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Contents

Federal Register

Vol. 65, No. 185

Friday, September 22, 2000

Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

12 CFR
747 57277
Proposed Rules:
32 57292
14 CFR
39 (2 documents) 57280, 57282
71 57285
Proposed Rules:
39 (2 documents) 57296, 57298
71 57300
17 CFR
200 57438
275 57438
279 57438
21 CFR
Proposed Rules:
868 57301
896 57303
34 CFR
3 57286
19 57286
40 CFR
271 57287
Proposed Rules:
271 57307
47 CFR
51 57291
50 CFR
Proposed Rules:
660 57308

Rules and Regulations

Federal Register
Vol. 65, No. 185
Friday, September 22, 2000

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 747

Civil Monetary Penalty Inflation Adjustment

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: Congress, in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, required all federal agencies with the authority to impose civil monetary penalties (CMPs) to regularly evaluate those CMPs to ensure that they continue to maintain their deterrent value. As a result of these acts, the head of each agency was required, by October 23, 1996, and at least once every four years thereafter, to adjust its CMPs for inflation. In 1996, the National Credit Union Administration (NCUA) issued a final rule to implement the required adjustments to certain CMPs authorized by the Federal Credit Union Act. Since that time, NCUA has discovered several more CMPs that should also be adjusted for inflation. In order to comply with Congress' mandate to adjust CMPs for inflation at least every four years, NCUA is issuing this final rule to implement the required adjustments to those CMPs.

EFFECTIVE DATE: October 23, 2000.

FOR FURTHER INFORMATION CONTACT: Allan Meltzer, Associate General Counsel, or Jon Canerday, Trial Attorney, Office of General Counsel, NCUA, 1775 Duke Street, Alexandria, Virginia 22314, or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background:

The Debt Collection Improvement Act of 1996 [1] (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 [2] (FCPIA Act) to require every Federal agency to enact regulations that adjust each civil monetary penalty (CMP) [3] provided by law under its jurisdiction by the rate of inflation pursuant to the inflation adjustment formula in section 5(b) of the FCPIA Act. Each Federal agency was required to issue these implementing regulations by October 23, 1996, and at least once every 4 years thereafter. Section 6 of the amended FCPIA Act specifies that inflation-adjusted CMPs will only apply to violations that occur after the effective date of the adjustment. The inflation adjustment is based on the percentage increase in the Consumer Price Index (CPI).[4] Specifically, section 5(b) of the FCPIA Act defines "the term 'cost-of-living adjustment' [to] mean the percentage (if any) for each civil monetary penalty by which—(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law." Furthermore, each CMP that has been adjusted for inflation must be rounded to a number prescribed by section 5(a) of the FCPIA Act.[5]

[1] Pub. L. 104–134, § 31001(s), 110 Stat. 1321–373, (Apr. 26, 1996). The provision is codified at 28 U.S.C. 2461 note.

[2] Pub. L. 101–410, 104 Stat. 890, (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

[3] Section 3(2) of the amended FCPIA Act defines a CMP as any penalty, fine, or other sanction that: (1) either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

[4] The CPI is published by the Department of Labor, Bureau of Statistics, and is available at its website: www.bls.gov/top20.btml.

[5] NCUA recognizes that the rounding provision of the FCPIA Act is capable of differing interpretations. As an example, tbe provision states, in part, that an increase "shall be rounded to the nearest * * * multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000." Section 5(a)(3), FCPIA Act. NCUA understands that some agencies bave chosen to determine wbich rounding rule to follow based upon the amount of the *increase,* rather than the amount of the *penalty.* In other words, the forgoing rounding provision would only be applied if the amount of the adjustment was more than $1,000 but less than $10,000. NCUA has chosen to follow the language in the statute and therefore has adopted an interpretation that selects tbe appropriate rounding rule based upon tbe amount of the *penalty.*

[6] The FCPIA Act limited the first adjustment of a CMP to a maximum of 10%.

[7] "Any increase determined under this subsection shall be rounded to the nearest— * * * (3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000." Section 5(a), FCPIA Act. Therefore, $330 is rounded to the nearest multiple of $1,000 or to $0.

CMPs Previously Adjusted

Calculation of the Adjustment

With respect to the CMPs authorized by 12 U.S.C. 1786(k)(2), the last adjustment for inflation occurred in 1996. Therefore, the current adjustment will be the percentage by which the CPI for the month of June 1999 exceeds the CPI for the month of June 1996. According to the Bureau of Labor Statistics, the CPI for the month of June 1999 was 166.2 and the CPI for the month of June 1996 was 156.7. When 166.2 is divided by 156.7, the result is 1.06. Thus, the CMPs authorized by 12 U.S.C. 1786(k)(2) should be multiplied by a factor of 1.06 to arrive at the new adjusted amounts (before required rounding).

Section 206(k)(2) of the Federal Credit Union Act, 12 U.S.C. 1786(k)(2). authorizes NCUA to impose three levels or tiers of CMPs upon insured credit unions or institution-affiliated parties.

First Tier CMPs

First tier CMPs, 12 U.S.C. 1786(k)(2)(A), may be imposed for the violation of any law or regulation, the violation of certain final orders or temporary orders, the violation of conditions imposed in writing by the NCUA Board, or the violation of any written agreement between the credit union and NCUA. The statute provides that first tier CMPs shall not be more than $5,000 for each day the violation continues. After the required adjustment for inflation in 1996, the maximum penalty was increased to $5,500 for each day.[6] Multiplying the current penalty of $5,500 by the factor of 1.06 results in $5,830, an increase of $330. When that number is rounded as required by the FCPIA Act,[7] the inflation-adjusted maximum for a first tier CMP remains $5,500.

Second Tier CMPs

Second tier CMPs, 12 U.S.C. 1786(k)(2)(B), are authorized for violations described in first tier CMPs, the reckless engaging in an unsafe or unsound practice in conducting the affairs of a credit union, or the breach of any fiduciary duty, when the violation, practice or breach is part of a pattern of misconduct, or causes or is likely to cause more than a minimal loss to the credit union, or results in pecuniary gain or other benefit. The statute provides a maximum second tier CMP of $25,000 for each day the violation, practice or breach continues. After the required 1996 adjustment for inflation, the maximum penalty was increased to $27,500 per day. Multiplying the current penalty of $27,500 by the factor of 1.06 results in $29,150, an increase of $1,650. When that number is rounded as required by the FCPIA Act,[8] the inflation-adjusted maximum for a second tier CMP remains $27,500.

Third Tier CMPs

Third tier CMPs, 12 U.S.C. 1786(k)(2)(C), may be imposed for any of the acts described in second tier CMPs that cause a substantial loss to the credit union or a substantial pecuniary gain or other benefit. The amount of third tier CMPs depends upon the status of the respondent required to pay the CMP, 12 U.S.C. 1786(k)(2)(D). For a person other than an insured credit union, under the statute the current maximum third tier CMP is $1,000,000 for each day the violation, practice or breach continues. For an insured credit union, the statute provides a current daily maximum CMP of the lesser of $1,000,000 or 1 percent of the total assets of the credit union. In 1996, the maximum CMP for a person other than an insured credit union was increased for inflation to $1,100,000 per day. At the same time, the maximum CMP for an insured credit union was increased to the lesser of $1,100,000 or 1 percent of the total assets of the credit union. Multiplying the current penalty of $1,100,000 by the factor of 1.06 results in $1,166,000, an increase of $66,000. When that number is rounded as required by the FCPIA Act,[9] the new inflation-adjusted third tier CMP becomes $1,175,000.

CMPs Not Previously Adjusted For Inflation

NCUA has determined that several additional provisions authorize penalties that meet the definition of CMPs. These provisions were not previously adjusted for inflation in 1996.

12 U.S.C. 1782(a)(3)

NCUA is authorized to require credit unions to provide reports of condition. The failure to submit a required report or the submission of a false or misleading report subjects a credit union to three levels of CMPs, depending upon the reasons for noncompliance. For an inadvertent failure to submit a report or the inadvertent submission of a false or misleading report, the credit union is subject to a penalty of not more than $2,000 for each day the failure continues or such false or misleading information is not corrected. For a non-inadvertent failure to submit a report or for the non-inadvertent submission of a false or misleading report, the credit union is subject to a penalty of not more than $20,000 for each day the failure continues or such false or misleading information is not corrected. Lastly, for a failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard, the credit union is subject to a penalty of not more than $1,000,000 or 1 percent of the total assets of the credit union, whichever is less, for each day the failure continues or such false or misleading information is not corrected.

Calculation of the Adjustment

The CMPs authorized by 12 U.S.C. 1782(a)(3) were created by Congress in 1989. Therefore, the current adjustment will be the percentage by which the CPI for the month of June 1999 exceeds the CPI for the month of June 1989. According to the Bureau of Labor Statistics, the CPI for the month of June 1999 was 166.2 and the CPI for the month of June 1989 was 124.1. When 166.2 is divided by 124.1, the result is 1.34. Thus, the CMPs authorized by 12 U.S.C. 1782(a)(3) should be multiplied by a factor of 1.34 to arrive at the new adjusted amounts (before required rounding). However, another provision of the FCPIA Act limits the first adjustment of a CMP to an amount not to exceed 10 percent of the original penalty.[10] The amount of increase to these CMPs in the final regulation would have been more if this limit did not exist.

The maximum CMP authorized by 12 U.S.C. 1782(a)(3) for an inadvertent failure to submit a report or the inadvertent submission of a false or misleading report is currently $2,000 for each day the failure continues or such false or misleading information is not corrected. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $200, to $2,200 per day.

The maximum CMP authorized by 12 U.S.C. 1782(a)(3) for a non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report is currently $20,000 for each day the failure continues or such false or misleading information is not corrected. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $2,000, to $22,000 per day.

The maximum CMP authorized by 12 U.S.C. 1782(a)(3) for a failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard is currently $1,000,000 or 1 percent of the total assets of the credit union, whichever is less, for each day the failure continues or such false or misleading information is not corrected. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $100,000, to $1,100,000 or 1 percent of the total assets of the credit union, whichever is less, per day.

12 U.S.C. 1782(d)(2)

In a provision similar to the authority discussed above, NCUA is authorized to require each credit union to provide periodic certified statements of the amount of insured shares in the credit union, as well as to pay required deposits into the National Credit Union Share Insurance Fund (NCUSIF). The failure to submit a required certified statement or the submission of a false or misleading statement subjects a credit union to three tiers of CMPs, depending upon the reasons for noncompliance.

Calculation of the Adjustment

The CMPs authorized by 12 U.S.C. 1782(d)(2) were created by Congress in 1991. Therefore, the current adjustment will be the percentage by which the CPI for the month of June 1999 exceeds the CPI for the month of June 1991. According to the Bureau of Labor

[8] "Any increase determined under this subsection shall be rounded to the nearest— * * * (4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000." Section 5(a), FCPIA Act. Therefore, $1,650 is rounded to the nearest multiple of $5,000 or to $0.

[9] "Any increase determined under this subsection shall be rounded to the nearest— * * * (6) multiple of $25,000 in the case of penalties greater than $200,000." Section 5(a), FCPIA Act. Therefore, $66,000 is rounded to the nearest multiple of $25,000 or to $75,000.

[10] "The first adjustment of a civil monetary penalty made pursuant to [the FCPIA Act] may not exceed 10 percent of such penalty." Section 6, FCPIA Act (originally designated as Section 7).

Statistics, the CPI for the month of June 1999 was 166.2 and the CPI for the month of June 1991 was 136. When 166.2 is divided by 136, the result is 1.22. Thus, the CMPs authorized by 12 U.S.C. 1782(d)(2) should be multiplied by a factor of 1.22 to arrive at the new adjusted amounts (before required rounding). However, as noted previously, another provision of the FCPIA Act limits the first adjustment of a CMP to an amount not to exceed 10 percent of the original penalty. The amount of increase to these CMPs in the final regulation would have been more if this limit did not exist.

First Tier CMPs

The maximum CMP authorized by 12 U.S.C. 1782(d)(2)(A) for an inadvertent failure to timely submit a certified statement or an inadvertent submission of a false or misleading certified statement, is currently $2,000 for each day the failure continues or such false or misleading information is not corrected. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $200, to $2,200 per day.

Second Tier CMPs

The maximum CMP authorized by 12 U.S.C. 1782(d)(2)(B) for a non-inadvertent failure to timely submit a certified statement, or a non-inadvertent submission of a false or misleading certified statement, or the failure or refusal to pay any required deposit or premium for insurance is currently $20,000 for each day the failure continues, such false or misleading information is not corrected, or the deposit or premium is not paid. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $2,000, to $22,000 per day.

Third Tier CMPs

The maximum CMP authorized by 12 U.S.C. 1782(d)(2)(C) for a failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard is currently $1,000,000 or 1 percent of the total assets of the credit union, whichever is less, for each day the failure continues or such false or misleading information is not corrected. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $100,000, to $1,100,000 or 1 percent of the total assets of the credit union, whichever is less, per day.

12 U.S.C. 1785(e)(3)

Pursuant to 12 U.S.C. 1785(e)(1), NCUA is authorized to promulgate regulations to provide minimum standards with which each insured credit union must comply with respect to security devices and procedures to discourage robberies, burglaries and larcenies and to assist in the identification and apprehension of persons who commit such acts. A credit union that violates such a regulation is subject to a CMP of up to $100 for each day the violation continues. 12 U.S.C. 1785(e)(3).

Calculation of the Adjustment

The CMP authorized by 12 U.S.C. 1785(e)(3), originally passed by Congress in 1970, was not adjusted for inflation in 1996. Therefore, the current adjustment will be the percentage by which the CPI for the month of June 1999 exceeds the CPI for the month of June 1970. According to the Bureau of Labor Statistics, the CPI for the month of June 1999 was 166.2 and the CPI for the month of June 1970 was 38.8. When 166.2 is divided by 38.8, the result is 4.28. Thus, the CMP authorized by 12 U.S.C. 1785(e)(3) should be multiplied by a factor of 4.28 to arrive at the new adjusted amounts (before required rounding). However, as discussed previously, the FCPIA Act limits the first adjustment of a CMP to an amount not to exceed 10 percent of the original penalty. The amount of increase to this CMP in the final regulation would have been more if this limit did not exist.

The maximum CMP authorized by 12 U.S.C. 1785(e)(3) for non-compliance with NCUA security regulations is currently $100 for each day the violation continues. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $10, to $110 per day.

42 U.S.C. 4012a(f)

Pursuant to 42 U.S.C. 4012a(f), NCUA is authorized to impose CMPs against a credit union that is found to have a pattern or practice of committing certain specified actions in violation of the National Flood Insurance Program. A credit union that engages in such violations is subject to a CMP of up to $350 for each violation. The total amount of penalties assessed against any credit union during any calendar year may not exceed $100,000. 42 U.S.C. 4012a(f)(5).

Calculation of the Adjustment

The CMP authorized by 42 U.S.C. 4012a(f), originally passed by Congress in 1994, was not adjusted for inflation in 1996. Therefore, the current adjustment will be the percentage by which the CPI for the month of June 1999 exceeds the CPI for the month of June 1994. According to the Bureau of Labor Statistics, the CPI for the month of June 1999 was 166.2 and the CPI for the month of June 1994 was 148.0. When 166.2 is divided by 148.0, the result is 1.12. Thus, the CMP authorized by 42 U.S.C. 4012a(f) should be multiplied by a factor of 1.12 to arrive at the new adjusted amounts (before required rounding). However, as discussed previously, the FCPIA Act limits the first adjustment of a CMP to an amount not to exceed 10 percent of the original penalty. The amount of increase to this CMP in the final regulation would have been more if this limit did not exist.

The maximum CMP authorized by 42 U.S.C. 4012a(f) for certain violations of the National Flood Insurance Program is currently $350 for each violation, up to a maximum of $100,000 per calendar year. After the required adjustment for inflation, the maximum penalty is increased by 10%, or $35, to $385 per violation. The annual maximum penalty is also increased by 10%, or $10,000, to $110,000 per calendar year.

The NCUA Board now adopts this final rule to adjust the forgoing CMPs for the rate of inflation, as required by the FCPIA Act. The FCPIA Act provides federal agencies with no discretion in the adjustment of CMPs for inflation, and it also requires such adjustments for inflation to occur at least every four years. Further, the regulation is ministerial and technical and, for these reasons, the NCUA Board finds good cause to determine that public notice and comment for this new regulation is unnecessary, impractical and contrary to the public interest, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(3)(B).

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed regulation will not have a significant economic impact on a substantial number of small credit unions. Small credit unions are defined by NCUA, pursuant to its authority to define "small organizations," as those credit unions with assets of $1 million or less. 5 U.S.C. 601(4), (6); NCUA IRPS 81–4, 46 FR 29248 (1981); NCUA IRPS 87–2, 12 CFR 791.8(a). Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the rule. Consequently, no information has been submitted to the

Office of Management and Budget for review.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the Executive Order. This final rule will apply to all federally-insured credit unions, but it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined the final rule does not constitute a policy that has federalism implications for purposes of the Executive Order.

Assessment of Federal Regulations and Policies on Families

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

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–21) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and has determined that for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 it is not a major rule.

List of Subjects in 12 CFR Part 747

Credit unions, Civil monetary penalties.

By the National Credit Union Administration Board on September 6, 2000.

Becky Baker,

Secretary to the Board.

Accordingly, the NCUA amends 12 CFR part 747 as follows:

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

1. The authority citation for part 747 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787; 42 U.S.C. 4012a; Pub. L. 101–410; Pub.L. 104–134.

2. Part 747, Subpart K is revised to read as follows:

Subpart K—Inflation Adjustment of Civil Monetary Penalties

§ 747.1001 Adjustment of civil money penalties by the rate of inflation.

(a) NCUA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note)) to adjust the maximum amount of each civil money penalty within its jurisdiction by the rate of inflation. The following chart displays those adjustments, as calculated pursuant to the statute:

U.S. Code citation	CMP description	New maximum amount
(1) 12 U.S.C. 1782(a)(3)	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	$2,200
(2) 12 U.S.C. 1782(a)(3)	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	$22,000
(3) 12 U.S.C. 1782(a)(3)	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	$1,100,000 or 1 percent of the total assets of the credit union, whichever is less
(4) 12 U.S.C. 1782(d)(2)(A)	First tier	$2,200
(5) 12 U.S.C. 1782(d)(2)(B)	Second tier	$22,000
(6) 12 U.S.C. 1782(d)(2)(C)	Third tier	$1,100,000 or 1 percent of the total assets of the credit union, whichever is less
(7) 12 U.S.C. 1785(e)(3)	Non-compliance with NCUA security regulations	$110
(8) 12 U.S.C. 1786(k)(2)(A)	First tier	$5,500
(9) 12 U.S.C. 1786(k)(2)(B)	Second tier	$27,500
(10) 12 U.S.C. 1786(k)(2)(C)	Third tier	For a person other than an insured credit union: $1,175,000; For an insured credit union: $1,175,000 or 1 percent of the total assets of the credit union, whichever is less
(11) 42 U.S.C. 4012a(f)	Per violation	$385
	Per calendar year	$110,000

(b) The adjustments displayed in paragraph (a) of this section apply to acts occurring beginning on October 23, 2000.

[FR Doc. 00–24431 Filed 9–21–00; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–41–AD; Amendment 39–11898; AD 2000–17–52]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2000–17–52, which was sent previously to all known U.S. owners and operators of Agusta S.p.A. (Agusta) Model A109E helicopters by individual letters. This AD requires, before further flight, visually inspecting any main rotor rotating scissors assembly for correct installation and replacing any unairworthy part with an airworthy

part. If the rotating scissors attachment bolt (attachment bolt) is not replaced with a new part at the initial inspection, this AD also requires removing the rotating scissors assembly to inspect the attachment bolt for a crack and replacing any cracked attachment bolt with a new attachment bolt before further flight. This amendment is prompted by two incidents of flight control malfunctions. The actions specified by this AD are intended to prevent failure of the rotating scissors assembly and subsequent loss of control of the helicopter.

DATES: Effective October 10, 2000, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000–17–52, issued on August 23, 2000, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 10, 2000.

Comments for inclusion in the Rules Docket must be received on or before November 21, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–41–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*.

The applicable service information may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On August 23, 2000 the FAA issued Emergency AD 2000–17–52 for Agusta Model A109E helicopters, which requires before further flight, visually inspecting any rotating scissors assembly for correct installation and replacing any unairworthy part with an airworthy part. If the attachment bolt is not replaced with a new part at the initial inspection, the AD also requires removing the rotating scissors assembly to inspect the attachment bolt for a crack and replacing any cracked attachment bolt with a new attachment bolt before further flight. That action was prompted by two incidents of flight control malfunctions. Investigations of each incident revealed incorrect installation of the main rotor rotating scissors assembly resulted in fatigue failure of the attachment bolt. This condition, if not corrected, could result in failure of the rotating scissors assembly and subsequent loss of control of the helicopter.

The FAA has reviewed Agusta Alert Bollettino Tecnico No. 109EP–12, dated July 24, 2000 (ABT), which describes procedures for visually inspecting, before further flight, the rotating scissors assembly, part number (P/N) 109–0134–09, for correct installation. This ABT also specifies, within the next 50 hours time-in-service (TIS), removing the rotating scissors assembly to inspect the attachment bolt for a crack or damage unless the attachment bolt was replaced with a new attachment bolt as a result of the initial inspection. The ABT specifies replacing any unairworthy part with an airworthy part.

Since the unsafe condition described is likely to exist or develop on other Agusta Model A109E helicopters of the same type design, the FAA issued Emergency AD 2000–17–52 to prevent failure of the rotating scissors assembly and subsequent loss of control of the helicopter. The AD requires, before further flight, visually inspecting any rotating scissors assembly, P/N 109–0134–09, for correct installation and replacing any unairworthy part with an airworthy part. If the attachment bolt is not replaced with a new attachment bolt at the initial inspection, this AD also requires, within 50 hours TIS, removing the rotating scissors assembly to inspect the attachment bolt for a crack and replacing any cracked attachment bolt with a new attachment bolt before further flight. A "new" attachment bold is one with zero hours TIS. The actions must be accomplished in accordance with the ABT described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, the actions discussed previously are required before further flight, and this AD must be issued immediately. However, the FAA has made one nonsubstantive change to a word that was incorrectly spelled in the emergency AD. The word "Tecnico" is misspelled in the Emergency AD and that correction is made in this AD. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on August 23, 2000 to all known U.S. owners and operators of Agusta Model A109E helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 20 helicopters of U.S. registry will be affected by this AD. It will take approximately 1.5 work hours per helicopter to inspect the rotating scissors assembly and 1.5 work hours to inspect the attachment bolt for a crack. If necessary, it will take approximately 15 work hours per helicopter to replace any unairworthy part on the rotating scissors assembly or the attachment bolt. The average labor rate is $60 per work hour. The manufacturer has stated, in writing, that replacement parts will be provided at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $21,600, assuming 2 inspections and 1 replacement per helicopter.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000–SW–41–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2000–17–52 Agusta S.p.A.: Amendment 39–11898. Docket No. 2000–SW–41–AD.

Applicability: Model A109E helicopters, up to and including serial number (S/N) 11082, with main rotor rotating scissors assembly, part number (P/N) 109–0134–09, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the rotating scissors assembly and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, visually inspect the rotating scissors assembly for correct installation in accordance with Part I of Agusta Bollettino Tecnico No. 109EP–12, dated July 24, 2000 (ABT). Replace any unairworthy part with an airworthy part before further flight.

(b) If a new rotating scissors attachment bolt (attachment bolt), P/N NAS6606D28 or NAS1306–28D, was not installed during compliance with paragraph (a) of this AD, within the next 50 hours time-in-service (TIS), in accordance with Part II of the ABT, visually inspect the attachment bolt, P/N NAS6606D28 or NAS1306–28D, for a crack. Replace any cracked attachment bolt with a new attachment bolt before further flight.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA, Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements paragraph (b) of this AD can be accomplished.

(e) The inspections shall be done in accordance with Parts I and II of Agusta Bollettino Tecnico No. 109EP–12, dated July 24, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 10, 2000, to all persons except those persons to whom it was made immediately effective by Emergency AD 2000–17–52, issued August 23, 2000, which contained the requirements of this amendment.

Note 3: The subject of this AD is addressed in RegistroAeronautico Italiano (Italy) AD 2000–371, dated July 24, 2000.

Issued in Fort Worth, Texas, on September 13, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–24109 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–259–AD; Amendment 39–11909; AD 2000–19–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 777 series airplanes. The existing AD requires repetitive detailed visual inspections to detect cracking of the coveskin on the outboard leading edge slats; a slat adjustment check; and corrective actions, if necessary. This amendment reduces the repetitive inspection interval, but also provides for an optional modification that would significantly increase the repetitive inspection interval. This amendment also revises the applicability of the existing AD to remove certain airplanes. This amendment is prompted by findings of increased vibration of the coveskins due to air leaking and resonating within the cavity between the fixed leading edge and the coveskin; the vibration can result in fatigue cracking and high fatigue loads. The

actions specified in this AD are intended to detect and correct cracking and/or missing pieces of the coveskin on the outboard leading edge slats on the wings, which could result in skin separation or structural damage to the leading edge slats and consequent reduced controllability of the airplane.

DATES: Effective October 10, 2000.

The incorporation by reference of Boeing Alert Service Bulletin 777–57A0034, Revision 3, dated May 4, 2000, and Boeing Alert Service Bulletin 777–57A0034, Revision 4, dated July 20, 2000, as listed in the regulations, is approved by the Director of the Federal Register as of October 10, 2000.

The incorporation by reference of Boeing Alert Service Bulletin 777–57A0034, Revision 2, dated November 19, 1998, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 8, 1999 (64 FR 8230, February 19, 1999).

