February 11, 2005, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad, known as the Thornton Industrial Lead, from milepost 2.0 near Flint, IA to milepost 17.14 near Thornton, IA, a distance of 15.14 miles, in Cerro Gordo County, IA. The line traverses U.S. Postal Service Zip Codes 50477 and 50479 and includes the stations of Thornton, Swaledale, and Burchinal.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 1, 2005.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,200 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 23, 2005. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub–No. 225X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., 101 North Wacker Drive, Room 1920, Chicago, IL 60606. Replies to the petition are due on or before March 23, 2005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.)

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 23, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–4102 Filed 3–2–05; 8:45 am]

BILLING CODE 4915–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Recruitment Notice for the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Notice for recruitment of IRS Taxpayer Advocacy Panel (TAP) members and alternates.

DATES: April 1–April 29, 2005.

FOR FURTHER INFORMATION CONTACT: Bernard Coston at 202–622–5007.

SUPPLEMENTARY INFORMATION: Notice is hereby given the Department of Treasury and the Internal Revenue Service (IRS) are inviting individuals to help improve the nation's tax agency by applying to be members and alternates of the TAP. The mission of the TAP is to provide citizen input into enhancing IRS customer satisfaction and service by identifying problems and making recommendations for improvement with IRS systems and procedures; and elevating the identified problems to the appropriate IRS official. The TAP serves as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue and the National Taxpayer Advocate. TAP members will participate in subcommittees comprised of 10 to 17 members who channel their feedback to the IRS.

The IRS is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 300 to 500 hours a year, and a desire to help improve IRS customer service. To the extent possible, the IRS would like to ensure a balanced TAP membership representing a cross-section of the taxpaying public throughout the United States. Potential candidates must be U.S. citizens, compliant with Federal, State and Local taxes, and be able to pass a background investigation.

For the TAP to be most effective, members should have experience in some of the following areas: experience helping people resolve problems with a government organization; experience formulating and presenting proposals; knowledge of taxpayer concerns; experience representing the interests of your community, state or region;

[2] Georgia Central also stated that its projected annual revenues following the transaction will exceed $5 million, but it requested waiver of the 60-day advance labor notice requirement at 49 CFR 1150.42(e). That request is being addressed by the Board in a separate decision. The Board's decision on the request will affect the effective date of the exemption and hence the date on which the transaction could be consummated.

experience working with people from diverse backgrounds; and experience in helping people resolve disputes.

Interested applicants should visit the TAP Web site at *http://www.improveirs.org* to complete the on-line application or call the toll free number, 1–866–912–1227 to complete the initial phone screen and request that an application be mailed. The opening date for submission will be April 1, 2005, and the deadline for returning applications will be April 29, 2005. The most qualified candidates will complete a panel interview. Finalists will be ranked by experience and suitability. The Secretary of Treasury will review the recommended candidates and make final selections.

Questions regarding the selection of TAP members may be directed to Bernard Coston, Director, Taxpayer Advocacy Panel, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 7704, Washington, DC 20224, (202) 622–5007.

Dated: February 28, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 05–4144 Filed 3–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Procedures for Monitoring Bank Secrecy Act

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before April 4, 2005.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Mark D. Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503, or e-mail to *mmenchik@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov*, (202) 906–6467, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Procedures for Monitoring Bank Secrecy Act.

OMB Number: 1550–0041.

Form Number: N/A.

Regulation requirement: 12 CFR 563.177.

Description: This report enables OTS to determine whether a savings association has implemented a program reasonably designed to assure and monitor compliance with the currency recordkeeping and reporting requirements established by Federal Statute and the U.S. Department of Treasury regulations.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 891.

Estimated Burden Hours per Response: 28 hours.

Estimated Frequency of Response: Annually.

Estimated Total Burden: 24,948 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Mark D. Menchik, (202) 395–3176, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: February 25, 2005.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 05–4127 Filed 3–2–05; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to Three Rivers Holdings, LLC, 1826 W. Broadway Rd., Suite 43, Mesa, AZ, USA an exclusive license to practice U.S. Patent Application Serial No.10/316,087 filed December 11, 2002, entitled ''Oblique Angled Suspension Caster Fork for Wheelchairs''.

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to: Sal Sheredos, Acting Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development Attn: 12TT; 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 254–0255; Facsimile: (202) 254–0473; e-mail: *saleem@vard.org.*

FOR FURTHER INFORMATION CONTACT: Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license this invention as Three Rivers Holdings, LLC, submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Approved: February 24, 2005.

R. James Nicholson,

Secretary of Veterans Affairs.

[FR Doc. 05–4077 Filed 3–2–05; 8:45 am]

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Federal Register

Thursday,
March 3, 2005

Part II

The President

Proclamation 7871—American Red Cross Month, 2005

Federal Register
Vol. 70, No. 41
Thursday, March 3, 2005

Presidential Documents

Title 3—

The President

Proclamation 7871 of February 28, 2005

American Red Cross Month, 2005

By the President of the United States of America

A Proclamation

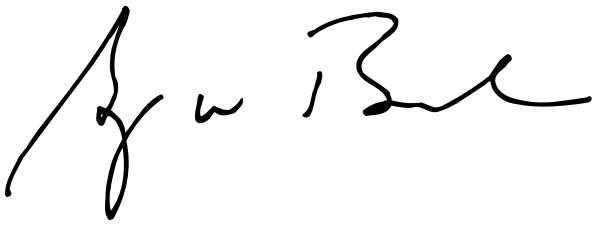
Americans have a long history of rising to meet humanitarian challenges, and the American Red Cross is a leader in these efforts. Since 1881, the American Red Cross has met disaster with compassion and courage. During American Red Cross Month, we honor this dedication and reaffirm the importance of volunteering time and contributing resources to make our communities and the world better.

From offering blood drives and lifesaving courses to providing disaster relief services at home and abroad, American Red Cross employees and volunteers work countless hours to care for those in need and serve a cause greater than self. As a result of the recent tsunami in the Indian Ocean, over 150,000 lives were lost and many more were left homeless and without food and water. The American Red Cross swiftly dispatched relief workers to assist those affected, and to distribute supplies, counsel survivors, and help people return home.

Here at home, the American Red Cross helps support our troops by transmitting emergency messages to members of the Armed Forces and their families. In this past year, the Red Cross has also contributed significantly to relief efforts for hurricanes in Florida, flooding in Western Pennsylvania, wildfires in the Western United States, and mudslides in California. These good works provide hope and healing to those dealing with profound loss and demonstrate the character of the American Red Cross.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2005 as American Red Cross Month. I commend the efforts of American Red Cross employees and volunteers, and I encourage all Americans to donate their time, energy, and talents to support this organization's humanitarian mission.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



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