Comments for inclusion in the Rules Docket must be received on or before November 21, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–259–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2000–NM–259–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On February 9, 1999, the FAA issued AD 99–04–19, amendment 39–11044 (64 FR 8230, February 19, 1999), applicable to all Boeing Model 777 series airplanes, to require repetitive detailed visual inspections to detect cracking of the coveskin on the outboard leading edge slats; a slat adjustment check; and corrective actions, if necessary. That action was prompted by reports of fatigue cracking and/or missing pieces of the coveskin on the outboard leading edge slats. The actions required by that AD are intended to detect and correct such discrepancies, which could result in skin separation or structural damage to the leading edge slats and consequent reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, Boeing has conducted flight tests with instrumented slats. The testing revealed that the spanwise bulb seals of the slats can allow air to leak and resonate in the cavity between the fixed leading edge and the coveskin, which can cause the coveskin to vibrate. Testing also showed that this vibration resulted in fatigue loads much higher than expected. The vibration of the coveskin can also result in fatigue cracking of the slats. Undetected cracking of the slats could eventually lead to damage or skin separation on the slat trailing edge wedge of an outboard slat, and consequent loss of pieces of the trailing edge wedge. In addition, the maneuver margins and the speed margins to airplane stall will be decreased if a trailing edge wedge is lost or sufficiently damaged. A lost or sufficiently damaged wedge can cause the airplane to roll, with no warning, before the stall system operates.

Testing further revealed that the installation of foam inserts in the spanwise bulb seal resulted in increased compression and significantly reduced vibration of the coveskin.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–57A0034, Revision 3, dated May 4, 2000; and Revision 4, dated July 20, 2000. Revision 2 of this alert service bulletin was cited in AD 99–04–19 as the appropriate source of service information for the coveskin inspection and certain corrective actions.

Revision 3 of the alert service bulletin was issued to, among other things, recommend that an internal inspection and slat adjustment check be done only if a cracked slat is found. In addition, Revision 3 describes procedures for installing seal inserts into the spanwise bulb seals for the slats; if accomplished, the installation would significantly increase the repetitive inspection interval. Certain airplanes have received the seal inserts in production.

Revision 4 of the alert service bulletin was issued to recommend a compliance time(s) in terms of flight hours as well as flight cycles because the subject vibration occurs mainly during cruise, which is related to flight hours. Revision 4 also clarifies certain instructions for the slat adjustment check and internal inspection.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 99–04–19 to continue to require repetitive detailed visual inspections to detect cracking of the coveskin on the outboard leading edge slats; a slat adjustment check; and corrective actions, if necessary. This AD reduces the repetitive inspection interval, but also provides for an optional modification that would significantly increase the repetitive inspection interval. In addition, this AD removes certain airplanes from the applicability. The actions are required to be accomplished in accordance with the alert service bulletin described previously, except as discussed below.

Differences Between AD and Relevant Service Information

The alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions. However, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Interim Action

This is considered to be interim action. The FAA is currently considering further rulemaking action to revise the applicability of this AD to include additional airplanes; however, the planned compliance time for the additional airplanes is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–259–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11044 (64 FR 8230, February 19, 1999), and by adding a new airworthiness directive (AD), amendment 39–11909, to read as follows:

2000–19–08 Boeing: Amendment 39–11909. Docket 2000–NM–259–AD. Supersedes AD 99–04–19, Amendment 39–11044.

Applicability: Model 777 series airplanes, certificated in any category; having line numbers 1 through 265 inclusive.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking and/or missing pieces of the coveskin on the outboard leading edge slats on the wings, which could result in skin separation or structural damage to the leading edge slats and consequent reduced controllability of the airplane, accomplish the following:

Inspection

(a) At the applicable time specified by paragraph (a)(1) or (a)(2) of this AD: Perform detailed visual inspections to detect cracking of the coveskin on the outboard leading edge slats of the left and right wings at slat numbers 1 through 6 inclusive, and 9 through 14 inclusive; in accordance with Boeing Alert Service Bulletin 777–57A0034, Revision 2, dated November 19, 1998; Revision 3, dated May 4, 2000; or Revision 4, dated July 20, 2000. Repeat the inspections thereafter at intervals not to exceed 100 flight cycles or 400 flight hours, whichever occurs first.

(1) For airplanes on which the repetitive inspections required by paragraph (a) of AD 99–04–19 HAVE been initiated prior to the effective date of this AD: Inspect at the earlier of the times specified by paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Within 350 flight cycles after the most recent inspection.

(ii) At the later of the times specified by paragraphs (a)(1)(ii)(A) and (a)(1)(ii)(B) of this AD.

(A) Within 100 flight cycles or 400 flight hours, whichever occurs first, after the most recent inspection.

(B) Within 30 days after the effective date of this AD.

(2) For airplanes on which the repetitive inspections required by paragraph (a) of AD 99–04–19 have NOT been initiated prior to the effective date of this AD: Inspect at the earlier of the times specified by paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Prior to the accumulation of 500 total flight cycles.

(ii) Prior to the accumulation of 2,000 total flight hours, or within 30 days after the effective date of this AD, whichever occurs later.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Corrective Action

(b) If any cracking is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish all applicable corrective actions specified by and in accordance with Boeing Alert Service Bulletin 777–57A0034, Revision 2, dated November 19, 1998; Revision 3, dated April 4, 2000; or Revision 4, dated July 20, 2000. The corrective actions include stop drilling the crack and performing detailed visual inspections, slat adjustment checks, and

replacement of the slats. Where the alert service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. After the effective date of this AD, only Revision 4 of the alert service bulletin may be used.

Optional Modification

(c) Accomplishment of the actions specified by paragraphs (c)(1) and (c)(2) of this AD extends the repetitive inspection interval specified by paragraph (a) of this AD to 8,000 flight cycles.

(1) Install a seal insert into the spanwise bulb seals for the slats in accordance with Part 4 of Boeing Alert Service Bulletin 777–57A0034, Revision 3, dated May 4, 2000; or Revision 4, dated July 20, 2000.

(2) Within 750 days or 4,000 flight cycles, whichever occurs first, after installing the seal insert as specified by paragraph (c)(1) of this AD: Perform a detailed visual inspection of the interior structure of the coveskin at slat numbers 1 through 6 inclusive, and 9 through 14 inclusive, in accordance with Part 2 of the Accomplishment Instructions of the alert service bulletin.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 99–04–19, amendment 39–11044, are approved as alternative methods of compliance with paragraph (b) of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(f) Except as provided by paragraph (b) of this AD: The actions shall be done in accordance with Boeing Alert Service Bulletin 777–57A0034, Revision 2, dated November 19, 1998; Boeing Alert Service Bulletin 777–57A0034, Revision 3. dated May 4, 2000; and Boeing Alert Service Bulletin 777–57A0034, Revision 4, dated July 20, 2000; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 777–57A0034, Revision 3, dated May 4, 2000, and Boeing Alert Service Bulletin 777–57A0034, Revision 4, dated July 20, 2000, is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 777–57A0034, Revision 2, dated November 19, 1998, was approved previously by the Director of the Federal Register as of March 8, 1999 (64 FR 8230, February 19, 1999).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on October 10, 2000.

Issued in Renton, Washington, on September 14, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–24110 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–34]

Amendment of Class E4 Airspace; Melbourne, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E4 Airspace at Melbourne, FL, from continuous to part time, as the air traffic control towers at these locations are now part time. This action also changes the name of the airport from Melbourne Regional to Melbourne International Airport.

DATES: *Effective Date:* 0901 UTC, November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636. Atlanta, GA 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

The air traffic control tower at Melbourne, FL, no longer operates continuously. Therefore, the Class E4 airspace at Melbourne, FL, must be amended from continuous to part time. Further, the name of the airport has changed from Melbourne Regional to Melbourne International Airport. This rule will become effective on the date specified in the **DATES** section. Since this action eliminates the impact of controlled airspace on users of the airspace in the vicinity of the Melbourne International Airport during the hours the control towers are closed, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E4 airspace at Melbourne, FL. Class E4 airspace areas designated as an extension to a Class D airspace area are published in Paragraph 6004 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E4 airspace designation listed in this document will be published subsequently in the Order.

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. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, 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 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6004 Class E4 Airspace Areas Designated as an extension to a Class D Airspace Area.

* * * * *

ASO FL E4 Melbourne, FL [Revised]

Melbourne International Airport, FL
(Lat. 28°06'10"N, long. 80°38'45"W)
Melbourne VOR/DME
(Lat. 28°06'19"N, long. 80°38'07"W)
Satellite NDB
(Lat. 28°05'58"N, long. 80°42'03"W)

That airspace extending upward from the surface within 3 miles each side of the Melbourne VOR 100° radial, extending from the 4.3-mile radius of the Melbourne International Airport to 7 miles east of the VOR and within 2.5 miles north and 3 miles south of the 267° bearing from the Satellite NDB, extending from the 4.3-mile radius of the airport to 7 miles west of the NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on September 7, 2000.

Marvin A. Burnette,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–24145 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF EDUCATION

34 CFR Parts 3 and 19

Official Seal; National Security Information Procedures

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the use of the Official Seal of the Department of Education (ED) and removes the regulations governing National Security Information Procedures. These final regulations amend obsolete references in the provisions governing use of the Official Seal and remove unnecessary requirements relating to National Security Information Procedures. The Secretary takes this action to update existing regulations and to eliminate unnecessary regulations.

DATES: These regulations are effective September 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, Division of Regulatory Services, Office of the General Counsel, Department of Education, 400 Maryland Avenue, SW., Room 6E109, FB–6, Washington, DC 20202–2241. Telephone: (202) 401–8300. 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 to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: These regulations amend the regulations in 34 CFR part 3 (Official Seal) to reflect the current organizational structure of the Department.

The regulations in 34 CFR part 19 (National Security Information Procedures) are removed because the Department's security classification regulation does not affect members of the public. Therefore, as confirmed by the Information Security Oversight Office, National Archives and Records Administration, publication of these regulations is unnecessary.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) we generally offer interested parties the opportunity to comment on proposed regulations. However, these amendments incorporate changes in internal agency organization and management and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), proposed rulemaking does not apply to the extent these regulations concern agency organization and procedure, and under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed rulemaking is unnecessary.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. The regulations reflect internal departmental changes and would not affect any small entities under the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

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 either of the following sites:

http://ocfo.ed.gov/fedreg.htm
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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Numbers do not apply.)

List of Subjects

34 CFR Part 3

Seals and insignia.

34 CFR Part 19

Classified information.

Dated: September 19, 2000.

Lorraine Lewis,

Inspector General.

Willie Gilmore,

Director, Office of Management.

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by amending part 3 and removing part 19 as follows:

PART 3—OFFICIAL SEAL

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

Authority: 20 U.S.C. 3472 and 3485, unless otherwise noted.

§ 3.4 [Amended]

2. Section 3.4 is amended by:

A. Removing "Assistant Secretary for Management and Budget/Chief Financial Officer" and adding, in its place, "Director of Public Affairs" in paragraph (b).

B. Removing "Replicas" and adding, in its place, "In regard to internal use, replicas" in paragraph (c) introductory text.

C. Adding "electronic media" before "motion" in paragraph (c)(4).

D. Adding "internal" after "other"; and removing "of the Office of Administrative Resources Management;", and adding, in its place, "for Management." in paragraph (c)(7).

E. Removing "Reproductions" and adding, in its place, "In regard to internal use, reproductions" in paragraph (d) introductory text.

F. Adding "electronic media" before "motion" in paragraph (d)(7).

G. Adding "internal" after "other"; and removing "of the Office of Administrative Resources", and adding, in its place, "for" in paragraph (d)(8).

H. Adding "internally" after "only" in paragraph (e) introductory text.

I. Removing "Assistant Secretary for Human Resources and Administration" and adding, in its place, "the Director for Management" in paragraph (e)(3).

PART 19 [REMOVED]

3. Part 19 is removed.

[FR Doc. 00–24390 Filed 9–21–00; 8:45 am]
BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6874–6]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

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

DATES: This Final authorization will become effective on November 21, 2000 unless EPA receives adverse written comment by October 23, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar at the address listed below for contact. You can view and copy Tennessee's application from 8 a.m. to 4:30 p.m. at the following addresses: Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; and EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; (404) 562–8190.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

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

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

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

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

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

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

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

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

If we receive comments that oppose only the authorization of a particular

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

F. What Has Tennessee Previously Been Authorized for?

Tennessee initially received Final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 15, 1999, effective November 15, 1999 (64 FR 49998), January 30, 1998, effective March 31, 1998 (63 FR 45870), on May 23, 1996, effective July 22, 1996 (61 FR 25796), on August 24, 1995, effective October 23, 1995 (60 FR 43979), on May 8, 1995, effective July 7, 1995 (60 FR 22524), on June 1, 1992, effective July 31, 1992 (57 FR 23063), and on June 12, 1987, effective August 11, 1987 (52 FR 22443).

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

On January 27, 2000, Tennessee submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Tennessee's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Tennessee Final authorization for the following program changes:

Description of federal requirement	Federal Register date and page	Analogous state authority [1]
153—Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D.	07/01/96 61 FR 34252	Tennessee Code Annotated (TCA) 68–212–104(7), 68–212–107(a) & (d)(3); Tennessee Revised Code (TRC) 1200–1–11–.02(1)(e)6(iii) introl., .02(1)(e)6(iii)(I)–(VI), .02(1)(e)6(iii)(VI)I & II, .02(1)(e)6(iii)(VII), .02(1)(e)7(iii) introl, .02(1)(e)7(iii)(I)–(VI), .02(1)(e)7(iii)(VI) & II, .02(1)(e)7(iii)(VII).
154—Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers.	12/06/94, 59 FR 62896; 05/19/95, 60 FR 26828; 09/29/95, 60 FR 50426; 11/13/95, 60 FR 56952; 02/09/96, 61 FR 4903; 06/05/96, 61 FR 28508; 11/25/96, 61 FR 59932	Tennessee Code Annotated (TCA) 68–212–104(6) & (7), 68–212–106(a)(1), 68–212–107(a), (d)(3), (4) & (9), 68–212–108(a)(1); Tennessee Revised Code (TRC) 1200–1–11–.01(2)(b)1–2, .02(1)(f)3(i), .03(4)(e)2(i)(I)–(II), .03(4)(e)6(ii), .06(2)(d)2(vi)&(viii), .06(2)(d)2(viii)(I)–(II), .06(2)(f)2(iv), .06(5)(d)2(iii) & (vi), .06(5)(h)3, .06(9)(j), .06(10)(k), .06(11)(m), .06(27)(b), .06(30)(a)2, .06(30)(a)2(i)–(iii), .06(30)(c) (Note), .06(30)(d)1(ii), .06(30)(d)6(ii)(VI)II, .06(30)(d)11, .06(30)(d)11(i)–(ii), .06(30)(d)12, .06(30)(d)12(i), .06(30)(d)12(i)(I)–(II), .06(30)(d)12(i)(II)I–II, .06(30)(d)12(i)(III)–(IV), .06(30)(d)12(ii), .06(30)(d)12(ii)(I)–(IV), .06(30)(d)12(iii), .06(30)(d)12(iii)(II)–(IV), .06(30)(d)13 & 14, .06(30)(d)14(i), .06(30)(d)14(i)(I)–(III), .06(30)(d)14(ii), .06(3)(d)14(ii)(I)–(II), .06(30)(d)14(iii), .06(30)(d)14(iii)(I)–(II), .06(30)(d)15, .06(30)(d)15(i)–(ii), .06(30)(e)2, .06(30)(f)3(ix)–(x),.06(30)(f)3(x)(I)–(V), .06(30)(f)3(x)(V)I–II, .06(30)(f)4, .06(31)(a)2, .06(31)(a)2(i)–(iii), .06(31)(a)6, .06(31)(a)6 Note:, .06(31)(f)1–2, .06(31)(f)2(i)–(iii), .06(31)(f)3, .06(31)(i)5, .06(31)(o)7(vi), .06(32)(a)1–2, .06(32)(a)2(i)–(viii), .06(32)(a)3–4, .06(32)(a)4(i)–(iii), .06(32)(b), .06(32)(c)1–3, .06(32)(c)3(i)–(ii), .06(32)(c)3(ii)(I)–(IV), .06(32)(c)3(ii)(IV)I, .06(32)(c)3(ii)(IV)(iv)(B), .06(32)(c)3(i)(V), .06(32)(c)3(ii)(V)I–III, .06(32)(c)3(ii)(VI)–(VII), .06(32)(c)3(ii)(VII)I–II, .06(32)(c)3(ii)(VIII), .06(32)(c)3(ii)(VIII)I–II, .06(32)(c)3(IX), .06(32)(c)3(IX)I–II, .06(32)(c)3(iii)–(iv), .06(32)(c)3(iv)(I)–(II), .06(32)(c)3(v), .06(32)(c)(v)(I)–(III), .06(32)(c)4, .06(32)(c)4(i)–(ii), .06(32)(c)4(ii)(I)–(II), .06(32)(c)4(iii)–(v), .06(32)(c)4(v)(I)–(III), .06(32)(d)1, .06(32)(d)1(i)–(ii), .06(32)(d)2, .06(32)(d)2(i)–(ii), .06(32)(d)3, .06(32)(d)3(i)–(il), .06(32)(d)4, .06(32)(e)1–2, .06(32)(e)2(i), .06(32)(e)2(i)(I), .06(32)(e)2(i)(I)I–III, .06(32)(e)2(i)(II)–(III), .06(32)(e)2(ii), .06(32)(e)3, .06(32)(e)3(i)–(ii), 06(32)(e)3(ii)(I)–(III), .06(32)(e)3(ii)(III)I–II, .06(32)(e)3(ii)(IV), .06(32)(e)3(iii), .06(32)(e)3(iii)(I), .06(32)(e)3(iii)(I)I–III, .06(32)(e)3(iv), .06(32)(e)3(iv)(I)–(IV), .06(32)(e)4, .06(32)(e)4(i)–(v), .06(32)(e)5, .06(32)(e)5(i), .06(32)(e)5(i)(I)–(II), .06(32)(e)5(i)(II)I–II, .06(32)(e)5(i)(III), .06(32)(e)5(i)(III)I–VI, .06(32)(e)5(ii), .06(32)(e)5(ii)(I)–(III), .06(32)(e)5(iii), .06(32)(e)5(iii)(I)–(II), .06(32)(e)5(iii)(II)I–IV, .06(32)(e)5(iii)(IV)I–II, .06(32)(e)5(iii)(V)–(VI), .06(32)(e)6, .06(32)(e)6(i), .06(32)(e)6(i)(I)–(II), .06(32)(e)6(i)(II)I–II, .06(32)(e)6(i)(III), .06(32)(e)6(i)(III)I–IX, .06(32)(e)6(ii), .06(32)(e)6(ii)(I)–(VIII), .06(32)(e)6(iii), .06(32)(e)6(iii)(I), .06(32)(e)6(iii)(I)IV.A–D, .06(32)(e)6(iii)(I)V–VI, .06(32)(e)6(iii)(II), .06(32)(e)6(iii)(II)I–IV, .06(32)(e)6(iii)(III) .06(32)(e)6(iii)(III)I–III, .06(32)(e)7, .06(32)(e)7(i), .06(32)(e)7(i)(I)–(IV), .06(32)(e)7(ii), .06(32)(e)7(ii)(I), .06(32)(e)7(ii)(I)I–II, .06(32)(e)7(ii)(II), .06(32)(e)7(iii), .06(32)(e)7(iii)(I)–(V), 06(32)(e)8, .06(32)(e)8(i)–(iii), .06(32)(e)9, .06(32)(e)9(i)–(iv), .06(32)(e)10, .06(32)(e)10(I), .06(32)(e)10(ii), .06(32)(e)10(ii)(I)–(II), .06(32)(e)11, .06(32)(e)11(I), .06(32)(e)11(ii), .06(32)(e)12, .06(32)(e)12(I), .06(32)(e)12(I)(I)–(II), .06(32)(e)12(ii), .06(32)(f)1–2, .06(32)(f)2(i)–(ii), .06(32)(f)3, .06(32)(f)3(i), .06(32)(f)3(i)(I)–(II), .06(32)(f)3(i)(II)I–II, .06(32)(f)3(i)(III)–(VI), .06(32)(f)3(ii), .06(32)(f)3(ii)(I), .06(32)(f)3(ii)(I)I–II, .06(32)(f)3(ii)(II), .06(32)(f)3(iii), .06(32)(f)3(iii)(I)–(IV), .06(32)(f)4, .06(32)(f)4(i), .06(32)(f)4(i)(I)–(IV), .06(32)(f)4(ii), .06(32)(f)4(ii)(I), .06(32)(f)4(ii)(I)I–II, .06(32)(f)4(ii)(II), .06(32)(e)12(I), .06(32)(e)12(I)(I)–(II), .06(32)(f)1–2, .06(32)(f)2(i)–(ii), .06(32)(f)3, .06(32)(f)3(i), .06(32)(f)3(i)(I)–(II), .06(32)(f)3(i)(II)I–II, .06(32)(f)3(i)(III)–(VI), .06(32)(f)3(ii), .06(32)(f)3(ii)(I), .06(32)(f)3(ii)(I)I–II, .06(32)(f)3(ii)(II), .06(32)(f)3(iii), .06(32)(f)3(iii)(I)–(IV), .06(32)(f)4, .06(32)(f)4(i), .06(32)(f)4(i)(I)–(IV), .06(32)(f)4(ii), .06(32)(f)4(ii)(I), .06(32)(f)4(ii)(I)I–II, .06(32)(f)4(ii)(II), .06(32)(f)4(iii), .06(32)(f)4(iii)(I)–(V),

Description of federal requirement	Federal Register date and page	Analogous state authority[1]
		.06(32)(f)5(i)–(ii), .06(32)(f)5, .06(32)(f)5(ii)(I)–(II), .06(32)(f)6, .06(32)(f)6(i)–(ii). .06(32)(f)7, .06(32)(f)7(i)–(ii), .06(32)(g)1–2, .06(32)(g)2(i), .06(32)(g)2(i)(I)–(III), .06(32)(g)2(ii), .06(32)(g)3, .06(32)(g)3(i), .06(32)(g)3(i)(I)–(III), .06(32)(g)3(ii)–(iii), .06(32)(g)3(iii)(I), .06(32)(g)3(iii)(I)I–II, .06(32)(g)3(iii)(II), .06(32)(g)3(iii)(II)I–II, .06(32)(g)3(iii)(III)–(V), .06(32)(g)3(iv), .06(32)(g)3(iv)(I)–(III) & (V), .06(32)(g)4, .06(32)(g)4(i), .06(32)(g)4(i)(I)–(III), .06(32)(g)4(ii)–(iii), .06(32)(g)4(iii)(I), .06(32)(g)4(iii)(I)I–II, .06(32)(g)7, .06(32)(g)7(i)–(ii). .06(32)(g)8, .06(32)(g)8(i)–(iii), .06(32)(h)1–2, 06(32)(h)2(i)–(iii), .06(32)(h)2(iii)(I)–(II), .06(32)(h)2(iv), .06(32)(h)3, .06(32)(h)3(i), .06(32)(h)3(i)(I)–(III), .06(32)(h)3(ii), .06(32)(h)3(ii)(I)–(VI), .06(32)(h)3(iii), .06(32)(h)3(iii)(I)–(II), .06(32)(h)3(iv)–(v), .06(32)(h)3(v)(I), .06(32)(h)3(v)(I)I–V, .06(32)(h)3(v)(II)–(V), .06(32)(h)3(vi)–(vii), .06(32)(i)1–2, .06(32)(j)1–2, .06(32)(j)2(i), .06(32)(j)2(i)(I)–(II), .06(32)(j)2(i)(II)I–II, .06(32)(j)2(ii), .06(32)(j)2(ii)(I)–(III), .06(32)(j)2(ii)(III)–III, .06(32)(j)2(ii)(IV), .06(32)(j)2(ii)(IV)I–II, .06(32)(j)3, .06(32)(j)3(i)–(iii), .06(32)(j)3(iii)(I)–(II), .06(32)(j)3(iv), .06(32)(j)4, .06(32)(j)4(i)–(ii), .06(32)(j)5, .06(32)(j)5(i), .06(32)(j)5(i)(I)–(V), .06(32)(j)5(i)(V)–III, .05(27)(d)13(ii)(I)–(II), .05(27)(d)13(iii), .05(27)(d)13(iii)(I)–(II), .05(27)(d)14, .05(27)(d)14(i)–(ii), .05(27)(e)2, .05(27)(f)3(iii), (ix), & (x), .05(27)(f)3(x)(I)–(V), .05(27)(f)3(x)(V)I–II, .05(27)(f)4, .05(28)(a)2, .05(28)(a)2(i)–(iii), .05(28)(a)5, .05(28)(a) Note, .05(28)(f)1–2, .05(28)(f)2(i)–(iii), .05(28)(f)3, .05(28)(i)5, .05(28)(o)7(vi), .05(29)(a)1–2(i)–(viii), .05(29)(a)2(i)–(viii), .05(29)(a)3, .05(29)(a)3(i)–(ii), .05(29)(a)4, .05(29)(a)4(i)–(iii), .05(29)(b), .05(29)(c)1, .05(29)(c)1(i)–(ii), .05(29)(c)1(ii)(I)–(IV), .05(29)(c)2, .05(29)(c)2(i)–(ii), .05(29)(c)2(ii)(I)–(III), .05(29)(c)3, .05(29)(d)1–3, 05(29)(d)3 .05(29)(d)3(i)–(ii), .05(29)(d)3(ii)(I)–(IV), .(ii)(IV)I–II, .05(29)(d)3(ii)(V), .05(29)(d)3(ii)(V)I–III, .05(29)(d)3(ii)(VI)–(VII), .05(29)(d)3(ii)(VII)I–II, .05(29)(d)3(ii)(VIII), .05(29)(d)3(ii)(VIII)I–II, .05(29)(d)3(ii)(IX), .05(29)(d)3(ii)(IX)I–II, .05(29)(d)3(iii)–(iv), .05(29)(d)3(iv)(I)–(II), .05(29)(e)1(iii)(II)I–III, .05(29)(e)1(iii)(III), .05(29)(e)1(iii)(III)I–VI, .05(29)(e)1(iii)VIA–B, .05(29)(e)1(iii)VII, .05(29)(e)1(iii)VIIA–B, .05(29)(e)1(iii)VIII–IX, .05(29)(e)1(iii)(IV), .05(29)(e)1(iv), .05(29)(e)1(iv)(1)–(IV), .05(29)(e)2, .05(29)(e)2(i)–(iii), .05(29)(e)2(iii)(I)–(II), .05(29)(e)2(iii)(II)I–III, .05(29)(e)2(iii)(III), .05(29)(e)2(iii)(III)I–VI, .05(29)(e)2(iii)(III)VIA–B, .05(29)(e)2(iii)(III)VII, .05(29)(e)2(iii)(III)VII A–B, .05(29)(e)2(iii)(III)VIII–IX, .05(29)(e)2(iii)(IV), .05(29)(e)2(iv), .05(29)(e)2(iv)(I)–(III), .05(29)(e)2(v), .05(29)(e)2(v)(I)–(III), .05(29)(e)2(v)(III)I–II, .05(29)(e)2(v)(IV)–(V), .05(29)(e)2(vi), .05(29)(e)2(vi)(I)–(II), .05(29)(e)2(vii), .05(29)(e)2(vii)(I)–(IV), .05(29)(e)2(viii), .05(29)(e)2(viii)(I)–(III), .05(29)(e)2(ix), .05(29)(e)2(ix)(I)–(IV), .05(29)(e)3, .05(29)(e)3(i)–(iii), .05(29)(e)3(iii)(I)–(II), .05(29)(e)3(iii)(II)I–V, .05(29)(e)3(iv), .05(29)(e)4, .05(29)(e)4(i)–(v), .05(29)(e)4(v)(I)–(II), .05(29)(e)4(vi)–(ix), .05(29)(f)1–2, .05(29)(f)2(i), .05(29)(f)2(i)–(I), .05(29)(f)2(i)(I)I–III, .05(29)(f)2(i)(II)–(III), .05(29)(f)2(ii), .05(29)(f)3, .05(29)(f)3(i)–(ii), .05(29)(f)3(ii)(I)–(III), .05(29)(f)3(ii)(III)I–II .05(29)(f)3(ii)(IV), .05(29)(f)3(iii), .05(29)(f)3(iii)(I), .05(29)(f)3(iii)(I)I–II, .05(29)(f)3(iii)(II)–(III), .05(29)(f)3(iv), .05(29)(f)3(iv)(I)–(IV), .05(29)(f)4, .05(29)(f)4(i)–(v), .05(29)(f)5, .05(29)(f)5(i), .05(29)(f)5(i)(I)–(II), .05(29)(f)5(i)(II)I–II, .05(29)(f)5(i)(III), .05(29)(f)5(i)(III)I–VI, .05(29)(f)5(ii), .05(29)(f)5(ii)(I)–(III), .05(29)(f)5(iii), .05(29)(f)5(iii)(I)–(II), .05(29)(f)5(iii)(II)I–II, .05(29)(f)5(iii)(III)–(IV), .05(29)(f)5(iii)(IV)I–II, .05(29)(f)5(iii)(V)–(VI), .05(29)(f)6, .05(29)(f)6(i), .05(29)(f)6(i)(I)–(II), .05(29)(f)6(i)(II)I–II, .05(29)(f)6(i)(III), .05(29)(f)6(i)(III)I–IX, .05(29)(f)6(ii), .05(29)(f)6(ii)(I)–(VIII), .05(29)(f)6(iii), .05(29)(f)6(iii)(I), .05(29)(f)6(iii)(I)I–IV, .05(29)(f)6(iii)(I)I–IV A–D, .05(29)(f)6(iii)(I)V–VI, .05(29)(f)6(iii)(II), .05(29)(f)6(iii)(II)I–IV, .05(29)(f)6(iii)(III), .05(29)(f)6(iii)(III)I–III, .05(29)(f)7, .05(29)(f)7(i), .05(29)(f)7(i)(I), .05(29)(f)7(i)(I)–(IV), .05(29)(f)7(ii), .05(29)(f)7(ii)(I), .05(29)(f)7(ii)(I)I–II, .05(29)(f)7(ii)(II), .05(29)(f)7(iii), .05(29)(f)7(iii)(I)–(V), .05(29)(f)8, .05(29)(f)8(i)–(iii), .05(29)(f)9, .05(29)(f)9(i)–(iv), .05(29)(f)10, .05(29)(f)10(i)–(ii), .05(29)(f)10(ii)(I)–(II), .05(29)(f)11, .05(29)(f)11(i)–(ii), .05(29)(f)12, .05(29)(f)12(i), .05(29)(f)12(i)(I)–(II), .05(29)(f)12(ii), .05(29)(g)1–2, .05(29)(g)2(i)–(ii), .05(29)(g)3, .05(29)(g)3(i), .05(29)(g)3(i)(I)–(II), .05(29)(g)3(i)(II)I–VI, .05(29)(g)3(ii), 05(29)(g)3(ii)(I), .05(29)(g)3(ii)(I)I–II, .05(29)(g)3(ii)(II), .05(29)(g)3(iii), .05(29)(g)3(iii)(I)–(IV), .05(29)(g)4, .05(29)(g)4(i), .05(29)(g)4(i)(I)–(IV), .05(29)(g)4(ii), .05(29)(g)4(ii)(I), .05(29)(g)4(ii)(I)I–II, .05(29)(g)4(ii)(II), .05(29)(g)4(iii), .05(29)(g)4(iii)(I)–(V), .05(29)(g)5, .05(29)(g)5(i)–(ii), .05(29)(g)5(ii)(I)–(II), .05(29)(g)6, .05(29)(g)6(i)–(ii), .05(29)(g)7, .05(29)(g)7(i)–(ii), .05(29)(h)1–2, .05(29)(h)2(i), .05(29)(h)2(i)(I)–(III), .05(29)(h)2(ii), .05(29)(h)3, .05(29)(h)3(i), .05(29)(h)3(i)(I)–(III), .05(29)(h)3(ii)–(iii), .05(29)(h)3(iii)(I), .05(29)(h)3(iii)(I)I–II, .05(29)(h)3(iii)(II), .05(29)(h)3(iii)(II)I–II, .05(29)(h)3(iii)(III)–(V), .05(29)(h)3(iv), .05(29)(h)3(iv)(I)–(III), .05(29)(h)3(v), .05(29)(h)4, .05(29)(h)4(i), .05(29)(h)4(i)(I)–(III), .05(29)(h)4(ii)–(iii), .05(29)(h)4(iii)(I), .05(29)(h)4(iii)(I)I–II, .05(29)(h)4(iii)(II), .05(29)(h)4(iii)(II)I–II, .05(29)(h)4(iii)(III)–(V), .05(29)(h)4(iv), .05(29)(h)4(iv)(I)–(III), .05(29)(h)5, .05(29)(h)5(i), .05(29)(h)5(i)(I)–(II), .05(29)(h)5(i)(II), .05(29)(h)5(ii), .05(29)(h)5(ii)(I)–(II), .05(29)(h)5(iii)–(v), .05(29)(h)6, .05(29)(h)6(i)–(iv), .05(29)(h)7, .05(29)(h)7(i)–(ii), .05(29)(h)7(ii),

Description of federal requirement	Federal Register date and page	Analogous state authority [1]
		.05(29)(h)8, .05(29)(h)8(i)–(iii), .05(29)(i)1–2, .05(29)(i)2(i)–(iii), .05(29)(i)2(iii)(I)(II), .05(29)(i)2(iv), .05(29)(i)3, .05(29)(i)3(i), .05(29)(i)3(i)(I)–(III), .05(29)(i)3(ii), .05(29)(i)3(ii)(I)–(VI), .05(29)(i)3(iii), .05(29)(i)3(iii)(I)–(II), .05(29)(i)3(iv)–(v), .05(29)(i)3(v)(I), .05(29)(i)3(v)(II–IV, .05(29)(i)3(v)(II)–(V), .05(29)(i)3(vi)–(vii), .05(29)(j)1–2, .05(29)(k)1–2, .05(29)(k)2(i), .05(29)(k)2(i)(I)–(II), .05(29)(k)2(i)(II)I–II, .05(29)(k)2(ii), .05(29)(k)2(ii)(I)–(III), .05(29)(k)2(ii)(III)I–II, .05(29)(k)2(ii)(IV), .05(29)(k)2(ii)(IV)I–II, .05(29)(k)3, .05(29)(k)3(i)–(iii), .05(29)(k)3(iii)(I)–(II), .05(29)(k)3(iv), .05(29)(k)4, .05(29)(k)4(i)–(ii), .05(29)(k)5, .05(29)(k)5(i), .05(29)(k)5(i)(I)–(V), .05(29)(k)5(i)(V)I–II, .05(29)(k)5(i)(VI), .05(29)(k)5(i)(VI)I–III, .05(29)(k)5(I)(VII), .05(29)(k)5(i)(VII), .05(29)(k)6, .05(29)(k)6(i)–(ii), .05(29)(k)7–9, .05(29)(k)9(i)–(ii), .05(29)(k)9(ii)(I)–(II), .05(29)(k)4(i)–(ii), .05(29)(k)5, .05(29)(k)5(i), .05(29)(k)5(i)(I)–(V), .05(29)(k)5(i)(V)I–II, .05(29)(k)5(i)(VI), .05(29)(k)5(i)(VI)I–III, .05(29)(k)5(i)(VII), .05(29)(k)5(i)(VII), .05(29)(k)6, .05(29)(k)6(i)–(ii), .05(29)(k)7–9, .05(29)(k)9(i)–(ii), .05(29)(k)9(ii)(I)–(II), .05(29)(k)9(iii), .05(29)(k)9(iii)(I)–(II), .05(29)(l), .05(53) Appendix VI, .07(8)(g)1(ii)–(iv), .07(5)(a)1(v), .07(5)(b)1(v), .07(5)(b)2(xi), .07(5)(b)3(x), .07(5)(b)13(i), .07(5)(b)13(i)(I)–(VII)
155—Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance.	01/14/97 62 FR 1992	Tennessee Code Annotated (TCA) 68–212–104(7) & (16), 68–212–106(a)(1), 68–212–107(a), (d)(1), (3), & (9); Tennessee Revised Code (TRC) 1200–1–11–.10(2)(j)3
156—Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies, Manifest Exemption for Transport of Hazardous Waste on Right of Ways on Contiguous Properties.	02/12/97 62 FR 6622	Tennessee Code Annotated (TCA) 68–212–104(6)–(8), (14) & (15), 68–212–106(a)(1) & (3), 68–212–107(a) & (d)(1)–(3), (5), & (9), 68–212–108(a)(1); Tennessee Revised Code (TRC) 1200–1–11–.01–(2)(a), .02(1)(b)1(ii)(III)–(IV), .03(1)(a)10, .03(3)(a)6, .04(1)(a)6–7, .06(1)(b)2(vii)(I)IV, .06(1)(b)2(vii)(IV), .06(1)(b)8, .06(5)(a), .06(34)(a)–(b), .06(34)(b)1(i)–(v), .06(34)(b)2, .06(34)(b)2(i), .06(34)(b)2(i)(I)–(II), .06(34)(b)2(i)(II)I–III, .06(34)(b)2(i)(III), .06(34)(b)2(ii)–(iii), .06(34)(b)3–6, .06(34)(c)1–2, .05(1)(b)2(vii)(I)IV, .05(1)(b)2(vii)(IV), .05(1)(d), .05(5)(a), .05(31)(a), .05(31)(b)1, .05(31)(b)1(i)–(v), .05(31)(b)2, .05(31)(b)2(i), .05(31)(b)2(i)(I)–(II), .05(31)(b)2(i)(II)I–III, .05(31)(b)2(i)(III), .05(31)(b)2(ii)–(iii), .05(31)(b)3–6, .05(31)(c)1–2, .09(13)(a)1–2, .09(13)(b), .01(2)a, .09(13)(c)1, .09(13)(c)1(i), .09(13)(c)1(i)(I)–(III), .09(13)(c)1(ii), .09(13)(c)2, .09(13)(c)2(i)–(iv), .09(13)(c)3, .09(13)(c)3(i)–(ii), .09(13)(c)4, .09(13)(d)1, .09(13)(d)1(i), .09(13)(d)1(i)(I)–(III), .09(13)(d)1(ii)–(iv), .09(13)(d)2–3, .09(13)(e), .09(13)(f)1, .09(13)(f)1(i), .09(13)(f)1(i)(I)–(VII), .09(13)(f)1(ii)–(iii), .09(13)(f)2–4, .09(13)(f)4(i)–(ii), .09(13)(f)5, .09(13)(g), .07(1)(b)5(i)(IV), .07(1)(b)5(iii), .07(9)(c)5(viii), .07(9)(c)5(viii)(I)–(III), .07(9)(c)6(ix)
157—Land Disposal Restriction Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste.	05/12/97 62 FR 25998	Tennessee Code Annotated (TCA) 68–212–104(7) & (16), 68–212–106(a)(1), 68–212–107(a), (d)(1), (3) & (9); Tennessee Revised Code (TRC) 1200–1–11– .02(1)(a)3(ix)–(xii), .02(1)(b)3 Table 1, .02(1)(d)1(xv)–(xvi), .02(1)(d)1(xvi)(I)–(II), .02(1)(f)1(iii)(II), .10(1)(a)5–5(iii), .10(1)(a)5(iv), .10(1)(d)1(ii)(IV), .10(1)(d)1(iv), .10(1)(g)1, .10(1)(g)1(i)–(iii), .10(1)(g)1(iii)(I)–(II), .10(1)(g)1(iv), .10(1)(g)1(iv) table, .10(1)(g)1(v), .10(1)(g)1(v)(I)–(III), .10(1)(g)1(vi)–(ix), .10(1)(g)1(ix)(I)–(IV), .10(1)(g)1(x), .10(1)(g)2, .10(1)(g)2(i)–(iii), .10(1)(g)2(iii)(I)–(II), .10(1)(g)2(iii)(II) table, .10(1)(g)2(iv), .10(1)(g)2(iv)(I)–(V), .10(1)(g)2(v)–(vi), .10(1)(g)3(i)–(ii), .10(1)(i)1, .10(1)(i)4(i)(II), .10(2)(a)1–4, .10(2)(a)4(i)–(iv), .10(2)(a)5, .10(2)(c)–(g), .10(3)(a) Table of Treatment Standards for Hazardous Waste, .10(3)(c) Table 1, .10(3)(e) (Reserved), .10(5), .10(5) Appendix VI–VIII, .10(5)
158—Testing and Monitoring Activities Amendment III.	06/13/97 62 FR 32452	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1), 68–212–107(d)(1); Tennessee Revised Code (TRC) 1200–1–11– .01(2)(b)1, .01(2)(b)1(i)–(xv), .06(30)(e)4(i)(III), .06(30)(e)6, .06(31)(n)4(ii), .06(57) Appendix IX Footnote 5, .05(27)(e)4(i)(III), .05(27)(e)6, .05(28)(n)4(ii), .09(8)(e)5(i), .09(8)(g)7(i)–(ii), .09(8)(h)6, .09(30) Appendix IX
159—Conformance With the Carbamate Vacatur.	06/17/97 62 FR 32974	Tennessee Code Annotated (TCA) 68–212–104(7) & (16), 68–212–106(a)(1); 68–212–107(a), (d)(1), (3), & (9); Tennessee Revised Code (TRC) 1200–1–11– .0(4)(c) Table, .02(4)(d)6, .02(5) Appendix VII & VIII, .10(2)(j)1 & 4, .10(3)(a) Table

[1] The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations adopted February 3, 1998.

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

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Tennessee?

The State of Tennessee's Hazardous Waste Program is not being authorized to operate in Indian Country.

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

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by

referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart RR for this authorization of Tennessee's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective November 21, 2000.

List of Subjects in 40 CFR Part 271

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

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

Dated: September 12, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–24432 Filed 9–21–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98–147; FCC 00–297]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On August 10, 2000, the Federal Communications Commission released an Order on Reconsideration strengthening the collocation requirements placed upon incumbent local exchange carriers pursuant to section 251(c)(6) of the Communications Act of 1934, as amended. This notice announces an effective date of October 10, 2000 for rules adopted in that Order that contained modified or new information collection requirements.

DATES: Sections 51.321(f), 51.323(b), and 51.323(l)(1) published at 65 FR 54433 (September 8, 2000) are effective on October 10, 2000.

FOR FURTHER INFORMATION CONTACT: William Kehoe, Special Counsel, Common Carrier Bureau, Policy and Program Planning Division, 202–418–1580. Further information also may be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

SUPPLEMENTARY INFORMATION: On September 1, 2000, the Office of Management and Budget approved the information collections adopted in the Order on Reconsideration pursuant to OMB Control No. 3060–0848. Accordingly, the modified or new information collection requirements in sections 51.321(f), 51.323(b), and section 51.323(l)(1) will take effect on October 10, 2000, the same date as the other rules adopted in the Order on Reconsideration.

List of Subjects in 47 CFR Part 51

Communications, Common carriers, Telecommunications, Collocation.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–24327 Filed 9–21–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 185
Friday, September 22, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 32

[Docket No. 00–19]

RIN 1557–AB82

Community Bank-Focused Regulation Review: Lending Limits Pilot Program

AGENCY: Office of the Comptroller of the Currency, Treasury

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend part 32, its regulation governing the percentage of capital and surplus that a national bank may loan to any one borrower. This proposal would implement a pilot program that would create new exceptions to the lending limit for 1–4 family residential real estate loans and loans to small businesses. The proposal also would modify the lending limit exemption for loans to or guaranteed by obligations of state and local governments. Only eligible banks will be permitted to make use of the new exceptions and use of the exceptions also will be subject to an application process. The proposal is being issued in response to the advance notice of proposed rulemaking that the OCC published to initiate its community bank-focused regulation review. The proposal is intended to remove unnecessary regulatory burden on community banks without impairing their safety and soundness. If the proposed pilot program is adopted as a final rule, the OCC will review national banks' experience with the new exceptions over the three year pilot period and determine whether to retain, modify or rescind the exceptions.

DATES: Comments must be received on or before November 21, 2000.

ADDRESSES: Please direct your comments to: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Third Floor, Washington, DC 20219, Attention: Docket No. 00–19; Fax number (202) 874–5274 or Internet address: *regs.comments@occ.treas.gov*. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC, between 9 a.m. and 5 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; Deborah Katz, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Heidi Thomas, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1999, the OCC issued an advance notice of proposed rulemaking (ANPR) inviting comment on possible regulatory changes relating to lending limits, corporate activities and transactions, corporate governance, and capital requirements that could benefit community banks. 64 FR 25469. In issuing the ANPR, we recognized that community banks operate with more limited resources than larger institutions and may present a different risk profile. For example, many community banks have more direct "hands-on" oversight by senior management and a smaller range of operations such that less complex risk-management or compliance systems may be appropriate. In addition, differences between community banks and larger banks in operational structure and focus may have resulted in inefficient or uneven application of regulatory requirements. The purpose of our community bank-focused regulation review was to eliminate or modify regulatory requirements that impose unnecessary burden. In addition, we sought to identify regulations for which it may be appropriate to develop alternative, differential regulatory approaches that will minimize burden on community banks without jeopardizing their safety and soundness.

We received forty-one comment letters in response to the ANPR. Thirty-five of these letters commented on various aspects of the national bank lending limit. Twelve U.S.C. 84, the national bank lending limit, governs the percentage of capital and surplus that a bank may loan to any one borrower. OCC regulations implementing section 84 are set forth at 12 CFR part 32. Under section 84 and part 32, a national bank can make unsecured loans of up to 15 percent of its unimpaired capital and surplus to a single borrower, and extend an additional 10 percent of unimpaired capital and surplus to the same borrower, if the loan is secured by "readily marketable collateral." Part 32 refers to these lending limits as "the combined general limit." The statute and regulation also expressly provide other exceptions to and exemptions from the combined general limit for various types of loans and extensions of credit. Finally, the statute authorizes the OCC to establish lending limits "for particular classes or categories of loans" that are different from those expressly provided by its terms." 12 U.S.C. 84(d)(1).

A majority of commenters stated that the lending limits in section 84, as interpreted in part 32, are especially problematic for community banks because they do not provide enough flexibility for them to adequately serve their customers. Because of their small size, community banks can quickly reach their lending limits. Many commenters noted that the current lending limits have prevented them from continuing to lend to creditworthy customers, and that this has caused a loss in potential income, especially from valued customers whose credit needs have increased with the growth of their businesses. These commenters indicated that, as a result of the lending limits, they often must participate out larger loans to other banks, which can be very burdensome and time consuming for both the bank and the borrower. In addition, the commenters noted that when a community bank participates its loans, the bank risks losing its customer to the participant.

Many commenters also noted that States provide higher lending limits than those set forth in section 84 and part 32. Many of these commenters suggested that Federal lending limits be the same as those available for State banks so that national banks can compete on equal footing with other financial service providers in the markets where they compete.

A minority of commenters found the current lending limits appropriate and opposed any lending limit increase. Some of these commenters advocated the use of loan participations to support spreading risk.

Description of the Proposal

This notice of proposed rulemaking (NPRM) addresses suggestions by the commenters. Specifically, we are proposing to amend 12 CFR part 32 to create new lending limit exceptions for real estate and small business loans for national banks with main offices located in States where a limit higher than the current Federal limit applies, and to modify the lending limit exemption in § 32.3(c) for loans to or guaranteed by general obligations of State and local governments. To ensure that national banks use this additional lending authority in a way that is consistent with safe and sound banking practices, the new exceptions will be available only to "eligible banks," and will be subject to an application process. Furthermore, an aggregate limit will restrict a bank's ability to make use of this new lending authority.

New Exceptions for 1–4 Family Residential Real Estate and Small Business Loans

1. Categories of Loans Subject to Exceptions

In reviewing part 32, we considered a number of different categories of loans for which alternative lending limits may be appropriate. One-to-four family residential real estate and small business lending are lines of business common for community banks. Thus, providing additional lending authority in these areas is likely to be responsive to the concerns described by the majority of commenters who responded to the ANPR. Moreover, national banks have substantial and longstanding experience with lending in these areas. The safety and soundness issues presented by these types of loans are already issues that banks routinely address, so that banks can rely on their existing expertise to use this additional lending authority.

The exception for real estate applies only when a loan is secured by a perfected first-lien security interest in 1–4 family residential real estate in an amount that may not exceed 80 percent of the appraised value of the collateral at the time the loan is made. The exception for small business loans, as proposed, extends additional lending authority for loans that could be unsecured, or secured in a manner that is not specified by regulation. As all of the other lending limit exceptions apply to secured loans only, either when there is specific collateral pledged or a guarantee offered, we invite comment on whether the exception for small business loans should require specific collateral.

The NPRM also requests comment on whether the definition of "small business loan" in the proposed regulation is appropriate. This definition is identical to that found in our CRA regulation, 12 CFR 25.12(u), which incorporates the definition of "loans to small businesses" from the instructions for preparation of the Consolidated Reports of Condition and Income. These include loans with original amounts of $1 million or less, secured by nonfarm nonresidential properties, and certain commercial and industrial loans.

2. Additional Lending Authority

Under this proposal, a bank may extend another ten percent of its capital and surplus, in addition to the amounts permissible under the currently applicable lending limits, to a single borrower for certain real estate and small business loans, respectively, if a bank's main office is located in a State with a higher limit that applies to these categories of loans. The commenters strongly urged the OCC to provide lending limit parity between a national bank and a State bank in the State where the national bank is located. Some commenters specifically advocated that the OCC adopt the lending limit of their State.

A regulation that would provide exact parity between national banks and banks located in all fifty States would be very complicated, however, because State lending limits may involve higher general limits, a different method of calculating the percentage of bank capital and surplus that can be loaned to a single borrower, or different rules for combining loans to separate borrowers. We believe that providing exceptions in the two categories described to national banks with main offices located in States that apply a higher limit to these categories of loans addresses the parity concern without requiring an unduly complex calculation.

Moreover, in addition to the percentage limit, each of the exceptions contains a $10 million dollar cap. The dollar cap will ensure that banks over $1 billion receive no greater benefit, and cannot make larger loans in reliance upon these exceptions, than banks that are smaller in size.

3. Applicable Safeguards

The proposal incorporates a number of safeguards designed to ensure that a national bank's use of the additional authority provided by the new exceptions is consistent with safety and soundness. The first is the per borrower dollar limitation described in the preceding paragraph. The second is an aggregate lending cap on any loans, or portions thereof, to all of a bank's borrowers made in reliance upon the real estate and small business exceptions. The total amount of these loans, or portions of loans, together, cannot equal more than 100 percent of a bank's capital and surplus. This cap is similar to the statutory aggregate limit on loans to all bank insiders. See 12 U.S.C. 375b(5).

Third, only "eligible banks" can make use of these exceptions. To be an "eligible bank" for purposes of this part, the bank must be well capitalized, as defined in 12 CFR 6.4(b)(1),[1] and must have a rating of 1 or 2 under the Uniform Financial Institutions Rating System, with at least a rating of 2 for the management component of this rating system. These criteria will ensure that only banks with sufficient capital and good managerial oversight will be permitted to use the increased limits.

In addition, the proposed rule requires a bank to apply to its supervisory office and receive approval before using either of the new exceptions. To be deemed complete, the application must contain the following information. First, the bank must certify that it is an "eligible bank." Second, the bank must cite to relevant State laws or regulations showing that its main office is located in a State where the State bank lending limit that applies to 1–4 family residential real estate or small business loans is higher than the limit for national banks. The citation may reference a higher general, specific or other limit that applies to 1–4 family residential real estate or small business loans. This requirement will limit use of the exceptions to national banks with main offices located in States where they are operating at a competitive disadvantage as compared to State banks. Third, the bank must provide the

[1] Under 12 CFR 6.4(b), "well capitalized" means that the bank: (1) has a total risk-based capital ratio of 10.0 percent or greater; (2) has a Tier 1 risk-based capital ration of 6.0 percent or greater; (3) has a leverage ratio of 5.0 percent or greater; and (4) is not subject to any written agreement, order or capital directive, or prompt corrective action directive issued by the OCC pursuant to section 8 of the Federal Deposit Insurance Act (FDI Act), the International Lending Supervision Act of 1983 or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level of any capital measure.

OGC with a written resolution by the majority of its board of directors approving the use of these exceptions and confirming the terms and conditions for use of this lending authority. In this way, the board will be required to identify the policies and procedures that will govern the use of the exceptions. Last, the bank will have to provide a description of how the board intends to exercise its continuing responsibility to oversee the use of this lending authority, for example, requiring quarterly reports of all loans made under these exceptions. This provision emphasizes the continuing responsibility of the board to monitor use of the exceptions if the bank's application is granted. Finally, the supervisory office will still have the discretion to deny the bank's application based upon safety and soundness considerations.

OCC approval is effective for three years and may be renewed. Provided the bank remains eligible during the three year period, any loan made during the three year period will remain legal, even if the bank thereafter becomes ineligible.

If this proposal is adopted as a final rule, the OCC will evaluate national banks' experience with these new exceptions over the three year pilot period following the effective date of the rule and determine at that time whether to retain, modify or rescind the exceptions.

4. Comments

In addition to requesting comments generally on all aspects of this proposal, we ask for comments on whether:

- The categories of loans identified will alleviate the burden and mitigate some of the competitive disparity for community banks;
- Loans to small business should be secured by specific collateral in order to qualify for the exception;
- The per borrower percentage limit and dollar caps for the exceptions are appropriate;
- The aggregate limit is appropriate; and
- Additional safeguards are warranted.

Exemptions for Loans Secured by State and Local Governments.

Part 32 provides that a loan or extension of credit made by a national bank to, or guaranteed by general obligations of a State or political subdivision is exempt from any lending limit. *See* 12 CFR part 32.3(c)(5). The phrase "general obligation," is defined in 12 CFR part 1. In addition, to obtain this exemption, this section currently requires the bank to obtain an opinion of counsel that the loan or extension of credit or guarantee is a valid and enforceable general obligation of the State or political subdivision.

However, the requirement for an opinion of counsel is not statutorily required. The OCC understands that requiring an opinion of counsel can be expensive and time consuming for community banks, particularly for those banks that make a substantial number of agricultural loans under the loan guarantee programs. Therefore, the proposed rule revises § 32.3(c)(5) to allow a bank to either obtain an opinion of counsel or rely on the opinion of a State attorney general (or other State legal official with authority to opine on the obligation in question) on the validity and enforceability of the obligation, extension of credit, or guarantee in question.

Comment is invited on this modification as well as all aspects of this NPRM.

Solicitation of Comments on Use of Plain Language

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

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

Solicitation of Comments on Impact on Community Banks

The OCC also seeks comments on the impact of this proposal on community banks. The OCC recognizes that community banks may present a different risk profile than larger banks, and we intend this proposal to address that difference in risk. We invite comment specifically on whether the proposal achieves that objective.

Regulatory Analysis

A. Paperwork Reduction Act

For purposes of compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the OCC invites comment on:

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

(2) The accuracy of the OCC's estimate of the burden of the proposed information collection;

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

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

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

Respondents are not required to respond to this collection of information unless the final regulation displays a currently valid Office of Management and Budget (OMB) control number.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the OMB for review in accordance with the Paperwork Reduction of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project Number 1557-to be assigned, Washington, DC 20503, with a copy to Jessie Dunaway, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Mailstop 8–4, Washington, DC 20219.

The information collection requirements contained in 12 CFR part 32 are contained in section 32.3(b)(6)(iv). Under this section, the proposed regulation would require national banks to provide the OCC with certain information in connection with an application to receive approval from its supervisory office before using the exceptions to the lending limit for 1–4 family residential real estate loans and loans to small businesses for national banks. The likely respondents are national banks.

Estimated number of respondents: 2,140.

Estimated number of responses: 2,140.

Estimated burden hours per response: 26.

Estimated total burden: 55,640.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) requires federal agencies either to certify that a proposed rule would not, if adopted in final form, have a significant impact on a substantial number of small entities or to prepare an initial regulatory flexibility analysis (IRFA) of the proposal and publish the analysis for comment. See 5 U.S.C. 603, 605. On the basis of the information currently available, the OCC is of the opinion that this proposal, if it is adopted in final form, is unlikely to have a significant impact on a substantial number of small entities, within the meaning of those terms as used in the RFA. Commenters are invited to provide the OCC with any information they may have about the likely quantitative effects of the proposal.

C. Executive Order 12866 Determination

The Comptroller of the Currency has determined that this proposed rule, if adopted as a final rule, would not constitute a "significant regulatory action" for the purposes of Executive Order 12866. Under the most conservative cost scenarios that the OCC can develop on the basis of available information, the impact of the proposal falls well short of the thresholds established by the Executive Order.

D. Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. However, an agency is not required to assess the effects of its regulatory actions on the private sector to the extent that such regulations incorporate requirements specifically set forth in law. 2 U.S.C. 1531.

The OCC has determined that this proposed regulation will not result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 12 CFR Part 32

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 32 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 32—LENDING LIMITS

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

Authority: 12 U.S.C. 1 *et seq.*, 84, and 93a.

2. In § 32.2:

A. Paragraph (p) is redesignated as paragraph (s);

B. Paragraph (o) is redesignated as paragraph (q);

C. Paragraphs (i) through (n) are redesignated as paragraphs (j) through (o); and

D. New paragraphs (i), (p) and (r) are added to read as follows:

§ 32.2 Definitions.

* * * * *

(i) *Eligible bank* means a national bank that:

(1) Is well capitalized as defined in 12 CFR 6.4(b)(1); and

(2) Has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System in connection with the bank's most recent examination or subsequent review, with at least a rating of 2 for management, if that rating is given.

* * * * *

(p) *Residential real estate loan* means any loan or extension of credit that is secured by a perfected first-lien security interest in 1–4 family residential real estate in an amount that does not exceed 80 percent of the appraised value of the collateral at the time the loan or extension of credit is made.

* * * * *

(r) *Small business loan* means any loan or extension of credit included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

* * * * *

3. In § 32.3, a new paragraph (b)(6) is added and paragraph (c)(5) is revised to read as follows:

§ 32.3 Lending limits.

* * * * *

(b) * * *

(6) *Loans for residential real estate and small businesses.* (i) An eligible national bank may extend residential real estate loans to a borrower in an amount that does not exceed 10 percent of its capital and surplus or $ 10 million, whichever is less, in addition to the amount allowed under the bank's combined general limit, if the main office of the bank is located in a state where the state bank lending limit that applies to residential real estate loans is higher than the limit for national banks.

(ii) An eligible national bank may extend small business loans to a borrower in an amount that does not exceed 10 percent of its capital and surplus or $10 million, whichever is less, in addition to the amount allowed under the bank's combined general limit, if the main office of the bank is located in a state where the state bank lending limit that applies to small business loans is higher than the limit for national banks.

(iii) The total of all portions of a national bank's loans and extensions of credit made pursuant to the exceptions provided in paragraphs (b)(6)(i) and (ii) of this section may not exceed 100 percent of the bank's capital and surplus.

(iv) A national bank must submit an application to, and receive approval from its supervisory office before using the exceptions in paragraphs (b)(6)(i) and (ii) of this section. The supervisory office may approve a completed application if it finds that approval is consistent with safety and soundness. To be deemed complete, the application must include:

(A) Certification that the bank is an "eligible bank" as defined in § 32.2(i);

(B) Citations to relevant state laws or regulations;

(C) A copy of a written resolution by a majority of the bank's board of directors approving the use of the limits provided in paragraphs (b)(6)(i) and (ii) of this section, and confirming the terms and conditions for use of this lending authority; and

(D) A description of how the board intends to exercise its continuing responsibility to oversee the use of this lending authority.

(v) Provided that a bank remains an "eligible bank," OCC approval of the bank's authority to use the exceptions in paragraphs (b)(6)(i) and (ii) of this section is effective for three years and may be renewed.

* * * * *

(c) * * *

(5) *Loans to or guaranteed by general obligations of a State or political subdivision.* (i) A loan or extension of credit to a State or political subdivision that constitutes a general obligation of

the State or political subdivision, as defined in part 1 of this chapter, and for which the lending bank has an opinion of counsel or the opinion of that State Attorney General, or other State legal official with authority to opine on the obligation in question, that the loan or extension of credit is a valid and enforceable general obligation of the borrower; and

(ii) A loan or extension of credit, including portions thereof, to the extent guaranteed or secured by a general obligation of a State or political subdivision and for which the lending bank has an opinion of counsel or the opinion of that State Attorney General, or other State legal official with authority to opine on the guarantee or collateral in question, that the guarantee or collateral is a valid and enforceable general obligation of that public body.

* * * * *

Dated: September 15, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00–24280 Filed 9–21–00; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Vulcanair S.p.A. Models P 68 "OBSERVER", P68 "OBSERVER 2", and P68TC "OBSERVER" Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Vulcanair S.p.A. (Vulcanair) Models P 68 "OBSERVER", P68 "OBSERVER 2", and P68TC "OBSERVER" airplanes. The proposed AD would require you to inspect the nose landing gear (NLG) upper strut for evidence of cracking (cracks or crack beginnings), and replace the NLG upper strut if you find evidence of cracking. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Italy. The actions specified by the proposed AD are intended to prevent failure of the NLG upper strut caused by cracking in the area of the seeger retaining ring groove, which could result in loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before October 25, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–16–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Vulcanair S.p.A., Via G. Poscoli, 7, 80026 Casoria (Naples), Italy; telephone: +39–081–5918111; facsimile: +39–081–5918172. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Roman Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

We are re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2000–CE–16–AD." We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Ente Nazionale per l'Aviazione Civile (ENAC), which is the airworthiness authority for Italy, recently notified FAA that an unsafe condition may exist on certain Vulcanair Models P 68 "OBSERVER", P68 "OBSERVER 2", and P68TC "OBSERVER" airplanes. The ENAC reports three instances of cracking of the nose landing gear (NLG) upper strut, part number 4.4173–1, in the area of the seeger retaining ring groove. Investigation of these instances reveals a work defect found during surface finishing within the groove. The groove is then susceptible to cracks after a hard landing.

What are the consequences if the condition is not corrected? Such cracking, if not detected and corrected, could result in failure of the NLG upper strut, which could result in loss of control of the airplane.

Is there service information that applies to this subject? Vulcanair has issued Service Bulletin No. 98, dated July 31, 1999.

What are the provisions of this service bulletin? The service bulletin:

- Includes procedures for inspecting the NLG upper strut in the area of the seeger retaining ring groove for evidence of cracking (cracks or crack beginnings); and
- Specifies replacing the upper strut if evidence of cracking is found.

What action did the ENAC take? The ENAC classified this service bulletin as mandatory and issued Italian AD No. 2000–004, dated January 10, 2000, in order to assure the continued airworthiness of these airplanes in Italy.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are

manufactured in Italy 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 ENAC has kept FAA informed of the situation described above.

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

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

- The unsafe condition referenced in this document exists or could develop on other Vulcanair Models P 68 "OBSERVER", P68 "OBSERVER 2", and P68TC "OBSERVER" airplanes of the same type design;
- The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
- AD action should be taken in order to correct this unsafe condition.

What does the proposed AD require? This proposed AD would require you to inspect the NLG upper strut for evidence of cracking (cracks or crack beginnings), and replace the NLG upper strut if you find evidence of cracking. You would accomplish the proposed action in accordance with the previously referenced service bulletin.

Cost Impact

How many airplanes does the proposed AD impact? We estimate that the proposed AD affects 15 airplanes in the U.S. registry.

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

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. airplane operators
10 workhours × $60 per hour = $600	No parts required for inspection	$600	$9,000

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
10 workhours × $60 per hour = $600	$600	$1,200

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Vulcanair S.P.A. (Partenavia Costruzioni Aeronauticas S.p.A previously held Type Certificate A31EU): Docket No. 2000–CE–16–AD

(a) *What airplanes are affected by this AD?* This AD affects Models P 68 "OBSERVER", P68 "OBSERVER 2", and P68TC "OBSERVER" airplanes, all serial numbers up to and including 400, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent failure of the nose landing gear (NLG) upper strut caused by cracking in the area of the seeger retaining ring groove, which could result in loss of control of the airplane.

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

Action	Compliance time	Procedures
(1) Inspect, using magnetic particle methods, the NLG upper strut, part number 4.4173–1 (or FAA-approved equivalent part number), for evidence of cracking (cracks or crack beginnings).	Within the next 200 hours time-in-service (TIS) after the effective date of this AD.	Do this inspection in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Vulcanair Service Bulletin No. 98, dated July 31, 1999.
(2) If there is evidence of cracking, replace the NLG upper strut with a new NLG upper strut, part number 4.4173–1 (or FAA-approved equivalent part number).	Prior to further flight after the inspection where evidence of cracking is found.	Use the procedures in the maintenance manual.
(3) Do not install any NLG upper strut, part number 4.4173–1, unless it is new from the factory, or has been inspected as required in paragraph (d)(1) of this AD and is found to not have any evidence of cracking.	As of the effective date of this AD	Not Applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(f) Where can I get information about any already-approved alternative methods of compliance? Contact Roman Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

(g) What if I need to fly the airplane to another location to comply with this AD? The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Vulcanair S.p.A., Via G. Poscoli, 7, 80026 Casoria (Naples), Italy. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Italian AD 2000–004, dated January 10, 2000.

Issued in Kansas City, Missouri, on September 13, 2000.

Larry E. Werth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–24370 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–07–AD]

Airworthiness Directives; Agusta S.p.A. (Agusta) Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Agusta Model A109E helicopters, that currently requires inspections of the exhaust ejector locking system, clamp, and dampers for each engine. The existing AD also requires verifying the torque of the metallic clamps and installing safety wire on the metallic clamps; inspecting and modifying the ejector saddles and the locking metallic clamps; and inspecting the metallic clamps, locking mechanisms, and dampers. This action would require modifying the engine exhaust ejectors. This proposal is prompted by the development of a kit to modify the engine exhaust ejectors to provide terminating action from the requirements of the current AD. The actions specified by the proposed AD are intended to prevent loss of the metallic clamp or the engine exhaust ejector, damage to the main or tail rotor system and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before November 6, 2000.

ADDRESSES: Submit mailed comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. You may inspect comments at the Office of the Regional Attorney between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2000–SW–07–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

You may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Ente Nazionale per L'Aviazione Civile (ENAC), which is the airworthiness authority for Italy, has notified the FAA that an unsafe condition may exist on Agusta Model A109E helicopters. The ENAC advises that modifying the engine exhaust ejectors, part number (P/N) 109–0601–51, is necessary.

On March 10, 1999, the FAA issued AD 99–03–10, Amendment 39–11080 (64 FR 13502, March 19, 1999), to require, before further flight, inspections of the exhaust ejector to ejector saddle locking system, the torque of the metallic clamps, and the dampers at the bottom of the ejector saddle. Installing safety wire on the metallic clamp for each engine is also required. Within the next 10 hours time-in-service (TIS), that AD required inspecting the dampers and metallic clamps, and repositioning and modifying the ejector saddles and the locking metallic clamps. Thereafter, at intervals not to exceed 25 hours TIS, inspecting the metallic clamps, locking mechanisms, and dampers is required. That action was prompted by an inflight incident in which a metallic clamp that secured the left-hand engine exhaust ejector to the ejector saddle became detached and separated from the helicopter. The requirements of that AD are intended to prevent loss of the metallic clamp or the engine exhaust ejector, damage to the main or tail rotor system, and subsequent loss of control of the helicopter.

Since the issuance of that AD, the manufacturer has issued a technical bulletin that specifies installing new saddle assemblies and new damper supports with improved shock characteristics. Additionally, the technical bulletin specifies installing a redesigned ejector saddle locking system using mounting bolts instead of a metallic clamp.

Agusta has issued Agusta Technical Bulletin No. 109EP–5, dated December 22, 1999, which specifies modifying the engine exhaust ejectors, P/N 109–0601–51, by installing a kit, P/N 109–0822–94. The ENAC classified this service bulletin as mandatory and issued AD No. 2000–001, dated January 4, 2000, in order to assure the continued airworthiness of these helicopters in Italy.

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

Since an unsafe condition has been identified that is likely to exist or develop on other Agusta Model A109E model helicopters of the same type design, the proposed AD would supersede AD 99–03–10 to require modifying the engine exhaust ejectors, P/N 109–0601–51, by installing a kit, P/N 109–0822–94.

The FAA estimates that 13 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The manufacturer has stated that 12 work hours labor costs at $40 per hour and kit will be provided under warranty if requested prior to December 31, 2000. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,120, assuming that all operators take full advantage of all the warranty coverage stated by the manufacturer.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11080 (64 FR 13502, March 19, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Agusta S.p.A.: Docket No. 2000–SW–07–AD. Supersedes AD 99–03–10, Amendment 39–11080, Docket No. 99–SW–10–AD.

Applicability: Model A109E helicopters, up to and including serial numbers 11057, excluding serial numbers 11001, 11005, 11047, 11049, 11055 and 11056, with engine exhaust ejectors, part number 109–0601–51, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance

of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the metallic clamp or the engine exhaust ejector, damage to the main or tail rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Prior to further flight, in accordance with Part I of the Compliance Instructions in Agusta Bollettino Tecnico No. 109EP–3, dated December 22, 1998 (Technical Bulletin), inspect the exhaust ejector to ejector saddle locking system, the dampers at the bottom of the ejector saddle, and the torque of the metallic clamp, and install safety wire on the metallic clamp. If any damage is found as a result of the inspection, accomplish Part II of the Compliance Instructions in the Technical Bulletin prior to further flight.

(b) Within the next 10 hours time-in-service (TIS), inspect the dampers and metallic clamps, and reposition and modify the ejector saddle and the locking metallic clamp in accordance with Part II of the Compliance Instructions in the Technical Bulletin.

(c) Thereafter, at intervals not to exceed 25 hours TIS, inspect the metallic clamp, locking mechanism, and dampers in accordance with Part III of the Compliance Instructions in the Technical Bulletin.

(d) Before further flight after December 31, 2000, modify the engine exhaust ejectors, part number (P/N) 109–0601–51, by installing a kit, P/N 109–0822–94, in accordance with the Compliance Instructions in Agusta Technical Bulletin No. 109EP–5, dated December 22, 1999.

(e) Installing a kit, P/N 109–0822–94, is terminating action for the requirements of this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through a FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

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

Note 3: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD No. 2000–001, dated January 4, 2000, and 2000–088, dated February 10, 2000.

Issued in Fort Worth, Texas, on September 15, 2000.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–24372 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–35]

Proposed Amendment of Class D and Class E4 Airspace; Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class D and Class E4 airspace at Gainesville, FL. The Gainesville VORTAC has been relocated and renamed. As a result the VHF Omni-directional Range (VOR) Standard Instrument Approach Procedure (SIAP) is amended. Therefore, the Class E4 extension to the Class D surface area will be rotated clockwise seven degrees. This proposed action will also remove the reference to the Gainesville VORTAC from the Class D airspace description.

DATES: Comments must be received on or before October 23, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–35, Manager, Airspace Branch, ASDO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

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 the airspace docket number and be submitted in triplicate to the address listed above. Comments 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 Airspace Docket No. 00–ASO–35." The postcard will be date/time stamped and returned to the commenter. All communications received 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 the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 50, 1701 Columbia Avenue, College Park, Georgia 30337, 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class D airspace and Class E4 airspace at Gainesville, FL. Class D airspace designations for airspace areas extending upward from the surface and Class E4 airspace designations for airspace areas designated as an extension to a Class D airspace area are published in Paragraphs 5000 and 6004 respectively, of FAA Order 7400.9H, dated September 1, 2000 and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E4 airspace designations listed in this document would be published subsequently in the Order.

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. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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.

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, 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 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 500 Class D Airspace.

* * * * *

ASO FL D Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(Lat. 29°41′24″N, long. 82°16′18″W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.3-mile radius of the Gainesville Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D Airspace Area

* * * * *

ASO FL E4 Gainesville, FL [Revised]

Gainesville Regional Airport, FL
(Lat. 29°41′24″N, long. 82°16′18″W)
Gators VORTAC
(Lat. 29°34′20″N, long. 82°21′45″W)

That airspace extending upward from the surface within 2.4 miles each side of the Gators VORTAC 041° radial, extending from the 4.3-mile radius of Gainesville Regional Airport to 7 miles northeast of the VORTAC. This Class E4 airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on September 11, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–24294 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 00N–1457]

Medical Devices; Apnea Monitor; Special Controls

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing a proposed rule to create a separate classification for the apnea monitor. The device currently is included in the generic type of device called breathing frequency monitors. The apnea monitor will remain in class II, but will be subject to a special control. The special control is an FDA guidance document that identifies minimum performance, testing, and labeling recommendations for the device. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing a proposed mandatory standard for infant apnea monitors and is announcing the availability of a draft guidance document that will serve as the special control. FDA is taking these actions because it believes that they are necessary to provide reasonable assurance of the safety and effectiveness of the apnea monitor.

DATES: Submit written comments by December 21, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joanna H. Weitershausen, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609, ext. 164.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 10, 1982 (47 FR 39816), FDA classified devices intended to measure or monitor a patient's respiratory rate into class II (performance standards) as part of the generic group of devices known as breathing (ventilatory) frequency monitors (§ 868.2375 (21 CFR 868.2375)). Under the classification scheme set forth in section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the agency determined that performance standards were necessary to provide reasonable assurance of the safety and effectiveness of these devices.

After several initial steps, described in the notice published elsewhere in this issue of the **Federal Register** announcing the withdrawal of the proposed rule to establish a performance standard for the infant apnea monitor (withdrawal), FDA issued a proposed rule setting forth requirements for a performance standard for the infant apnea monitor (60 FR 9762, February 21, 1995). For the reasons discussed in the withdrawal, FDA determined that it is not necessary to establish a mandatory performance standard for the device.

In its place, FDA has developed a draft industry guidance document setting forth the agency's current position regarding minimum performance characteristics, test procedures and criteria, labeling, and, as appropriate, clinical testing for certain apnea monitors, i.e., the infant/child apnea monitor. The current draft guidance identifies the monitor used on this population because infants and children under 3 years old are particularly subject to the pathophysiological consequences of prolonged apneas lasting over 20 seconds in duration. The current draft guidance includes basic concepts set out in the proposed standard for the infant apnea monitor, but updates, consolidates, or eliminates certain

elements of the proposed standard on the basis of comments received on the proposal and the continuing development and FDA's recognition of appropriate consensus standards.

FDA is announcing the public availability of this draft guidance document in a notice published elsewhere in this issue of the **Federal Register**. Though the draft guidance currently represents the agency's position with regard to the infant/child apnea monitor, the agency believes the performance, testing, labeling, and, as appropriate, clinical criteria in the guidance are applicable as well to the apnea monitor used on patients of other ages. In the **Federal Register** notice announcing the public availability of this draft guidance, the agency invites comment on these specific issues.

FDA intends to modify the current guidance in the next draft, including the development of minimum clinical study parameters, so that it represents the agency's current thinking with regard to the apnea monitor used on any age group. The final industry guidance document will describe the minimum performance, testing, labeling, and clinical testing criteria that the agency believes will provide, in conjunction with the general controls of the act, reasonable assurance of the safety and effectiveness of the apnea monitor.

II. Proposed Rule

In this rule, FDA is proposing to revise current § 868.2375(a) to state that the section does not apply to the apnea monitor. This proposed change is stated in the last sentence.

To identify operational parameters in conformance with technology, FDA proposes revising the second sentence of § 868.2375(a) from "when the respiratory rate is outside predetermined limits" to "when the respiratory rate, averaged over time, is outside operator settable limits." Including "averaged over time" distinguishes the differences between a breathing frequency monitor and an apnea monitor. The breathing frequency monitor averages the breath rate over a given time (i.e., 30 seconds, 1 minute) and, then, alarms at the settings the operator has made. The limits are set by the operator and, therefore, are not predetermined. In contrast, the apnea monitor alarms when the next breath is not detected in a set time.

FDA also proposes adding § 868.2377 to classify the apnea monitor in class II and designate the guidance document entitled "Guidance for Apnea Monitor 510(k) Submissions" as a special control for the device. The apnea monitor identified in proposed § 868.2377(a) includes, but is not limited to, the infant/child apnea monitor intended for use on infants under 1 year old and children under 3 years old.

FDA will issue the final guidance document identified as the special control in proposed § 868.2377(b) upon considering comments received on the draft guidance currently entitled "Guidance for Infant/Child Apnea Monitor 510(k) Submissions." As noted above, FDA believes the recommendations it makes in this guidance regarding apnea monitors used for infants and children are applicable as well to apnea monitors used for patients in other age groups. Thus, FDA will modify the final guidance document so that it represents the agency's current thinking regarding the performance characteristics, test procedures and criteria, labeling recommendations, and clinical study parameters that are needed, in conjunction with general controls, to reasonably assure the safety and effectiveness of the apnea monitor.

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. This proposal to classify the apnea monitor in class II as a type of device that is separate from the breathing frequency monitor, and subject to the special control of industry guidance issued by FDA, will not require any firm that currently is legally distributing an apnea monitor to comply with guidance recommendations issued by FDA for the devices. Subsequent to FDA issuance of the final classification rule and the final industry guidance document, a firm submitting a 510(k) premarket notification for a "new" apnea monitor will need to address guidance recommendations. However, the firm need only show that its device is as safe and effective as a device that meets guidance recommendations. The firm may use alternative approaches if those approaches meet the performance, testing, labeling, and clinical study parameters described in the guidance.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. In the past 10 years, the agency estimates that it has received, on average, approximately four 510(k) submissions per year for breathing frequency monitor devices. FDA estimates that only one or two of these submissions per year pertained to apnea monitor devices. In addition, in November 1993, the agency issued a guidance document,[1] made available to industry, which described evaluation criteria used by reviewers in FDA's Center for Devices and Radiological Health to review 510(k) submissions for apnea monitors. Many criteria in the November 1993 document correspond to performance, testing, and labeling recommendations in the draft industry guidance for infant/child apnea monitors. The latter guidance, as noted previously, will be modified and become the special control guidance referenced in this apnea monitor classification proposal.

Based on the above, FDA believes that, on average, no more than two 510(k)'s per year will be submitted for "new" apnea monitors by firms that must address performance, testing, and labeling parameters recommended in the special control guidance document issued by the agency as final guidance after considering comments on the draft guidance. The agency believes that the final guidance document constituting the special control will not set out performance, testing, or labeling criteria of a type not previously recommended for apnea monitor devices. FDA also believes that, under normal business practices in response to competitive market forces over the past 10 years, the manufacturer of an apnea monitor will have in place designs and procedures that meet any updated

[1] "Reviewer Guidance for Premarket Notification Submissions November 1993, Anesthesiology and Respiratory Devices Branch, Division of Cardiovascular, Respiratory, and Neurological Devices."

recommendations in FDA's final guidance document.

Because of the above factors, FDA believes apnea monitor manufacturers will incur no costs other than those associated with the submission of 510(k) premarket notifications for "new" monitors. FDA has estimated this cost to be $6,000 per submission on the basis that it takes device firms approximately 80 hours to complete a 510(k) package (exclusive of preparing clinical data, research, etc.) and costs an average of $75.00 per hour to perform this type of work. Thus, FDA estimates the cost to industry of this classification proposal to be approximately $12,000 per year ($6,000 per 510(k) submission x 2 submissions per year). Therefore, the agency certifies that this proposal, if finalized, will not have a significant economic impact on a substantial number of small businesses.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation). The Unfunded Mandates Reform Act of 1995 does not require FDA to prepare a statement of costs and benefits for the proposed rule, because the proposed rule is not expected to result in any 1-year expenditure that would exceed $100 million adjusted for inflation.

V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The burden hours required for proposed § 868.2377 are reported and approved under OMB Control No. 0910–0120.

VI. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

VII. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this proposal by December 21, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 868

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 868 be amended as follows:

PART 868—ANESTHESIOLOGY DEVICES

1. The authority citation for 21 CFR part 868 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 868.2375(a) is revised to read as follows:

§ 868.2375 Breathing frequency monitor.

(a) *Identification.* A breathing (ventilatory) frequency monitor is a device intended to measure or monitor a patient's respiratory rate. The device may provide an audible or visible alarm when the respiratory rate, averaged over time, is outside operator settable limits. This device does not include the apnea monitor classified in § 868.2377.

* * * * *

3. Section 868.2377 is added to subpart C to read as follows:

§ 868.2377 Apnea monitor.

(a) *Identification.* An apnea monitor is a complete system intended to alarm primarily upon the cessation of breathing timed from the last detected breath. The apnea monitor includes a secondary modality, such as heart rate monitoring, that will alarm in response to the physiological consequences of apnea.

(b) *Classification.* Class II (special controls) (Guidance document: "Guidance for Apnea Monitor 510(k) Submissions").

Dated: September 1, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–24334 Filed 9–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 896

[Docket No. 83N–0193]

Medical Devices; Performance Standard for the Infant Apnea Monitor; Withdrawal Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing the proposed rule it issued on February 21, 1995 (60 FR 9762). The document set out proposed requirements for a mandatory performance standard for the infant apnea monitor. In light of declining births and reduced mortality rates for infants at risk for death due to apparent life-threatening events (ALTE's), including certain apneas, and after considering other factors, FDA no longer believes that a mandatory performance standard is needed for this class II device. The agency believes that FDA guidance to industry that identifies minimum performance, testing, and labeling recommendations will provide reasonable assurance of the safety and effectiveness of the apnea monitor, including infant/child monitors. FDA is making this draft guidance available for comment through a notice published elsewhere in this issue of the **Federal Register**. Also, elsewhere in this issue of the **Federal Register**, FDA is proposing to create a separate classification for the apnea monitor, with the FDA guidance document as the special control.

FOR FURTHER INFORMATION CONTACT: James J. McCue, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4766, ext. 101.

SUPPLEMENTARY INFORMATION:

I. Background

On September 10, 1982 (47 FR 39816), FDA classified devices intended to measure or monitor a patient's respiratory rate into class II (performance standards) as part of the generic group of devices known as breathing (ventilatory) frequency

monitors (21 CFR 868.2375). Under the classification scheme set forth in section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the agency determined that performance standards were necessary to provide reasonable assurance of the safety and effectiveness of these devices.

In subsequent years, FDA initiated a series of actions to provide for the development of a mandatory performance standard for the subset of breathing frequency monitors, commonly called neonatal apnea monitors, that are intended to be used on infants to detect the cessation of respiratory air flow. Early actions included the initiation of a proceeding under section 514(b) of the act (21 U.S.C. 360d(b)) (48 FR 31392, July 8, 1983), and the issuance of an invitation for interested persons to submit an existing standard as a proposed standard or to submit an offer to develop a proposed standard (51 FR 6886, February 26, 1986).

Thereafter, FDA issued a grant award to the Emergency Care Research Institute (ECRI) to develop a proposed standard for the neonatal apnea monitor (53 FR 13296, April 22, 1988). However, the proposed standard ECRI developed did not cover certain performance requirements for the device. As a consequence, FDA initiated notice and comment rulemaking to develop a performance standard for the infant apnea monitor, which would include the neonatal apnea monitor. FDA intended that the standard would encompass monitors used in hospitals and in patients' homes to detect and alarm upon the cessation of respiratory air flow (i.e., apnea) in children under 3 years old.

In the **Federal Register** of January 4, 1989 (54 FR 187), FDA made available for public comment its "First Draft Proposed Standard for the Infant Apnea Monitor, October 1988." In the **Federal Register** of December 6, 1989 (54 FR 50437), FDA announced the public availability of its "Second Draft Proposed Standard for the Infant Apnea Monitor October, 1989." After considering comments received on these drafts, and comments made at public meetings, including the Seventh and Eighth Conference(s) on Apnea of Infancy, FDA issued a proposed rule setting forth requirements for a mandatory performance standard for the infant apnea monitor (60 FR 9762, February 21, 1995).

II. Summary of Requirements in the Proposed Standard

The mandatory performance standard proposed by FDA on February 21, 1995, specified requirements for infant apnea monitors in four areas: Patient monitoring, electrical characteristics, mechanical and environmental characteristics, and labeling. Certain provisions required conformance, to the extent specified, with identified international standards.

Proposed patient monitoring provisions included: Requirements for primary and secondary monitoring modalities, visual and audible alarms (status indicators), a remote alarm unit for monitors intended for home use, and a self-test mechanism. Proposed electrical requirements included: Provisions for battery backup, operation from ungrounded power sources, limitation of leakage current, and operational specifications and test procedures ensuring electromagnetic compatibility. Proposed mechanical and environmental requirements mandated: Tamper proof controls, protection against misconnections, and resistance to normal shock, vibration, temperature extremes, and fluid spills. Proposed labeling provisions specified: Information that manufacturers would be required to provide to operators and health care practitioners, including specific product labels.

III. Summary of Comments Received on the Proposed Standard

FDA received more than 100 comments from manufacturers, hospitals, physicians, medical societies, and national trade associations. A number of comments objected to the 1-year effective date of the standard. One comment claimed that the cost of compliance would exceed $100 million. Another maintained that the need for the standard was based on outdated data and that FDA had not established that the standard was necessary to provide reasonable assurance of the device's safety and effectiveness.

Most comments addressed terms, definitions, specifications, and/or technical requirements proposed in the standard. Many commented on the terms "breath," "breathing," "cessation of breathing," and "breathing effort;" others on the definitions of infant apnea monitor, operator, primary monitoring modality, and secondary monitoring modality. Comments concerning primary and secondary monitoring modalities focused on proposed requirements for apnea duration settings, activation times for warning indicators, and sensor fault alarms.

Some comments questioned the adequacy of requirements for visual and audible warning indicators. Others objected to requirements for resetting silenced alarms, low battery warning indicators, and minimum battery capacity. Comments on proposed electromagnetic compatibility requirements included objections to three levels of radiated electromagnetic testing and three voltage levels of fast transient burst testing. Comments also suggested that alarming or degradation of the monitor during immunity testing should be considered an acceptable response and testing endpoint.

Some comments wanted temperature ranges raised for monitor operations and surfaces contacting patients. Comments about labeling objected generally that some of the proposed requirements were duplicative, or unnecessary, or were not a manufacturer responsibility.

IV. Withdrawal of the Proposed Standard

FDA is withdrawing the proposed rule issued on February 21, 1995 (60 FR 9762), and terminating the proceeding for the development of a mandatory performance standard for the infant apnea monitor, in accordance with section 514(b)(3)(A) of the act. FDA no longer believes that the special control of a mandatory standard is necessary, at this time, to provide reasonable assurance of the safety and effectiveness of this device (i.e., an apnea monitor used on an infant/child under 3 years old). The agency considered the following factors in reaching this conclusion: (1) Reductions in at-risk infant populations, (2) few deaths and serious injuries reported to FDA for infant/child apnea monitors attributed to monitor design problems or malfunctions, (3) improved technology, (4) alternative development of consensus standards, and (5) compliance costs versus risks and benefits.

A. Declining Death Rates Within At-Risk Infant Populations

Current U.S. medical opinion continues to support the consensus statement and report issued on the subject of infantile apnea and home monitoring, in accordance with the National Institutes of Health (NIH) Consensus Development Conference, held on September 29 to October 1, 1986. There was consensus agreement, at that conference, with respect to the relationship of neonatal and infant apnea to each other and to infant morbidity, especially from sudden infant death syndrome (SIDS). The conferees agreed that apnea of

prematurity is not a risk factor for SIDS. The conferees also agreed that an ALTE would encompass any episode experienced by infants characterized by some combination of apnea (central or occasionally obstructive), color change, marked change in muscle tone, choking, or gagging. The conferees agreed that such an episode is considered a risk factor for sudden death (including SIDS).[1] Thus, while the conferees generally agreed that there was no evidence of a direct relationship between apnea experienced by infants and SIDS deaths, certain pathophysiological consequences of apnea were not excluded as possible contributors to sudden infant death.

Regarding home monitoring, the consensus conference concluded that there were no reports of scientifically designed studies of the effectiveness of electronic home monitoring of premature infants for ALTE's, or for other pathologic conditions. However, there was agreement that cardiorespiratory monitoring was effective in preventing death due to apnea for certain infants, such as those with a history of recurrent or severe apnea. It was also agreed that cardiorespiratory monitoring, or an alternative therapy, was medically indicated for certain groups of infants at high risk for sudden death, such as infants with one or more ALTE's, symptomatic preterm infants, siblings of multiple SIDS victims, and others.[2]

FDA also notes the dramatic drop that has occurred in SIDS deaths as increased numbers of healthy infants have been placed on their backs to sleep, as a method of reducing the risk of SIDS, under the 1992[3] and 1996 recommendations of the American Academy of Pediatrics and the national "Back to Sleep" campaign launched in 1994 under the coordination of the National Institute of Child Health and Human Development. The number of SIDS deaths has declined by over 48 percent from 4,891 deaths in 1992[4] to 2,529 deaths in 1998.[5]

FDA is also aware of the general reductions over the past 7 years in infant mortality rates. The infant (under 1 year) mortality rate has dropped from 8.5 infant deaths per 1,000 live births in 1992[6] to a 7.2 rate in 1998.[7] FDA believes that these reductions in infant mortality rates, in conjunction with reduced numbers of SIDS deaths, serve to reduce the population, and attendant risks, of infants subject to apnea of infancy (i.e., "pathological" apnea of 20 seconds or longer associated with bradycardia, cyanosis, pallor, and/or marked hypotonia), and infants subject to ALTE's, including prone sleeping, and other risk factors for SIDS.

B. Deaths, and Serious Injuries Attributable to Infant/Child Apnea Monitors

Under the Medical Device Reporting (21 CFR part 803) and Medical Device Distributor Reporting (21 CFR part 804) regulations, FDA has received manufacturer MDR reports, user facility reports, distributor MDR reports (until February 1998), and voluntary reports and complaints of alleged adverse events associated with the use of apnea detectors, breathing frequency monitors, respiratory monitors, and related devices. From 1986 through 1991, FDA received approximately 150 reports of deaths, and 31 reports of serious injuries allegedly associated with these devices.

In MDR reports received by FDA during the past 8 years, few deaths or serious injuries of children have been reported for apnea monitor usage that could be attributed to monitor problems as the cause of the adverse events. From July 1992 to October 1997, the MDR data base lists receipt of reports alleging 20 deaths and 16 serious injuries that might be associated with apnea monitors. Sixteen deaths and 5 serious injury incidents could be identified as involving infants and children under 3 years old. For 1998 and 1999, data base reports identify six of six alleged deaths and three of four serious injuries as involving patients under 3 years of age. Since 1992, 22 deaths and 8 serious injuries have allegedly occurred during the use of infant/child apnea monitors.

In two of those deaths reported since July 1992 were device problems considered to have caused or contributed directly to the reported event. In a February 1993 incident (User Report No. 3200010000–1993–0008), the audible alarm of a respiration rate monitor reportedly did not sound at the decrease in respiration during the seizure of a 3-month-old infant who subsequently could not be resuscitated. In an August 1993 incident (User Report No. 1402080000–1993–0002), the electrical power source of an apnea monitor allegedly changed from the battery mode to the alternating current mode, resulting in the electrocution of the infant.

Similarly, in three of the serious injury events reported after July 1992 were monitor problems thought to be causal factors. In 1992 (User Report No. 3300270000–1992–002) and 1998 (Voluntary Report No. MW1014260) incidents, electrode connections reportedly caused red skin irritations, with skin breakdowns or burns. Multiple false bradycardia alarming resulted in unnecessary hospitalization of an infant in one October 1997 incident (Voluntary Report No. MW1012327).

FDA considers the continuing low number of reported deaths and serious injuries in which a monitor problem is the possible cause of the adverse event to be a factor that lessens the need for a mandatory performance standard for the infant/child apnea monitor at this time. Moreover, as discussed below, the agency believes that newer technologies will reduce these small numbers even further.

C. Improved Technology

Monitors to detect apnea in infants have been used in hospitals and patients' homes since the early 1970's. Methods to detect respiration have included mattress motion sensors, capnometry, impedance pneumography, inductive plethysmography, and others. Impedance pneumography, utilizing electrodes, leads, and patient cables, remains the most prevalent method, but other methods have been developed, including those that utilize nonelectrical or pneumatic sensors and telemetric respiratory detection.

Various detection modalities and features have been added to improve apnea monitor designs, including: Heart rate; oxygen saturation and airway carbon dioxide monitoring; noise suppression; automatic sensitivity adjustments; signal processing algorithms; and the capacity to record, display, print, and retain in memory, both patient and equipment data. The use of heart rate monitoring modalities in impedance pneumography units and the inclusion of recording and memory capabilities have improved the general performance of home-use infant/child apnea monitors. For example, the introduction in the late 1980's of home-use monitors with internal memory has aided in determining monitor activity

[1] "Infantile Apnea and Home Monitoring," NIH Consensus Statement Online 1986, September 29 to October 1; 6(6): 1–10, pp. 1–3.

[2] ID. at pp. 6–7.

[3] American Academy of Pediatrics, Task Force on Infant Positioning and SIDS, "Positioning and SIDS," *Pediatrics* 89 (6): 1120–1126, June 1992.

[4] U.S. Department of Health and Human Services, "Reduction in SIDS Deaths Helps Bring Low Infant Mortality," Washington, DC, Press Release, October 9, 1996.

[5] National Center for Health Statistics, "Births and Deaths: Preliminary Data for 1998," National Vital Statistics Reports; vol. 47, No. 25, table 15, p. 32. Hyattsville, MD, National Center for Health Statistics, 1999.

[6] National Center for Health Statistics, "Deaths: Final Data for 1997," National Vital Statistics Reports; vol. 47, No. 19, table 27, p. 86. Hyattsville, MD, National Center for Health Statistics, 1999.

[7] See National Center for Health Statistics, note 5, supra.

during adverse events. These newer technologies are in most hospital units, in configurable modules that include programmable apnea detection modalities. Approximately 90 percent of hospital monitoring systems in current use already comply with the February 21, 1995, proposed standard for infant/child apnea monitors (now withdrawn).

Moreover, apnea monitors for home use that were introduced into commercial distribution after November 1993 were cleared for marketing under evaluation criteria described in a guidance document[8] used by reviewers in the Center for Devices and Radiological Health's (CDRH's) Office of Device Evaluation (ODE). This "Reviewer Guidance" was made available to industry through the Center's Division of Small Manufacturers' Assistance and is still used by ODE reviewers in evaluating 510(k) submissions for home-use respiratory devices. Many performance, labeling, and testing recommendations included in the guidance document correspond to requirements in the proposed standard. Thus, CDRH believes that most home-use apnea monitors that received 510(k) clearance after November 1993 already meet most of the provisions of the proposed standard. Some apnea monitors distributed before this time, however, may not conform to certain requirements of the proposed standard.

D. Alternative Development of Consensus Standards

In 1995 (60 FR 9762), FDA proposed to make compliance with certain requirements of the infant apnea monitor standard contingent upon meeting specified provisions of 13 standards developed by other organizations. Since then, global efforts to harmonize standards and domestic efforts to develop consensus standards have increased. FDA's historical support of these efforts has also been strengthened by the FDA Modernization Act of 1997, which added new section 514(c) to the act, allowing FDA to recognize consensus standards that may be used to satisfy device review requirements identified by the agency. In the **Federal Register** of February 25, 1998 (63 FR 9561), FDA provided public notice of its policy on this use of standards and published its first list of FDA-recognized consensus standards related to medical devices.

[8] "Reviewer Guidance For Premarket Notification Submissions November 1993, Anesthesiology and Respiratory Devices Branch, Division of Cardiovascular, Respiratory, and Neurological Devices."

FDA believes global harmonization and domestic standardization are producing widely accepted consensus standards embodying the latest scientific developments. In a draft guidance to industry, providing recommended criteria for infant/child apnea monitors, FDA will identify the latest versions of 17 international and domestic consensus standards that have some applicability to performance and testing criteria, particularly electromagnetic compatibility test methods, which the agency considers appropriate for these devices. The agency believes these consensus standards are applicable as well to apnea monitors used on patients of any age. After considering comments on the draft guidance and further evaluating clinical study criteria, FDA will modify the draft document and issue final guidance setting out minimum performance, testing, labeling, and clinical criteria that it considers necessary to assure the safety and effectiveness of any apnea monitor type of device.

Manufacturers will have the flexibility to follow the consensus standards, and other recommendations, set out in the agency's apnea monitor guidance or to use alternative approaches of equal or better merit (e.g., in the use of test procedures). As standards referenced in the agency's guidance become FDA-recognized consensus standards, industry will be able to obtain expedited marketing clearance by certifying conformance to them. FDA believes this process will provide reasonable assurance of the safety and effectiveness of the apnea monitor type of device used on patient populations of any age, including the infant/child apnea monitor.

E. Compliance Costs versus Risks and Benefits

Following its review of comments on the proposed standard, FDA assessed the cost and analyzed the economic impact of various modified versions of the proposed standard. FDA concluded that, if the standard were issued as a final regulation with a 1-year effective date, the one-time cost of complying with the modified standard would be approximately $146.8 million. Annual compliance costs would be about $2.7 million. Extending the effective date to 3 years would reduce the one-time compliance cost to an estimated $89.7 million, while annual costs would remain at $2.7 million.

The largest portion of estimated one-time costs were costs that would be associated with the market removal and correction of infant apnea monitors that did not meet the requirements of the standard. CDRH made the assessment that certain home-use infant apnea monitors marketed before November 1993 would not meet some recommendations set forth in the guidance made available on that date. CDRH also believed that some of these monitors would not meet certain requirements of the February 21, 1995, proposed standard. After a final standard based on the proposed one went into effect, noncompliant monitors would have to be removed from the market and corrected, for example, to provide visual indication of a change in apnea duration from a setting of 20 seconds, to change the color of some visual indicators, to change the volume level for audible alarms, and/or to add shielding and/or filtering to provide additional electromagnetic compatibility.

In light of reductions in at-risk infant populations, few recent deaths or serious injuries attributable to malfunctions, improvements in post-1993 monitor technology, and standardization developments, FDA has concluded that a mandatory performance standard is not necessary to provide reasonable assurance of the safety and effectiveness of the infant(/child) apnea monitor, and that the benefit to the public health would not justify the costs to industry to comply with the standard.

V. Alternative Actions—Classification, Industry Guidance, and Education Program

A. Classification

Elsewhere in this issue of the **Federal Register**, FDA is proposing to create a separate classification for the generic type of device known as the apnea monitor. The generic apnea monitor would include the infant/child apnea monitor intended for use on infants less than 12 months old and children less than 3 years old to detect and alarm upon apnea and its pathophysiological consequences. The apnea monitor device will remain classified in class II, but will be subject to a special control. The special control is a FDA guidance to industry. FDA believes that this special control will provide reasonable assurance of the safety and effectiveness of the apnea monitor device, including the infant/child apnea monitor.

B. FDA Guidance to Industry (Special Controls)

Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability for comment of a draft guidance document for industry

concerning infant/child apnea monitors. This draft guidance sets forth the agency's current position regarding minimum performance characteristics, test procedures and criteria, labeling, and, as appropriate, clinical testing that will provide reasonable assurance of the safety and effectiveness of this kind of apnea monitor device. This guidance includes basic concepts that were included in the proposed standard for infant apnea monitors, but updates, consolidates, or eliminates certain elements of the proposed standard on the basis of comments received in response to the proposal and the continuing development and FDA recognition of appropriate consensus standards. Although the proposed standard did not require clinical testing, the guidance document addresses this subject.

As noted above, FDA believes the performance, testing, labeling, and clinical parameters in the draft industry guidance for infant/child apnea monitors are applicable as well to apnea monitors used on patients in every age group. After considering comments on this guidance and further evaluating clinical criteria, FDA will issue final industry guidance identifying minimum performance, testing, labeling, and clinical criteria as the special control for the entire apnea monitor group of devices. Once this special control is established, new products seeking to enter the market will be required to conform with the special control. The final guidance document will describe a means by which an apnea monitor device may comply with the requirements of special controls for class II devices.

Designation of the agency's guidance document as a special control means that manufacturers attempting to establish that their device is substantially equivalent to a predicate apnea monitor, including one used to monitor apnea in children under 3 years of age, should demonstrate that the proposed device complies with either the specific recommendations of this guidance or some alternative control that provides equivalent assurances of safety and effectiveness. FDA recognizes that older products already on the market will not be required to meet this special control. The agency expects, however, that labeling on the newer devices and other market forces will encourage manufacturers of these older devices to comply with the guidance. FDA also expects the education program, described below, to accelerate the improvement of these older products.

FDA is participating with the Association for the Advancement of Medical Instrumentation in a separate effort to develop clinically-based test methods and clinically-derived bench tests for measuring the effectiveness of monitoring modalities in detecting apnea. At the conclusion of this effort, the agency may consider these tests to be referee test methods.

C. Education Program

FDA intends to develop an education program targeted to reach manufacturers of the infant/child apnea monitor, manufacturers of accessories marketed for use with this device, distributors and rental companies handling the devices, users, including hospitals and other health care services, and other consumers. This particular audience is targeted initially because infants and children under 3 years of age are particularly subject to the pathophysiological consequences of prolonged apneas lasting over 20 seconds in duration.

The purpose of this program will be to inform the target audience of FDA's current position regarding performance characteristics and specifications, test methods and results, and labeling information the agency believes are appropriate for the infant/child apnea monitor. The program also will advise the target audience that some monitors previously cleared for marketing prior to November 1993 may not meet the agency's current recommendations and, although they may adequately detect and alarm upon prolonged episodes of central apnea, they may not be adequate for detection of episodes of obstructive apnea or mixed apnea.

As circumstances warrant, FDA may direct additional educational efforts at parties involved with apnea monitors used on patient populations of other ages.

Dated: September 12, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–24335 Filed 9–21–00; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6874–5]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

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

DATES: Send your written comments by October 23, 2000.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. You can examine copies of the materials submitted by Tennessee during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104, Phone number: (404)562–8190; or Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535, Phone number: (615) 532–0850.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs

Branch, Waste Management Division, U.S. Environmental Protection Agency at the above address and phone number.

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

Dated: September 12, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–24433 Filed 9–21–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 091800E]

RIN 0648-AO41

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 13

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 13 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for Secretarial review. Amendment 13 is intended to make the FMP consistent with Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) bycatch provisions,to increase flexibility in the annual management measures framework to manage for protection of overfished and depleted stocks, and to remove outdated and unused limited entry permit endorsements.

DATES: Comments on Amendment 13 must be received on or before November 21, 2000.

ADDRESSES: Comments on Amendment 13 or supporting documents should be sent to Donna Darm, Acting Administrator, Northwest Region, NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or to Rebecca Lent, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

Copies of Amendment 13 and the Environmental Assessment/ Regulatory Impact Review (RIR) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier at 206-526-6140, Svein Fougner at 562-980-4000; or the Pacific Fishery Management Council at 503-326-6352.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any new FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notification in the Federal Register that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described here in determining whether to approve the FMP or amendment.

Amendment 13 would address the Magnuson-Stevens Act National Standard 9 bycatch provisions by: revising the FMP definition of the term "bycatch", changing the standardized reporting methodologies, and recommending new bycatch reduction measures. Amendment 13 would establish an increased utilization program in the at-sea whiting fisheries. This program would allow at-sea whiting processing vessels that carry more than one observer to retain all of their non-whiting groundfish bycatch for processing into fish meal or for donating to food banks. Measures that would be authorized and may be considered for future Council development include: shorter fishing seasons and higher cumulative landing limits; permit stacking in the limited entry fleet; gear modification requirements; catch allocation to, or gear flexibility for, gear types with lower bycatch rates; improvements in the species-to-species landings limit ratio; and time/area closures to protect incidentally caught species.

In addition to addressing bycatch, Amendment 13 would increase flexibility in the groundfish annual specifications and management measures process to allow the Council to more easily develop measures that protect overfished and depleted species. This increased flexibility would include: achieving the overfished species rebuilding plans, reducing bycatch, preventing overfishing, allowing the harvest of healthy stocks as much as possible while protecting and rebuilding overfished and depleted stocks, and equitably distributing the burdens of rebuilding among the various fishing sectors.

Finally, Amendment 13 would amend the limited entry permit provisions to remove unused and outdated limited entry permit endorsements. This last revision is essentially a housekeeping measure to address changes in the character of the groundfish fisheries, particularly the fully utilized status of all FMP-managed Pacific coast groundfish stocks.

Public comments on Amendment 13 must be received by November 21, 2000 to be considered by NMFS in the decision whether to approve Amendment 13. A proposed rule to implement Amendment 13 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comment on the proposed regulations to implement Amendment 13 in the near future.

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

Dated: September 19, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–24458 Filed 9–21–00; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 65, No. 185
Friday, September 22, 2000

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agricultural Development One Hundred and Thirty Second Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and thirty-third meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:30 a.m. to 4 p.m. on September 28th, 2000, and from 8:30 a.m. to 1:30 p.m. on September 29th, 2000, in the NASULGC Meeting Room, 1307 New York Avenue, NW., Washington, DC.

As part of its agenda, BIFAD will tie together agricultural and environmental perspectives around carbon sequestration issues, and trade & food security perspectives. The next part will return to the theme of constituency-building for foreign assistance. The second day's agenda begins with a response to the livestock revolution, followed by a session on crafting a common message regarding agriculture, universities and USAID.

Those wishing to attend the meeting or obtain additional information about BIFAD should contact Mr. Lawrence Paulson, the Designated Federal Officer for BIFAD. Write him in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW., Room 2.11–044, Washington, DC, 20523–2110 or telephone him at (202) 712–1436 or fax (202) 216–3010.

Lawrence Paulson,

USAID Designated Federal Officer for BIFAD, Office of Agriculture and Food Security, Economic Growth Center, Bureau for Global Programs.

[FR Doc. 00–24346 Filed 9–21–00; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Food Security Advisory Committee Board of International Food and Agricultural Development First Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the first meeting of the Food Security Advisory Committee (FSAC), an independent subcommittee of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 8:30 a.m. to 4:30 p.m. on September 27, 2000 in the first floor conference room at the National Association of State Universities and Land Grant Colleges (NASULGC), located at 1307 New York Avenue, NW., Washington, DC.

As part of the agenda, FSAC will review progress made towards implementing the U.S. Food Security Plan of Action and meeting World Food Summit commitments, examine emerging issues that have a direct bearing on food security, and address the need to forge and strengthen the U.S. constituency for food security.

Those wishing to attend the meeting or to obtain additional information about BIFAD should contact Ms. Jennifer J. Douglas, the Designated Federal Officer for FSAC. Write her in care of the U.S. Agency for International Development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, NW., Room 2.11–061, Washington, DC 20523–2110 or telephone her at (202)–712–1687 or fax (202–216–3060).

Jennifer Douglas,

USAID Designated Federal Officer for FSAC, Office of Agriculture and Food Security, Economic Growth Center, Bureau for Global Programs.

[FR Doc. 00–24347 Filed 9–21–00; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 00–039N]

Codex Alimentarius Commission: Thirty-third Session of the Codex Committee on Food Hygiene

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), are sponsoring a public meeting on October 6, 2000, to present and receive comments on draft United States positions on all issues coming before the Thirty-third Session of the Codex Committee on Food Hygiene (CCFH), which will be held in Washington, DC, October 23–28, 2000. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the Thirty-third Session of the CCFH and to address items on the agenda.

DATES: The public meeting is scheduled for Friday, October 6, 2000, from 1 p.m. to 5 p.m.

ADDRESSES: The public meeting will be held in Conference Room 1409, Federal Office Building 8, 200 C Street, SW., Washington, DC 20204. To receive copies of the documents referenced in this notice, contact the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.fao.org/waicent/faoinfo/economic/esn/codex*. Submit one original and two copies of written comments to the FSIS Docket Room (address above) Docket #00–039N and include the Codex document number. All comments received in response to this notice will be considered part of the public record and will be available for viewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, Telephone (202) 205–7760, Fax (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Clerkin at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Food Hygiene was established to draft basic provisions on food hygiene to all foods. The United States hosts this Committee and representatives of the United States Government will chair the Committee meeting.

Issues To Be Discussed at the Public Meeting

The provisional agenda items and the relevant documents to be discussed during the public meeting are:

1. Report by the Secretariat on Matters Referred by the Codex Alimentarius Commission and/or Other Codex Committees to the Food Hygiene Committee, Document CX/FH 00/2
2. Preliminary Report of the ad hoc Expert Consultation on Risk Assessment of Microbiological Hazards in Food and Related Matters, Document CX/FH 00/3
3. Proposed Draft Code of Hygienic Practice for Primary Production, Harvesting and Packaging of Fresh Fruits and Vegetables, Documents *CX/FH 00/4*—Comments at Step 3 CX/FH 00/4–Add.1
4. Proposed Draft Code of Hygienic Practice for Pre-Cut Fruits and Vegetables, Documents *CX/FH 00/5*—Comments at Step 3 CX/FH 00/5–Add.1
5. Proposed Draft Principles and Guidelines for the Conduct of Microbiological Risk Management, Documents *CX/FH 00/6*—Comments at Step 3 CX/FH 00/6–Add. 1
6. Proposed Draft Code of Hygienic Practice for Milk and Milk Products, Documents *CX/FH 00/7*—Comments at Step 3 CX/FH 00/7–Add. 1
7. Proposed Draft Guidelines for Hygienic Reuse of Processing Water in Food Plants, Documents *CX/FH 00/8*—Comments at Step 3 CX/FH 00/8–Add. 1
8. Proposed Draft Guidelines for the Control of Listeria monocytogenes in Foods, Documents CX/FH 00/9—Comments at Step 3 CX/FH 00/9–Add.1
9. Discussion Paper on the Implementation of HACCP in Small and/or Less Developed Businesses, Documents *CX/FH 00/10*
10. Discussion Paper on the Antimicrobial Resistant Bacteria in Food, Document *CX/FH 00/11*
11. Discussion Paper on the Proposed Draft Guidelines for the Validation of Food Hygiene Control Measures, Document *CX/FH 00/12*
12. Discussion Paper on the Proposed Draft Guidelines for Evaluating Objectionable Matter in Food, Document *CX/FH 00/13*
13. Priorities for the Revision of Codes of Hygienic Practice, Document CX/FH 00/14

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on: September 18, 2000.

F. Edward Scarbrough,

U.S. Manager for Codex.

[FR Doc. 00–24418 Filed 9–21–00; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ashland Post-Fire Project, Custer National Forest, Rosebud and Power River Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) for a proposal to move toward Forest Plan goals and objectives by supporting restoration practices and rehabilitation efforts within the Tobin and Stag Fires on the Ashland Post-Fire Project Area. The Forest Plan goals and objectives that will be met include minimizing public safety hazards through hazard tree removal, maintaining soil productivity and minimizing soil erosion by managing fuel loading and arrangement, and capturing economic values associated with restoration activities as a result of timely harvest of fire-damaged trees (dead or where mortality is imminent). We are not proposing to remove any live trees. The proposed action will be accomplished through restoration activities stipulated as part of harvest operations and through restoration activities funded by Knutsen-Vandenberg collection from post-fire harvest. The EIS will tier to the 1987 Custer National Forest and Grasslands Land and Resource Management Plan (Forest Plan) which provide the overall management direction for the area. The proposed action is consistent with the Forest Plan.

The proposed activities are located within the Tobin and Stag Fire perimeters that include the Three-Mile, King, Odell, Cow, Brian, and Padget drainages on the Ashland Ranger District, in Eastern Montana. The analysis area consists of approximately 71,200 acres with proposed activities within approximately 4,500 acres. The following activities are proposed: (1) Minimize the potential for public safety hazards by harvesting fire-damaged trees within one and a half tree lengths from the edge of Forest Service Transportation System roads; (2) maintain soil productivity and minimize accelerated erosion; (3) limit fuel loads and their spatial arrangement through treatment of dead and dying trees through various activities from harvest operations; and (4) capture economic values associated with restoration activities as a result of harvesting fire-damaged trees within a timely manner. The projects would be

implemented from fiscal year 2001 into the year 2002. The agency invites written comments and suggestions on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the planning process and final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by October 2, 2000.

ADDRESSES: Send written concerns and comments to Elizabeth A. McFarland, District Ranger, Ashland Ranger District, P.O. Box 168, Ashland, Montana 59003.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Kim Reid, Project Coordinator, 1310 Main St., Billings, Montana 59105, phone (406) 657–6200 ext. 233 or (406) 784–2344.

SUPPLEMENTARY INFORMATION: The purpose of the Forest Service proposal is to further movement towards desired conditions outlined in the Forest Plan, by:

- Manipulating fuel loading in order to reduce the potential for high intensity fire effects to resources and to reduce difficulty in future suppression activities with the treatment areas.
- Capture economic values associated with restoration activities as a result of harvesting fire-damaged trees (dead or where mortality is imminent) within a timely manner.
- Reduce public safety hazards caused by fire-damaged trees within one and a half tree lengths from edge of Forest transportation system roads.

The proposed action will be consistent with the Forest Plan, which provides goals, objectives, standards and guidelines of the various activities and land allocations on the forest. The Forest Plan allocates the project area into six management areas (MAs): MA B—Rangeland Emphasis; MAD—Wildlife/Timber/Rangeland; MAG—Timber emphasis; MAJ—Riding and Hiking emphasis; MAN—Riparian emphasis; and MAM—Hardwood Draw emphasis. Private lands (about 1000 acres in the Stag Fire and a little over 40 acres in the Tobin Fire areas) are also included within the project area boundary. Although excluded from Forest Service activities, project access and the condition of private lands will be considered during alternative development and when analyzing potential cumulative effects.

The key issue topics identified to date include:

- Long-term fuel loading and spatial arrangement,
- Timeliness and economic feasibility of harvest in order to recuperate economic value,
- Loss of soil productivity due to potential accelerated runoff events,
- Impacts on soil properties, infiltration, and surface overland flow,
- Public safety, and,
- Wildlife habitat and other species considerations.

A range of reasonable alternatives will be considered, including a no action alternative. Based on the issues gathered through scoping, the action alternatives will vary in (1) the amount and location of acres considered for treatment, (2) the number, type, and location of activity, (3) the silvicultural and post-harvest practices prescribed, (4) the amount of temporary road constructed for access, and (5) the amount of time needed to move the area toward a desired condition.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, tribes and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. Continued scoping and public participation efforts will be used by the interdisciplinary team to identify new issues, determine alternatives in response to the issues, and determine the level of analysis needed to disclose potential biological, physical, economic, and social impacts associated with this project. The scoping process includes:

- Identification of potential issues.
- Identification of issues to be analyzed in depth.
- Elimination of insignificant issues that have been covered by a relevant previous environmental process.
- Exploration of additional alternatives based on the issues identified during the scoping process.
- Identification of potential environmental effects of the proposed action and alternatives (*i.e.* direct, indirect, and cumulative effects and connected actions).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by mid October 2000. The EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comments. It is important that those interested in the proposal on the Ashland Ranger District, of the Custer National Forest, participate at that time.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.) The final EIS is schedules for completion by December 2000. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. Nancy T. Curriden, Forest Supervisor of the Custer National Forest, is the responsible official. She will decide which, if any, of the proposed project alternatives will be implemented. Her decision and reason for the decisions will be documented in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Dated: September 18, 2000.
Nancy T. Curriden,
Forest Supervisor.
[FR Doc. 00–24366 Filed 9–21–00; 8:45 am]
BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: October 23, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 16, July 28 and August 11, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 37757, 46425 and 49218) of proposed additions to and deletion from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Carrier, Entrenching Tool
8465–00–NSH–2000

Services

Grounds Maintenance, Department of Veterans Affairs, Puget Sound Health Care System, 1660 South Columbian Way, Seattle, Washington

Janitorial/Custodial, Basewide, Naval Submarine Base New London, Groton, Connecticut

(49% of the total requirement)

Switchboard Operation, Defense Supply Center—Richmond, Richmond, Virginia

Virtual Warehouse Operation, Department of Transportation, Ardmore East Business Center, 3341 Q 75th Avenue, Landover, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Knife, Paring; Steak/Utility; Slicer
M.R. 870 (Paring)
M.R. 871 (Steak Utility)
M.R. 874 (Slicer)

Louis R. Bartalot,
Deputy Director (Operations).
[FR Doc. 00–24412 Filed 9–21–00; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 23, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the

commodities and service to the Government.

2. The action will result in authorizing small entities to furnish the commodities and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Tire Inflator Gage
4910–00–441–8685
NPA: Beaufort County Developmental Center, Inc., Washington, North Carolina
EMM Tray, Plastic & EMM Sleeve, Fiberboard
7240–00–NSH–0001 (Tray)
7240–00–NSH–0002 (Sleeve)
(Remaining Government Requirement)
NPA: MDI Government Services, Inc., St. Paul, Minnesota
Cloth, Cleaning
7920–01–004–7847
NPA: Lions Services, Inc., Charlotte, North Carolina

Service

Operation of Individual Equipment Element Store,
Department of the Air Force, 125 Bennett Avenue, Hurlburt Field, Florida
NPA: L.C. Industries For The Blind, Inc., Durham, North Carolina

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–24413 Filed 9–21–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Yuri Montgomery, also known as Yuri I. Malinkovski; Order Denying Export Privileges

On January 22, 1999, Yuri I. Montgomery, also knows as Yuri I. Malinkovski (Montgomery) was convicted in the United States District Court for the District of Columbia of violating the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 2000)) (IEEPA) and the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991 & Supp. 2000)) (the Act).[1] Specifically, Montgomery was convicted to knowingly and willfully exporting and causing the export of U.S.-origin stun guns to Macedonia and U.S.-origin laser gun sights to Slovenia without applying for an obtaining the required export licenses from the Department of Commerce, and of knowingly and willfully exporting and causing the export of U.S.-origin PAGST military helmets to Slovenia and U.S.-origin handcuffs, laser gun sights, and laser mountings to Macedonia without applying for an obtaining the required export licenses from the Department of Commerce.

Section 11(h) of the Act provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the IEEPA or the Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2000), as amended (65 FR 14862, March 20, 2000)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the IEEPA or the Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years from the date of conviction and shall also determine whether revoke any license previously issued to such person.

Having received notice of Montgomery's conviction for violating the IEEPA and the Act, and after providing notice and an opportunity for Montgomery to make a written submission to the Bureau of Export Administration before issuing an Order denying his export privileges, as provided in Section 766.25 of the Regulations, I, following consultations with the Director, Office of Export Enforcement, have decided to deny Montgomery's export privileges for a period of 10 years from the date of his conviction. The 10-year period ends on January 22, 2009. I have also decided to revoke all licenses issued to the Act in which Montgomery had an interest at the time of his conviction.

Accordingly, it is hereby Ordered

I. Until January 22, 2009, Yuri I. Montgomery, also known as Yuri I. Malinkovski 518 Howard Avenue, NE., Olympia, Washington 98506, 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. Benefiting 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.

II. 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;

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 *Fed. Reg.* 48347, August 8, 2000), continued the Regulations in effect under the IEEPA.

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

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.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Montgomery by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. 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.

V. This Order is effective immediately and shall remain in effect until January 22, 2009.

VI. In accordance with Part 756 of the Regulations, Montgomery may file an appeal from this Order with the Under Secretary for Export Administration. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Montgomery. This Order shall be published in the **Federal Register**.

Dated: September 11, 2000.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 00–24343 Filed 9–21–00; 8:45 am]

BILLING CODE 3510–PT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Oscar Osman; Order Denying Export Privileges

On September 23, 1999, Oscar Osman (Osman) was convicted in the United States District Court for the Southern District of Florida of violating the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991 & Supp. 2000)) (the Act).[1] Specifically, Osman was convicted of knowingly, willfully and unlawfully exporting and causing to be exported a container of goods to Rio Haina, Dominican Republic under a false bill of lading, container of goods was then transshipped to Havana, Cuba.

Section 11(h) of the Act provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2000), as amended (65 FR 14862, March 20, 2000)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years from the date of conviction and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Osman's conviction for violating the Act, and after providing notice and opportunity for Osman to make a written submission to the Bureau of Export Administration before issuing an Order denying his export privileges, as provided in section 766.25 of the Regulations, I, following consultations with the Director, Office of Export Enforcement, have decided to deny Osman's export privileges for a period of seven years from the date of his conviction. The seven-year period ends on September 23, 2006. I have also decided to revoke all licenses issued pursuant to the Act in which Osman had an interest at the time of his conviction.

Accordingly, it is hereby Ordered

I. Until September 23, 2006, Oscar Osman, currently incarcerated at: Spectrum Program CCC, #61204–004, 101 N.W. 59th Street, Miami, Florida 33127, and with an address at: 2655 Collins Avenue, Apt. 1811, Miami Beach, Florida 33140, 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, 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. Benefiting 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.

II. 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

[1] The Act expired on August 20, 1994, Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 FR 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 2000)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the Act.

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.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Osman by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. 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.

V. This Order is effective immediately and shall remain in effect until September 23, 2006.

VI. In accordance with Part 756 of the Regulations, Osman may file an appeal from this Order with the Under Secretary for Export Administration. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Osman. This Order shall be published in the **Federal Register**.

Dated: September 11, 2000.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 00–24342 Filed 9–21–00; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of the American Petroleum Institute's Standards Activities

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of intent to develop or revise standards and request for public comment and participation in standards development.

SUMMARY: The American Petroleum Institute (API), with the assistance of other interested parties, continues to develop standards, both national and international, in several areas. This notice lists the standardization efforts currently being conducted by API committees. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of API is being undertaken as a public service. NIST does not necessarily endorse, approve, or recommend the standards referenced.

ADDRESSES: American Petroleum Institute, 1220 L Street, NW., Washington, DC 20005; telephone (202) 862–8000.

FOR FURTHER INFORMATION CONTACT: All contact individuals listed in the supplementary information section of this notice may be reached at the American Petroleum Institute.

SUPPLEMENTARY INFORMATION:

Background

The American Petroleum Institute develops and publishes voluntary standards for equipment, operations, and processes. These standards are used by both private industry and by governmental agencies. All interested persons should contact the appropriate source as listed for further information.

Pipeline Committee

New (1160) Pipe Integrity in High Consequence Areas (HCAs)
New (1133) Guidelines for Onshore Hydrocarbon Pipelines Crossing Floodplains
1109 Marking Liquid Petroleum Pipeline Facilities
1129 Assurance of Hazardous Liquid Pipeline System Integrity

FOR FURTHER INFORMATION CONTACT: Andrea Johnson, Standards and Training Resource Group, email: johnsona@api.org.

Committee on Marketing

New Recommended Practice on Loading and Unloading of MC 306/DOT 406 Tank Motor Vehicles
New (1582) Similarity Calculations and Software for Aviation Jet Fuel Filter/Separators
2610 Design, Construction, Operation, Maintenance, and Inspection of Terminal and Tank Facilities
1621 Bulk Liquid Stock Control at Retail Outlets
1584 Four-inch Aviation Hydrant System
1004 Bottom Loading and Vapor Recovery for MC–306 Tank Motor Vehicles
2510 Design and Construction of Liquefied Petroleum Gas Installations
1501 Recommended Practice for Retail or Consumer Aviation Fueling Facilities
1560 Lubricant Service Designations for Automotive Manual Transmissions, Manual Transaxles, and Axles
1631 Interior Lining of Underground Storage Tanks

FOR FURTHER INFORMATION CONTACT: David Soffrin, Standards and Training Resource Group, email: soffrind@api.org.

Committee on Refining

New (577) Welding Inspection and Metallurgy
New (580) Risk Based Inspection
New (621) Reconditioning of Metallic Gate, Globe, and Check Valves
New (687) Repair of Special Purpose Rotors
New (934) Materials and Fabrication Requirements for 2¼ CR & 3Cr Steel Heavy Wall Pressure Vessels for High Temperature, High Pressure Hydrogen Service
New Standard on Lightning Protection for Storage Tanks
510 Pressure Vessel Inspection Code
570 Piping Inspection Code
575 Inspection of Atmospheric & Low Pressure Storage Tanks
530 Calculation of Heater Tube Thickness in Petroleum Refineries
560 Fired Heaters for General Refinery Service
662 Plate Heat Exchanger Specification Sheets for General Refinery Service
534 Heat Recovery Steam Generator Burners for Fired heaters in General Refinery Service
599 Metal Plug Valves-Flanged and Welding Ends
603 Class 150, Cast, Corrosion-Resistant, Flanged-End Gate Valves
598 Valve Inspection and Testing
602 Compact Steel Gate Valves-Flanged, Threaded, Welding and Extended Body Ends
608 Metal Ball Valves-Flanged, Threaded, and Butt-Welding Ends
620 Design and Construction of Large, Welded, Low-Pressure Storage Tanks
650 Welded Steel Ranks for Oil Storage
653 Tank Inspection, Repair, Alteration, and Reconstruction
610 Centrifugal Pumps for Petroleum, Chemical, and Heavy Duty Chemical and Gas Industry Services
617 Centrifugal Compressors for petroleum, Chemical and Gas Industry Services

682 Shaft Sealing Systems for Centrifugal and Rotary Pumps
612 Special Purpose Steam Turbines for Petroleum, Chemical and Gas Industry Services
673 Fans
674 Positive Displacement Pumps-Reciprocating
541 Form-Wound Squirrel-Cage Induction Motors–250 Horsepower and larger
554 Process Instrument and Control
526 Flanges Steel Pressure Relief Valves
520 Sizing, Selection and Installation of Pressure-Relieving Devices in Refineries, Part II-Installation

Meetings/Conferences: The Storage Tank Management and Technology Conference will be held in Austin, Texas at the Austin Marriott Hotel from September 19 through September 21, 2000. The Fall Refining Meeting will be held October 30 through November 1, 2000, at the Wyndham Palace Hotel, Lake Buena Vista, Florida. Fitness for Service Training will be offered November 14–16, in San Antonio, Texas, at the Doubletree Hotel. Interested parties may visit the API Events calendar at http://www.api.org/events for more information regarding participation in these meetings.

FOR FURTHER INFORMATION CONTACT: David Miller, Standards and Training Resource Group, e-mail: miller@api.org.

Committee on Safety and Fire Protection

2015 Safe Entry and Cleaning of Petroleum Storage Tanks
2021 Fire Fighting In and Around Flammable and Combustible Liquid Atmosphere Storage Tank
2028 Flame Arrestors in Piping Systems

FOR FURTHER INFORMATION CONTACT: David Soffrin, Standards and Training Resource Group, email: soffrind@api.org.

Committee on Petroleum Measurement

1.0 Vocabulary
2.2A Measurement and Calibration of Upright Cylindrical Tanks by the Manual Strapping Method
2.8A Calibration of Tanks on Ships and Oceangoing Barges
4.5 Master-Meter Provers
6.2 Loading Rack and Tank Truck Metering for Non-LPG Products
8.1 Manual Sampling of Petroleum and Petroleum Products
8.2 Automatic Sampling of Petroleum and Petroleum Products
8.3 Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products
8.4 Manual Sampling and Handling of Fuels for Volatility Measurement
10.1 Determination of Sediment in Crude Oils and Fuel Oils by the Extraction Method
10.3 Determination of Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure)
10.7 Standard Test Method for Water in Crude Oil by Karl Fischer Titration (Potentiometric)
New Draft Standard, On Line Water Monitoring Automatic Sampling
11.1 "C" Language and VCF Software
12.1 Calculation of Static Petroleum Quantities, Part 1, Upright Cylindrical Tanks and Marine Vessels
14.1 Collecting and Handling Natural Gas Samples for Custody Transfer
14.3 Part 1 General Equations and Uncertainty Guidelines
14.3 Part 2 Specifications and General Installation Requirements
14.3 Part 3 Natural Gas Applications
14.3 Part 4 Natural Gas Applications—Software Program
14.3 Part 4 Background, Development, Implementation Procedures and Subroutine Documentation
14.7 Mass Measurement of Natural Gas Liquid
16.2 Mass Measurement of Liquid Hydrocarbons in Vertical Cylindrical Storage Tanks by Hydrostatic Tank Gaging
17.1 Guidelines for Marine Cargo Inspection (Spanish Version)
17.2 Measurement of Cargoes on Board Tank Vessel (Spanish Version)
17.5 Guidelines for Cargo Analysis and Reconciliation
17.7 Recommended Practices for Developing Barge Control Factors (Volume Ratio)
19.1D Documentation File for API Manual of Petroleum Measurement Standards Chapter 19.1—Evaporative Loss from Fixed Roof Tanks
20.1 Allocation Measurement
New Multi-Phase Meters
New Ultrasonic Meters
New Alternative Meters

Meetings/Conferences: The Committee on Petroleum Measurement Fall Meeting will be held September 25–29, 2000, at the Wyndham Palace Hotel, Lake Buena Vista, Florida. Interested parties may visit the API Events calendar at http://www.api.org/events for more information regarding attending this meeting.

FOR FURTHER INFORMATION CONTACT: Jon Noxon, Standards and Training Resource Group, email: noxonj@api.org.

Committee on Exploration and Production

New (2FPS) Recommended Practice on Floating Production Systems
2C Specification for Offshore Cranes
2MT1 Specification for As-Rolled Carbon Manganese Steel Plate with Improved Toughness for Offshore Structures
2N Recommended Practice for Planning, Designing and Constructing Structures and Pipelines in Arctic Conditions
2S Design of Windlass Wildcats for Floating Offshore Structure
New (2SM) Synthetic Fiber Ropes for Offshore Mooring
5B Threading, Gaging, and Thread Inspection of Casing, Tubing, and Line Pipe Threads
5CT Specification on Casing and Tubing
7 Specification for Rotary Drill Stern Elements
7K Specification for Drilling Equipment
7L Recommended Practice for Inspection, Maintenance, Repair and Remanufacture of Drilling Equipment
9A Specification for Wire Rope
10D Specification for Bow-Spring Casing Centralizers
10F Recommended Practice for Performance of Cementing Float Equipment
11AR Recommended Practice for Care and Use of Subsurface Pumps
New (11IW) Independent Wellhead
New Specification for Packers
13A Specification for Drilling Fluid Materials
14A Subsurface Safety Valve Equipment
16C Specification for Choke and Kill Systems
16D Specification for Control Systems for Drilling Well Control Equipment
17C Recommended Practice for TFL (Through Flowline) Systems
New 17K Bonded Flexible Pipe
New 17L Flexible Pipe Ancillary Equipment
New Specification for Well Perforators
14J Recommended Practice for Design and Hazard Analysis for Offshore Production Facilities
14G Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms
49 Recommended Practice for Analysis of Oilfield Waters

FOR FURTHER INFORMATION CONTACT: Mike Spanhel, Standards and Training Resource Group, email: spanhelm@api.org.

Dated: September 15, 2000.

Karen Brown,

Deputy Director.

[FR Doc. 00–24459 Filed 9–21–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091800D]

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Habitat Advisory Panel (HAP), will hold meetings.

DATES: The first meeting will be held October 10, 2000; the second, October 11, 2000; and, the third, October 13, 2000; all three will last from l0 a.m. to 4 p.m.

ADDRESSES: All three meetings will be held at the Travelodge Hotel, Isla Verde Avenue, Isla Verde, Carolina, Puerto Rico.

Council address: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 009l8-2577.

FOR FURTHER INFORMATION CONTACT: Telephone: 787-766-5926.

SUPPLEMENTARY INFORMATION: The agenda items discussed by the SSC, AP, and HAP will be as follows:

SSC—Tuesday, October 10, 2000, from 10-4 p.m.

-Dolphin/Wahoo Fishery Management Plan (FMP)
-Queen Conch Amendment Update
-Sustainable Fisheries Act
-Other Business

AP—Wednesday, October 11, 2000, from l0-4 p.m.

-Dolphin/Wahoo FMP
-Conch FMP Amendment
-Other Business
-Simultaneous interpretation (Spanish-English) will be available during the AP meeting.

HAP—Friday, October 13, 2000, from 10-4 p.m.

-Essential Fish Habitat
-Coral FMP
-Task Force Report

These meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolon, 787-766-5926 at least 5 days prior to the meeting date.

Dated: September 19, 2000.

Richard W. Surdi,

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

[FR Doc. 00–24456 Filed 9–21–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091500A]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene separate public meetings of its Shrimp Advisory Panel(AP) and its Standing and Special Shrimp Scientific and Statistical Committees (SSCs).

DATES: The Shrimp AP meeting will be held on Monday, October 9, 2000, beginning at 9 a.m. The Standing and Special Shrimp SSCs' meeting will be held on Tuesday, October 10, 2000, beginning at 10 a.m.

ADDRESSES: The meetings will be held at the New Orleans Airport Hilton Hotel, 901 Airline Highway, Kenner, Louisiana; telephone 504-469-5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida, 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, at the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida, 33619; telephone 813-228-2815.

SUPPLEMENTARY INFORMATION: The Shrimp AP and the Standing and Special Shrimp SSCs will convene to review Draft Amendment 11 to the Shrimp Fishery Management Plan. This amendment contains alternatives for requiring shrimp vessel permits and/or shrimp vessel registration, operator permits, and prohibiting trap gear in the royal red shrimp fishery of the exclusive economic zone (EEZ). The Shrimp AP may develop recommendations to the Council regarding these alternatives. The Shrimp AP also will discuss, and possibly make recommendations to define, "to the extent practicable" under the Magnuson-Stevens Fishery Conservation and Management Act, that requires the Regional Fishery Management Councils to reduce bycatch "to the extent practicable."

The Shrimp AP consists principally of commercial shrimp fishermen, dealers, and association representatives.

Although other non-emergency issues not on the agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of these groups will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Gulf of Mexico Fishery Management Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813-228-2815. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 2, 2000.

Dated: September 18. 2000.

Richard W. Surdi,

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

[FR Doc. 00–24457 Filed 9–21–00; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091800B]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council will convene its 75th meeting of the Scientific and Statistical Committee (SSC).

DATES: The meeting will be held October 10-12, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Council office conference room, 1164 Bishop St., Suite 1400, Honolulu, Hawaii; telephone: (808-522-8220). *Council Address*: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808-522-8220.

SUPPLEMENTARY INFORMATION: The SSC will discuss and may make recommendations to the Council on the agenda items here. The order in which agenda items will be addressed can change.

Tuesday, October 10, 2000, from 9 to 5 p.m.

1. Precious corals fishery
A. Status of 1999 framework adjustment regarding new harvesting requirements
B. Status of 2000 framework adjustment regarding Hawaiian Islands exploratory area quota increase
C. Process of defining new beds
D. September Northwestern Hawaiian Islands (NWHI) research surveys
E. Precious Corals Plan Team/ Advisory Panel recommendations
F. Review of Precious Corals Environmental Impact Statement(EIS)
2. Crustaceans Fishery Management Plan (FMP) issues
A. Status of research and stock assessment activities and plans
B. Plans for experimental fishery in NWHI
C. 5-Year review of Amendment 9
D. Status of litigation
E. Overcapitalization of the NWHI fishery
F. Review of the Crustaceans EIS
3. Bottomfish FMP issues
A. Status of litigation/observer program
B. Review of Bottomfish EIS

Wednesday, October 11, 2000, from 8:30 to 5 p.m.

1. Pelagic FMP issues
A. 2nd quarter 2000 Hawaii and American Samoa longline fishery report
B. American Samoan framework measure
C. Recreational fisheries
(i) Marine Recreational Fishing Statistical Survey
D. Shark management
(i) Blue shark stock assessment
(ii) Status of amendment 9
E. Seabird management
(i) Status of framework measures/ biological opinion on Short-tail albatross
F. Turtle management
(i) Ongoing litigation
(ii) Draft EIS
(iii) Turtle Mitigation Working Group
G. NMFS overfishing/Maximum Sustainable Yield workshop
H. Transition Zone Chlorophyl Front
I. Pelagics research/ecological simulation model
J. Pelagics FMP 5-year review: Terms-of-reference
K. Palmyra Atoll- recreational/ longline/handline area closures
L. International:
(i) Outcome of Multilateral High Level Conference 7
(ii) Standing Committee on Tuna and Billfish 13
(iii) Food & Agricultural Organization consultation on illegal, unreported and unregulated fishing
M. Other issues

Thursday, October 12, 2000, from 8:30 to 5 p.m.

1. Ecosystem and Habitat
A. Draft Coral Reef Ecosystem FMP draft EIS
(i) Summary
(ii) Review of (initial) public comments
B. President's vision for NWHI coral reefs
(i) Department of Commerce/ Department of the Interior recommendations
(ii) President's action
C. Other issues
2. Other business
A. Status of Congressional legislation
B. Magnuson-Stevens Act legislation
C. Draft amendments to add fisheries off the Commonwealth of the Northern Mariana Islands and the Pacific Remote Island Areas (PRIA) to FMPs
D. Sustainable Fisheries Act overfishing amendments to FMPs
E. Status of bioprospecting operations

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808-522-8220 (voice) or 808-522-8226 (fax), at least 5 days prior to the meeting date.

Dated: September 18, 2000.

Richard W. Surdi,

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

[FR Doc. 00–24453 Filed 9–21–00; 8:45 am]

BILLING CODE: 3510–22 –S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091100H]

Marine Mammals

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

ACTION: Receipt of application for amendment and request for emergency relocation of Hawaiian monk seals.

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center, Honolulu Laboratory, NMFS, 2570 Dole Street, Honolulu, Hawaii 96822-2396, has requested an amendment to scientific research Permit No. 848-1335 to allow for the emergency relocation of two Hawaiian monk seal (*Monachus schauinslandi*) pups.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (562/980-4001); and

Protected Species Program Manager, Pacific Islands Area Office, Southwest Region, NMFS, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI (808/973-2937).

SUPPLEMENTARY INFORMATION: The subject amendment to permit No. 848-1335, issued on June 10, 1997 (62 FR 32586) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

The permit holder is currently authorized to conduct population assessment, disease assessment, recovery actions, and pelagic ecology studies of Hawaiian monk seals (*Monachus schauinslandi*) at all locations within the Hawaiian Archipelago and at Johnston Atoll, through May 31, 2002. The permit holder is now requesting that the permit be amended to authorize the emergency relocation of two weaned Hawaiian monk seal pups in order to protect their health and well-being. The permit has been amended to authorize the relocation of the two animals, pursuant to § 216.33(e)(6) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) which allows waiver of the 30-day public comment period. The remainder of the pending amendment application for this action is being processed according to 50 CFR 216.39.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

NMFS has forwarded copies of this amendment request to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September18, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–24454– Filed 9–21–00; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083100A]

Marine Mammals; Scientific Research Permit (PHF# 981-1578-00)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Peter L. Tyack, Ph.D., Woods Hole Oceanographic Institution, Biology Department, 46 Water Street, Woods Hole, MA 02543, has been issued a permit to take several species of cetaceans for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment (see **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713-2289.

SUPPLEMENTARY INFORMATION: On June 30, 2000, notice was published in the **Federal Register** (65 FR 40613) that a request for a scientific research permit to take several species of cetaceans had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 222—226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Addresses: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289).

Dated: August 31, 2000.

Eugene Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–24455 Filed 9–21–00; 8:45 am]

BILLING CODE 3510-22-S

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00–C0015]

Riello Corporation of America, a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Riello Corporation of America, a corporation, containing a civil penalty of $125,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 10, 2000.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00–C0015, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Jimmie L. Williams, Jr., Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, 1376.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: September 18, 2000.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. Riello Corporation of America ("RCA"), a corporation, enters into this Settlement Agreement and Order with the staff ("the staff") of the U.S. Consumer Product Safety Commission ("the Commission") in accordance with 16 CFR part 1118 Section 20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA").

I. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

3. RCA is a corporation organized and existing under the laws of the State of Massachusetts. Its principal offices are located at 35 Pond Park Road, Hingham, Massachusetts.

II. Staff Allegations

4. Between February 1997 and December 1998, RCA imported, distributed and sold in the United States approximately 842 balanced flue oil burners models BF 40 F5 and BF 40 F3 ("the Burners") equipped with a component known as the ET–25 post purge module ("ET–25"). The Burners were designed for installation on residential boilers for home heating. RCA is, therefore, a distributor and retailer of a consumer product in U.S. commerce pursuant to 15 U.S.C. 2052 (a)(1), (5) and (6).

5. The Burners were manufactured by Riello Canada, Inc., a corporation organized and existing under the laws of the Province of Ontario, Canada ("Riello Canada"). The ET–25 was manufactured by Enertel Controls, Inc., a corporation organized and existing under the laws of the federal government of Canada.

6. RCA sold the Burners to manufacturers of boilers. The Burners were installed in those boilers either by the boiler manufacturers or by installers.

7. The ET–25 is intended to blow combustion gases out of the Burner chamber after the call for heat to the Burner is exhausted. A defect in the ET–25 causes the Burner to "run on," which can cause the boiler to overheat. Steam relieved through a pressure relief valve presents a burn hazard to anyone located near the valve. The continuous buildup of pressure within the boiler could cause a fire or explosion.

8. RCA recommended the installation of a secondary high-end limit with the Burner, which would shut down the Burner once a pre-set temperature level in the boiler was reached. In the summer or early fall of 1998, both RCA and Riello Canada obtained reports from their customers that the Burners were failing to shut down after the call for heat had been exhausted, and that some boilers in which the Burners were installed were not equipped with a high end limit. This information reasonably supported the conclusion that the product contained a defect, which could create a substantial product hazard.

9. Riello Canada initiated a corrective action plan beginning December 22, 1998. RCA initiated a similar plan beginning on January 13, 1999.

10. On March 4, 1999, RCA notified the Commission about the Burners. RCA, therefore, failed to report to the Commission in a timely manner as required by Section 15(b) of the CPSA, 15 U.S.C. 2064(b). RCA, in cooperation with the CPSC, voluntarily completed the recall of the Burners soon thereafter.

III. Response of RCA

11. RCA denies all of the allegations of staff and in particular denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) or 16 CFR Part 1115. The payment made hereunder is made in settlement of the staff's allegations. Neither the payment nor the fact of entering into this Settlement Agreement constitute evidence of or an admission of, any fault, liability or statutory or regulatory violation by RCA, or of the truth of any of the allegations made by the staff.

IV. Agreement of the Parties

12. The Commission has jurisdiction over this matter under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*

13. RCA knowingly, voluntarily and completely waives any rights it may have to:

a. the issuance of a complaint in this matter;

b. an administrative or judicial hearing with respect to the staff allegations discussed in paragraphs 4 through 10 above;

c. judicial review or other challenge or contest of the validity of the Commission's Order;

d. a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b) has occurred; and

e. a statement of findings of fact and conclusion of law with regard to the staff allegations.

14. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR part 1118 section 20.

15. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission and service of the Final Order upon RCA.

16. Upon final acceptance of this Settlement Agreement by the Commission, the issuance of the Order, and the full and timely payment by RCA to the United States Treasury of a civil penalty in the amount of One Hundred and Twenty Five Thousand Dollars ($125,000.00), the Commission specifically waives its right to initiate, either by referral to the Department of Justice or bringing in its own name, any action for civil penalties relating to any of the events that gave rise to the staff's allegations in paragraphs four through ten, *supra*, against (a) RCA and Riello Canada, and (b) any and all of RCA's and Riello Canada's successors, assigns, employees, representatives and agents.

17. RCA shall pay the Consumer Product Safety Commission a civil penalty in the amount of $125,000.00 within 30 calendar days of such service of the Final Order.

18. RCA agrees to entry of the attached Order, which is incorporated herein by reference, and to be bound by its terms.

19. This settlement Agreement and Order are entered into for settlement purposes only and shall not constitute evidence of, an admission of, or a determination of, any fault, liability or statutory or regulatory violation.

20. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. 2051, *et seq.*, and a violation of this Order may subject RCA to appropriate legal action.

21. This Settlement Agreement and Order is binding upon and shall inure to the benefit of RCA and Riello Canada and their assigns or successors.

22. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or to contradict its terms.

Riello Corporation of America.

Dated: August 22, 2000.

Nick Gareri,

President.

U.S. Consumer Product Safety Commission.

Alan H. Schoem,

Assistant Executive Director, Office of Compliance.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Dated: August 16, 2000.

Jimmie L. Williams, Jr.,

Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Riello Corporation of America, a Massachusetts Corporation, and the staff of the U.S. Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Riello Corporation of America, and it appearing that the

Settlement Agreement and Order is in the public interest, it is.

Ordered, that the Settlement Agreement be, and hereby is, accepted, and it is

Further Ordered, that upon final acceptance of the Settlement Agreement and Final Order, Riello Corporation of America shall pay the Commission a civil penalty in the amount of One Hundred and Twenty Five Thousand Dollars ($125,000.00) within 30 calendar days after service of this Final Order upon Riello Corporation of America.

Provisionally accepted and Provisional Order issued on the 18th day of September, 2000.

By Order of the Commission.

Sadye E. Dunn,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 00–24339 Filed 9–21–00; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Defense Intelligence Agency Science and Technology Advisory Board

ACTION: Notice.

SUMMARY: The Defense Intelligence Agency Science and Technology Advisory Board (DIA/STAB) has been renewed in consonance with the public interest, and in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act."

The DIA/STAB provides scientific and technical expertise and advice to the Secretary of Defense and the Director Defense Intelligence Agency on current and long-term operational and intelligence matters conferring Defense Intelligence Agency's mission.

The Committee will continue to be composed of 30 to 36 members from government agencies, and senior officials from large and small corporations, private consultants, and the academic community. Efforts will be made to ensure that there is a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

FOR FURTHER INFORMATION CONTACT: Please contact Victoria Prescott, Defense Intelligence Agency, telephone: 202–231–4930.

Dated: September 15, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–24332 Filed 9–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Joint Advisory Committee on Nuclear Weapons Surety

ACTION: Notice.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety (JACNWS) has been renewed in consonance with the public interest, and in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act."

The JACNWS provides advice and recommendations to the Secretary of Defense and the Secretary of Energy on nuclear weapons systems surety matters. The Committee undertakes studies and prepares reports on national policies and procedures to ensure the safe handling, stockpiling, maintenance, disposition and risk reduction of nuclear weapons.

The Committee will continue to be composed of four to seven members, both government and non-government individuals, who are acclaimed experts in nuclear weapons surety measures. Efforts will be made to ensure that there is a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Bill Daitch, Defense Threat Reduction Agency, telephone: 703–325–0581.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–24331 Filed 9–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given that a meeting of the Advisory Council on Dependents' Education (ACDE) is scheduled to be held from 8 a.m. to 5 p.m. on Saturday, October 7, 2000. The meeting will be open to the public and will be held in the Constellation Room at U.S. Navy Europe's headquarters on North Audley Street in London, England. The meeting will be preceded by visits by ACDE members and DoDEA representatives to DoD overseas schools in Iceland, the United Kingdom, Belgium, and Netherlands from October 2–4. The purpose of the Council is to recommend to the Director, Department of Defense Dependents Schools (DoDDS), general policies for the operation of the DoDDS; to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense. The focus of this meeting will be on student achievement and progress towards organizational strategic goals. For further information contact Ms. Polly Purser, at 703–696–4235, extension 1911.

Dated: September 18, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–24330 Filed 9–21–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 23, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

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, Regulatory Information Management Group, 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.

Dated: September 19, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: New.

Title: Indian Vocational Education Program Technology Survey.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 38

Burden Hours: 95

Abstract: This collection will assess the technology and technical assistance needs of current Indian Vocational Education Program grantees. Program staff will use the results of this collection to promote greater and more effective use of technology by vocational and technical education programs that serve Native Americans.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. 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 (202) 708–6287 or via her internet 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. 00–24392 Filed 9–21–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Student Financial Assistance Programs; Distance Education Demonstration Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for participation in the Distance Education Demonstration Program and notice of regional meetings to provide technical assistance to parties interested in participating in the Distance Education Demonstration Program.

SUMMARY: The Secretary of Education invites institutions of higher education (institutions), systems of institutions, and consortia of institutions to submit applications to participate in the Distance Education Demonstration Program authorized under section 486 of title IV of the Higher Education Act of 1965, as amended (HEA). Under the Distance Education Demonstration Program, selected institutions providing distance education programs may receive waivers of specific statutory and regulatory provisions governing the student financial assistance programs authorized under Title IV of the HEA.

Instructions for Submitting an Application: Elements to be included in an application are described in this notice. There is no application form per se for the program. Applications should be submitted by electronic mail or in hard copy to the addresses below. Applicants are urged to submit applications only by electronic mail, to the e-mail address below. Applications should clearly designate a contact person, and the telephone number and the e-mail and street address of the contact person.

Applications submitted by electronic mail should be submitted in Microsoft Word version 7 or lower or WordPerfect version 7, 8, or 9.

To facilitate the application process, the Secretary of Education will conduct regional meetings in the District of Columbia (October 18, 2000); Albuquerque, New Mexico (November 1, 2000); Chicago, Illinois (November 9, 2000) and Seattle, Washington (November 29, 2000) to provide advice and technical assistance to potential applicants for participation in the Distance Education Demonstration Program. Further information concerning these meetings may be found at the end of this Notice and at the Distance Education Demonstration Program web site:

http://www.ed.gov/offices/OPE/PPI/DistEd/

DATES: Applications must be postmarked or submitted electronically on or before February 16, 2001.

ADDRESSES: *Applications submitted electronically.* Institutions must submit applications by e-mail by 5:00 p.m. Eastern time on February 16, 2001 to the following address:

DistanceDemo@ed.gov

Applications submitted by mail: Hard copy applications must be sent to Marianne R. Phelps, U.S. Department of Education, 1990 K Street NW., Room 7112, Washington, DC 20006.

An institution must show proof of mailing these documents by February 16, 2001. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If these documents are sent through the U.S. Postal Service, the Secretary does 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. Institutions should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. You are encouraged to use certified or at least first-class mail.

Applications delivered by hand. Hand-delivered applications must be taken to Marianne R. Phelps, U.S. Department of Education, 1990 K Street NW., Room 7112, Washington, DC 20006.

Applications that are hand-delivered will be accepted between 9:00 a.m. and 5:00 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays. Applications must be received by 5:00 p.m. on February 16, 2001.

FOR FURTHER INFORMATION CONTACT: Marianne R. Phelps at (202) 502–7713 or at DistanceDemo@ed.gov by e-mail. Information concerning the program can also be found on the Distance Education Demonstration Program web site:

http://www.ed.gov/offices/OPE/PPI/DistEd/

Individuals who use a telecommunications device for the deaf

(TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Background and Purpose of the Distance Education Demonstration Program

Over the past few years, there has been rapid growth in the number of institutions providing courses and degree programs in various modes of "distance education." For purposes of the Distance Education Demonstration Program and this notice, "distance education" is defined as an educational process that is characterized by the separation, in time or place, between instructor and student. This process may include courses offered principally through the use of television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.

This growth in distance education has occurred in response to increasing demand from students who are restricted in their ability to enroll in more traditional programs, including working adults, parents, people who live in rural communities, and students with disabilities. Another reason for this growth is the potential for cost control. Distance education is attractive to institutions that seek to avoid large investments in new facilities to meet student demand and to students who can complete their educational programs more economically using distance education for all or part of their studies. Additionally, through consortia and other agreements among institutions that provide distance education, many students are able to take advantage of a richer selection of course offerings tailored to their individual needs than are available at the institutions where they are enrolled.

Distance education has been available to postsecondary education students for many years. More recently, advancements in technology have provided additional instructional opportunities through the use of two way video and the Internet to delivery instruction. The richness of the available technology has made the delivery of high quality distance education possible and desirable for many more postsecondary education programs and students.

Currently, some statutory provisions defining institutional eligibility for the Title IV, HEA programs may limit the circumstances in which Title IV, HEA program funds can be provided to students enrolled in distance education. For example, institutions that offer more than 50 percent of their courses via distance education or enroll more than 50 percent of their students in distance education programs (hereafter referred to as "the 50 percent rules") are not eligible to participate in the Title IV, HEA programs.

Other statutory provisions, such as those dealing with the length of an academic year and the minimum length of an eligible vocational program, are based on the patterns and structure of "traditional" on-campus education. As such, they can be burdensome and difficult to apply to distance education programs. They may also limit institutions from structuring programs that may best meet the needs of distance education students, institutions, and systems and consortia of such institutions. Similar problems may arise with regard to regulatory provisions implementing part G of Title IV of the HEA.

Many of these requirements were put in place to address abuses in the Title IV, HEA programs and until recently did not have much effect on institutions offering distance education programs or courses or their students' eligibility for aid. However, at this point in the evolution of distance education programs, changes to student aid requirements may be necessary to allow students to take full advantage of the opportunities distance education provides and to make it possible for institutions to fully utilize the potential technology now offers to enhance distance education courses and programs. On the other hand, restructuring aid to fit these new patterns presents some risks as well as opportunities, and care in designing alternatives to the current student aid requirements is necessary to assure continued integrity in the Title IV, HEA programs.

In response to these dual concerns, in 1998 Congress enacted the Distance Education Demonstration Program. As described in section 486(a) of the HEA, the purpose of the program is to—

(1) Allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this Act;

(2) Provide for increased student access to higher education through distance education programs; and

(3) Help determine the—

(A) Most effective means of delivering quality education via distance education course offerings;

(B) Specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) Appropriate level of Federal assistance for students enrolled in distance education programs.

Under the Distance Demonstration Program, participants may offer Title IV, HEA program funds to students enrolled in educational programs utilizing distance education delivery methods for all or a portion of their classes without being subject to certain statutory and regulatory provisions, which the Secretary may waive, upon their request. The purpose of these waivers is to test new ways of administering the Federal student assistance programs and to consider how the law and regulations might be altered to allow for expansion of aid to distance students and still ensure program integrity.

The legislation creating the program authorized the Secretary to select, from among eligible applicants, up to a total of 15 institutions, systems of institutions, or consortia of institutions to begin participation in the first year of the program. (For these purposes, a system of institutions could be a group of institutions with a common governing board. An example would be a community college system or a group of private institutions owned by the same corporation. A consortium of institutions could be two or more institutions that have agreed to collaborate on a common effort such as sharing distance education courses or a two-year and four-year institution cooperating to offer a bachelor's degree completion program.) The 15 participants for the first year of the program were selected in May of 1999 and began participation on July 1, 1999.

The Secretary is authorized to select, from among eligible applicants, up to a total of 35 additional institutions, systems of institutions, or consortia of institutions to begin participation in the third year of the program, which will commence on July 1, 2001. The Secretary anticipates that these additional institutions, systems or consortia selected will continue to participate for three years. Participation, of course, will be conditioned upon their meeting the requirements of the Distance Education Demonstration Program and continued participation in Title IV, HEA programs. Institutions desiring to withdraw from the Distance Education Demonstration Program may do so without jeopardy to their

participation in Title IV HEA programs. Also, the scope of the participation, such as the specific distance education programs included and waivers provided, may be modified as agreed upon by the Secretary and the participant, to allow for changes in the programs offered, the modes of delivery used, the size of participants' distance programs, or other changes desired by the Secretary or the participant as experience is gained in the program.

The Department administers this program through an implementation team consisting of staff from various offices within the Department. The Department recognizes the importance of identifying and addressing any problems that arise during the course of the demonstrations. It facilitates communication among participants and works with institutions to provide technical assistance throughout the demonstrations, beginning with the application process. Departmental staff with responsibility for monitoring compliance with Title IV program requirements are represented on the implementation team and monitor compliance with the requirements of the Distance Education Demonstration Program.

The Department also works closely with accrediting agencies and States to determine how their respective roles contribute to assuring quality and integrity. Accrediting agencies play an important role in monitoring the demonstration programs, consistent with their responsibilities. Where State requirements are relevant to distance education programs, the Department works with States to determine how their monitoring role assists in insuring program integrity.

The participants must agree to provide data and information that will assist the Secretary in evaluating the Distance Education Demonstration Program and in reporting to Congress as required by the statute. The data and information provided by participants will assist the Secretary in determining whether statutory and regulatory changes might be needed to support the growth of quality distance education courses and programs and the appropriate level of Federal assistance for students enrolled in distance education programs, two of the purposes of the program that are specified in the statute. A copy of the form containing the data collection requirements can be found on the program Web site.

The program is also designed to examine ways to assure the integrity of Title IV, HEA programs in the context of distance education. This examination is accomplished principally through the close monitoring of participants' administration of Title IV, HEA programs.

Eligible Applicants

The following institutions are eligible to apply to participate in the Distance Education Demonstration Program:

(1) Institutions located in the United States that participate in the Title IV, HEA programs; and

(2) Institutions located in the United States that provide a two-year program that leads to an associate degree or a four-year program that leads to a baccalaureate or higher degree and would be eligible to participate in the Title IV, HEA programs but for the fact that they do not meet one or both of the 50 percent rules.

In addition, systems and consortia of these institutions are eligible to participate in the program.

Statutory and Regulatory Provisions That May Be Waived

The Secretary may waive statutory and regulatory provisions. To obtain a waiver, an institution must request the waiver in its application to participate in the program and must provide reasons for the waiver. Where possible, the applicant should suggest an alternative that is designed to meet the same objectives as those achieved by the waived statutory or regulatory provision. For example, if an applicant seeks to waive the requirement that students must achieve satisfactory academic progress as defined in the regulations, the applicant should suggest an alternative means to ensure that Federal student aid funds are provided only to students who are making progress towards a degree or certificate. An applicant need not include an alternative approach with regard to a request to waive one or both of the 50 percent rules.

Statutory Provisions

The Secretary may waive the following HEA statutory provisions:

- *Section 102(a)(3)(A).* This section makes an otherwise eligible institution ineligible if more than 50 percent of its courses are offered by correspondence and telecommunication.
- Section 102(a)(3)(B). This section makes an otherwise eligible institution ineligible if 50 percent or more of its students are enrolled in correspondence or telecommunications courses.
- *Section 484(l)(1).* This section defines a telecommunications student at an institution as a correspondence student if 50 percent or more of the institution's courses are offered by correspondence or telecommunication.
- *The required minimum number of weeks of instruction contained in section 481(a).* This section provides that an academic year must require at least 30 weeks of instructional time.
- *The required minimum number of weeks of instruction contained in section 481(b).* This section provides that an eligible vocational program must be provided during a minimum of 15 weeks, or in limited circumstances, 10 weeks.

Regulatory Provisions

In addition to the aforementioned statutory provisions, the Secretary may waive the regulatory provisions implementing part G of the HEA which inhibit the operation of quality distance education programs. Part G consists of sections 481 through 493B of the HEA. These sections contain numerous provisions dealing with the Title IV, HEA programs. In general, the regulations implementing these provisions are contained in 34 CFR part 668. (Under the Distance Education Demonstration Program, the Secretary is authorized to waive any regulations governing part F of Title IV, which deals with need analysis and costs of attendance. However, the Secretary is not authorized to issue regulations implementing part F; therefore, there are no regulations to waive.)

Application Requirements

Each application to participate in this program shall include—

1. The name, address, and Web site address, if any, of the institution, system, or members of the consortium seeking to participate, and the name, title, mailing and e-mail addresses, and telephone number of a contact person for the institution, system, or consortium;

2. A description of the distance education programs offered or to be offered for which the institution is seeking a waiver or waivers. An institution may request a waiver or waivers for one, several, or all of its distance education courses or programs. The description should include the types of programs, degrees or certificates offered, program goals, and the methods used or proposed to be used to deliver distance education;

3. A description of the applicant's consultation with a recognized accrediting agency or agencies with respect to quality assurances for the distance education programs to be offered;

4. A description of the types of students that the distance education

programs are intended to serve, (*e.g.*, adult learners, rural populations, individuals with disabilities);

5. The Title IV, HEA programs under which distance education students will receive funds;

6. The specific statutory and regulatory provisions to be waived, the scope of each waiver, and the reason for each waiver. The applicant should propose an alternative to the provision or explain why no alternative is necessary;

7. An assurance that the institution, system, or a consortium will fully cooperate with the ongoing evaluations of the program; and

8. A statement of the goals of the institution, system, or consortium for participation along with the method the institution will use to evaluate achievement of the goals.

In addition to the information described above, systems and consortia must provide the following additional information—

1. A description of the system or consortium and the relationship among the members of the system or consortium, a copy of any agreement governing the relationship of institutions that are members of the system or consortium, and a list of the institutions which are members;

2. A description of the manner in which the distance education programs are or will be conducted among the system and consortium members particularly as that manner is related to the waiver request; and

3. The manner in which Title IV, HEA program funds will be administered for the students in the distance education programs. (This would include such matters as the disbursement procedures that would be followed, the definition of an academic year that would be used, how attendance would be monitored, and the satisfactory academic progress rules that would be followed.)

Selection of Participants

In selecting applicants to participate in the program, the Secretary will take into account the—

1. Number and quality of applications received;

2. Department of Education's capacity to oversee and monitor the applicant's participation;

3. Applicant's financial responsibility, administrative capability, and the program or programs being offered via distance education; and

4. Necessity of including a diverse group of participating institutions *vis-a-vis* size, mission, and geographic distribution.

As part of the selection process, the Department of Education will screen the applications to ensure that applicants are eligible. Then, outside reviewers will recommend the best applications given the statutory criteria. The Secretary will make final selections, based on the recommendations of the outside reviewers and the criteria listed in statute.

Evaluations

The HEA requires the Secretary to submit reports to Congress evaluating the Distance Education Demonstration Program annually and eighteen months after the initiation of the program. As specified in the Act, the evaluations are to include the following:

1. The extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance.

2. The number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased.

3. Issues related to student financial assistance for distance education.

4. Effective technologies for delivering distance education course offerings.

5. The extent to which statutory or regulatory requirements not waived under the program present difficulties for students or institutions.

To assist the Secretary in conducting such evaluations, participants in the distance education demonstration programs will be required to provide information to the Secretary, such as: course level detail regarding their offerings, the degrees or certificates awarded for successful completion, data on persistence and completion, data regarding student demographics, information regarding tuition and fees charged by the participant, program design and use of technology, information regarding the educational environment and student support, and student satisfaction surveys.

Guidance

The guidance provided below is intended to assist applicants in determining what information they may wish to include in their applications. This guidance is non-binding and does not constitute criteria for selection. Applications which do not include the information suggested in the guidance will be considered on the same basis as applications which include all or part of that information.

1. Applicants should consider describing the ways that they think their proposals will assist the Department in determining new ways of administering Federal student assistance programs that better meet the needs of distance students.

2. It is important that the accrediting and State authorizing agencies of the institution, or institutions that comprise a consortium or system, are willing to collaborate with the Department to determine how their complementary roles can best be structured to assure quality and integrity in institutions' distance education programs. To this end, applicants for the program should provide documentation that their accrediting agencies and States are willing to work with the Department to examine the respective roles of the agencies as they relate to institutions' distance education programs. In that documentation, accrediting agencies should certify that the individual distance programs that the institution includes in its application are within the scope of the institution's accreditation, and that the agency will review the program at an appropriate time. Consortiums and systems should also provide evidence that the agency or agencies which accredit the schools comprising the consortium or system are willing to work with the Department in evaluating issues relating to the quality of distance education offered by the institutions as a result of their membership in the consortium or system.

3. While the Department will evaluate applications using the statutory criteria, to the extent possible, the Department will view those criteria in the context of the delivery of student aid to distance students and any changes that are needed to facilitate that process. Because the delivery of student aid is so critical to improving access to distance education, a good application would fully describe the applicant's ability to fully execute its plans and specify waivers requested and substitutions and address fully the need for the waivers and substitutions.

4. Applicants should consider establishing both quantitative and qualitative objectives for their participation and include in the application a description of how they intend to measure goal attainment, including measures of program quality. The Department notes that quantitative measures are essential for understanding goal attainment.

5. A major concern of the Department is to insure that Federal funds in the Distance Education Demonstration Program are used appropriately. A good

application will address how the applicant plans to document student eligibility, including documentation of attendance.

6. Another major concern of the Department is that an applicant be committed as an institution to the success of its proposed activities. One way for an institution to demonstrate its commitment would be for the institution to include with its application a letter from its chief executive officer (or comparable official) expressing support for the application and acknowledgement of the responsibilities that the institution would assume if it were approved. Correspondingly, in the case of a consortium applicant, the submission of such a letter from the chief executive officer (or comparable official) of each of the participating institutions would demonstrate such commitment.

Regional Meetings

Interested parties are invited to attend one of four regional meetings where information, advice, and technical assistance will be provided about applying to participate in the Distance Education Demonstration Program and providing Federal financial aid to students enrolled in distance education programs. The regional meetings will begin with a brief description of eligibility requirements for the Distance Education Demonstration Program and the application and selection processes for this program. Individuals will then be provided an opportunity to ask questions regarding the application process and other matters relating to the Distance Education Demonstration Program. Department of Education staff with expertise on various issues relating to the Distance Education Demonstration Program will be available to answer these questions. Questions regarding eligibility and administration of Title IV, HEA student financial assistance programs may be relevant to institutions' interest in applying for the Distance Education Demonstration Program. Accordingly, during the course of the meeting, Department staff will also address questions that relate generally to the administration of aid in distance education programs.

For each of the meetings the Department of Education has reserved a limited number of hotel rooms at a special per diem room rate. To reserve these rates (see the exception for the November meeting) be certain to inform the hotel that you are attending the regional meetings with the Department of Education. The meeting sites are accessible to individuals with disabilities. The Department will provide a sign language interpreter at each of the scheduled hearings. An individual with a disability who will need an auxiliary aid or service other than an interpreter to participate in the meeting (*e.g.*, assistive listening device, or materials in an alternative format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dates, Times, and Locations of Regional Meetings

1. October 18, 2000, 9 a.m. to 1 p.m., Office of Postsecondary Education Conference Center, 1990 K Street, NW., 8th floor, Washington, DC 20006. Rooms available for October 17 at Embassy Square, 2000 N Street, NW., Washington, DC, 20036. Call (202) 659–9000 for reservations. Sleeping room rate $118.00 plus taxes. Reservations must be made by October 1. Identify yourself as a participant in the Department of Education regional meeting.

2. November 1, 2000, 9 a.m. to 1 p.m., Albuquerque, New Mexico prior to the annual meeting of the Western Cooperative for Educational Telecommunications. Hyatt Regency Hotel, 330 Tijeras NW, Albuquerque, NM 87102, 800–233–1234 or reserve online: http://www.hyatt.com/albuq/g-wich/index.html Reference Western Cooperative for Educational Telecommunications in making reservation. Sleeping room rates, single $118 plus taxes; double $128 plus taxes. Reservations must be made by September 30.

3. November 9, 2000, 9 a.m. to 1 p.m., Chicago, Illinois, Congress Plaza Hotel, 520 S. Michigan Avenue, Chicago, IL 60605, 800–635–1666, (312) 427–3800. Sleeping room rate, $130 plus taxes. Reservations must be made by October 8, 2000. Identify yourself as a participant in the Department of Education regional meeting.

4. November 29, 2000, 9 a.m. to 1 p.m., Seattle, Washington, Claremont Hotel, 2000 Fourth Avenue, Seattle, WA 98121, 877–448–8601, (206) 448–8600. Sleeping room rate $104 plus taxes. Reservations must be made by November 13. Identify yourself as a participant in the Department of Education regional meeting.

Electronic Access to This Document

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http://ocfo.ed.gov/fedreg.htm
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To use the PDF version you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF version, 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.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 1093.

A. Lee Fritschler,

Assistant Secretary for Postsecondary Education.

[FR Doc. 00–24341 Filed 9–21–00; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.305T]

Office of Educational Research and Improvement (OERI); Field-Initiated Studies (FIS) Education Research Grant Program; Notice of Application Review Procedures for New Awards for Fiscal Year (FY) 2001

SUMMARY: On July 14, 2000 we published in the **Federal Register** (64 FR 43957) a notice inviting applications for new awards for FY 2001 for the FIS Education Research Grant Program. The procedures governing the review of applications are contained in 34 CFR part 700. This notice explains modifications to those procedures that OERI will use to review applications for this competition.

Application Review Procedure

OERI will use a one-tier review process for the FIS program competition for FY 2001. Applications will be assigned to review panels where the expertise of the panel matches the topic of the application. Within each panel, each application will be reviewed by at least three reviewers. Three selection criteria were included in the application package—National Significance, Quality of the Project Design, and Quality and Potential Contributions of Personnel. Reviewers will weigh the three selection criteria equally to rate each application as either—

(1) Exceptionally high quality,

(2) High quality,
(3) Moderate quality, or
(4) Low quality.

To construct the funding slate, an average numerical score will be determined for each application through the following procedure. For each application, a numerical value of 3 will be assigned for each rating of exceptionally high quality that the application receives, a numerical value of 2 will be assigned for each rating of high quality that the application receives, a numerical value of 1 will be assigned for each rating of moderate quality that the application receives, and a numerical value of 0 will be assigned for each rating of low quality that the application receives. Then, for each application, the total of the numeric scores the application receives will be divided by the number of reviewers who rated that application to determine the average score for that application.

For this competition, potential applicants were invited to submit letters of intent. In the letter of intent, applicants identified the panel they thought was best suited to review their application. Applicants are hereby notified that the data in the letters of intent were collected for administrative purposes only. OERI reserves the right to assign any application to any panel where the agency believes the reviewers are best qualified to review that application.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because this notice merely establishes procedural requirements for review of applications and does not create substantive policy, proposed rulemaking is not required under 5 U.S.C. 553(b)(A).

FOR FURTHER INFORMATION CONTACT: Elizabeth Payer, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502e, Washington, DC 20208–5645. Telephone: (202) 219–1310 or via Internet: Elizabeth_Payer@ed.gov.

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 to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document

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http://ocfo.ed.gov/fedreg.htm
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To use PDF you must have Adobe Acrobat Reader, which is available free at either of the previous sites. 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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Program Authority: 20 U.S.C. 6031(c)(2)(B).

Dated: September 19, 2000.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 00–24391 Filed 9–21–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Wednesday, October 4, 2000, 6:30 p.m.–9:00 p.m.

ADDRESSES: Conference Center, 1750 South Pahrump Valley Blvd., Pahrump, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197, fax: 702–295–5300.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:
1. Stewardship.
2. Groundwater.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 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. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that needed to be resolved.

Minutes: The 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 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC on September 19, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–24398 Filed 9–21–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Oak Ridge. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Wednesday, October 11, 2000, 6 p.m.–9:30 p.m.

ADDRESSES: Garden Plaza Hotel, 215 S. Illinois Avenue, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Dave Adler, Federal Coordinator,

Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4094; Fax (865) 576–9121 or e-mail: adlerdg@oro.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Presentation on the Oak Ridge Environmental Management Waste Disposal Facility by Mr. Bill Cahill, Department of Energy-Oak Ridge Operations.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Dave Adler at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Dave Adler, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling him at (865) 576–4094.

Issued at Washington, DC on September 19, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–24399 Filed 9–21–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–111–000]

Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corporation; Notice of Filing

September 18, 2000.

Take notice that on September 15, 2000, the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (Southern Cities), tendered for filing a Complaint against the California Independent System Operator Corporation (ISO). The Southern Cities' Complaint asserts: (1) That the ISO's currently effective mechanism for recovering costs it incurs for Out-of-Market (OOM) dispatch calls is unjust and unreasonable in violation of the Federal Power Act, and (2) that the ISO has violated its Tariff by charging for Neutrality Adjustment Charges in excess of the limit on such charges in effect from June 1, 2000 through September 15, 2000. The Southern Cities urges the Commission: (1) To issue an order requiring the ISO to change § 11.2.4.2.1 of the ISO Tariff to provide that OOM costs incurred by the ISO to meet underscheduled loads will be recovered from the Scheduling Coordinators that have underscheduled, and (2) to issue an order requiring the ISO to abide by the cap on Neutrality Adjustment Charges in § 11.2.9.1 of the ISO Tariff, which became effective on June 1, 2000, and to refund Neutrality Adjustment Charges in excess of that cap collected for trading intervals subsequent to that date.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 285.214). All such motions and protests should be filed on or before September 25, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Answers to the complaint shall also be due on or before September 25, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–24394 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–458–000]

El Paso Natural Gas Company; Notice of Application

September 18, 2000.

Take notice that on September 12, 2000, El Paso Natural Gas Company (El Paso), whose mailing address is Post Office Box 1492, El Paso, Texas, 79978, filed an application at Docket No. CP00–458–000, pursuant to Section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon by transfer to its affiliate, El Paso Field Services Company, certain compression facilities in San Juan County, New Mexico, 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 viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222).

El Paso states that on August 18, 1999, Williams Field Services Group, Inc. (Williams) filed a complaint in Docket No. RP99–471–000 alleging that compression facilities at El Paso's Blanco Compressor Station in San Juan County, New Mexico were providing a nonjurisdictional gathering service and were improperly classified as transmission facilities. El Paso states that the Blanco Station includes three distinct sets of compressors: the "A", "C", and "D" plants totaling approximately 91,010 horsepower. It is indicated that by order issued on November 10, 1999, the Commission found that the "A" plant was properly functionalized as transmission, but that the "C" and "D" plants should be functionalized as gathering. El Paso states that the Commission denied all requests by order issued April 25, 2000, and counseled El Paso to file for an application to abandon the two plants.

El Paso is filing this application in recognition of the Commission's suggestion in the April 25, 2000, order. In support of why this abandonment is in the public convenience and necessity, El Paso states that the abandonment of the Blanco "C" and "D" plants by transfer to its affiliate will provide for a smooth, seamless

transition of services without any interruption of service or rate stacking, which would occur if the facilities were transferred to a third party. El Paso further asserts that the abandonment is consistent with the previously-approved El Paso spin-down of facilities to Field Services. Also, El Paso indicates that it is its understanding that, upon transfer of the two compressor units, Field Services will continue to deliver, at a new custody meter transfer point downstream of the "C" and "D" plant facilities, the same volumes of natural gas at the required mainline pressures as before the abandonment.

Any questions regarding this application should be directed to Mr. A.W. Clark at (915) 496–2600.

Any person desiring to be heard or to make protest with reference to said application should on or before October 10, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

David P. Boerers,

Secretary.

[FR Doc. 00–24354 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR00–11–000]

EOTT Energy Operating Limited Partnership, Complainant v. Conoco Pipe Line Company, Respondent; Notice of Filing

September 18, 2000.

Take notice that on September 14, 2000, EOTT Energy Operating Limited Partnership (EOTT), tendered for filing a complaint, pursuant to Rule 385.206 of the Commission's Rules of Practice and Procedure and Section 13 of the Interstate Commerce Act, against Conoco Pipe Line Company (CPL) requesting that the Commission order CPL to publish a fair and non-discriminatory proration policy in its FERC tariffs number 117 and 306. Because CPL's continuing course of action is adversely affecting EOTT's ability to use CPL's common carrier services, EOTT requests fast track processing of its complaint by the Commission pursuant to Section 385.206(h) of the Commission's Rules of Practice and Procedure.

Copies of the filing were served via facsimile and courier to CPL. Questions concerning this Complaint may be directed to Complainant's General Counsel, P.O. Box 4666, Houston, Texas 77210–4666, Phone (713) 993–5671, Fax (713) 402–2875.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 25, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Answers to the complaint shall also be due on or before September 25, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–24395 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3637–000]

Nicole Energy Marketing of Illinois, Inc.; Notice of Filing

September 18, 2000.

Take notice that on September 12, 2000, Nicole Energy Marketing of Illinois, Inc. (NEMI), tendered for filing a petition for authorization to sell electricity at market-based rates pursuant to FERC Electric Tariff, Original Sheet No. 1, under which NEMI will engage in wholesale electric power and energy transactions as a marketer.

The Commission has granted open-ended market rate authority to power marketers when it has determined that the market and its affiliates do not have, or have adequately mitigated, market power in generation and transmission; cannot engage in anti-competitive practices through preferential affiliate transactions or reciprocal dealing; and cannot otherwise erect barriers to market entry by competing suppliers.

NEMI requests waiver from Commission Regulations, which have been granted to other power marketers. NEMI also requests blanket approval under Part 34 of the Commission's Regulations of future issuances regarding securities and assumptions of liabilities, subject to objection by an interested party.

NEMI requests that the rate schedule be effective 60 days after filing, or the date the Commission issues an order accepting the rate schedule, whichever occurs first.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 385.214). All such motions and protests should be filed on or before October 3, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–24355 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3676–000]

PG&E Energy Trading-Power, L.P.; Notice of Filing

September 18, 2000.

Take notice tht on September 14, 2000, PG&E Energy Trading—Power, L.P. (PGET), tendered for filing pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, an application seeking authorization for sale of electric energy and ancillary services to Pacific Gas & Electric Company (PG&E), an affiliate of PGET.

PGET states that it currently effective rate schedules do not provide for sales to PG&E. The purpose of the instant filing PGET states, is to enable PGET to make sales of energy and ancillary services to PG&E. In order to respond to a request for offers issued by PG&E on September 11, 2000, PGET asks for Commission action on its filing by no later than October 10, 2000, and proposes an effective date as the date of filing, but no later than October 10, 2000.

PGET states that it has served a copy of its filing on the California Public Utilities Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 2, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–24356 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–134–000, et al.]

Mesquite Investors, L.L.C., et al. Electric Rate and Corporate Regulation Filings

September 15, 2000.

Take notice that the following filings have been made with the Commission:

1. Mesquite Investors, L.L.C.; Juniper Generation, L.L.C.; Sandy Creek Power, L.L.C.; SJC Cogen, L.L.C.; WCAC Cogen California, L.L.C.; San Joaquin Cogen, L.L.C.; SJC/CNGE San Joaquin Investors, Ltd.; and San Joaquin Cogen Limited

[Docket No. EC00–134–000]

Take notice that on September 7, 2000, pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824b (1998) and Part 33 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 33 *et seq.*, Mesquite Investors, L.L.C. Juniper Generation, L.L.C., San Joaquin Cogen, L.L.C., SJC/CNGE San Joaquin Investors, Ltd., San Joaquin Cogen Limited (collectively, Applicants) filed an Application for Commission approval for a proposed internal corporate reorganization.

Comment date: September 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Exelon Generation Company, L.L.C.; PECO Energy Company; Commonwealth Edison Company; Horizon Energy Company; AmerGen Energy Company, L.L.C.; AmerGen Vermont, LLC; Unicom Power Marketing, Inc.; Unicom Energy, Inc.

[Docket No. ER00–3251–001; ER99–1872–003; ER98–1734–003; ER98–380–013; ER99–754–005; ER00–1030–002; ER97–3954–013; and ER00–2429–002]

Take notice that on September 13, 2000, Exelon Generation Company, L.L.C., PECO Energy Company, Commonwealth Edison Company, Horizon Energy Company, AmerGen Energy Company, L.L.C., AmerGen Vermont, LLC, Unicom Power Marketing, Inc., and Unicom Energy, Inc., tendered for filing a Supplement to the Application of Exelon Generation Company For Market-based Rate Authority and Application of Exelon Corporation Subsidiaries and Affiliates for Other Forms of Relief under section 205 of the Federal Power Act.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Sithe Energies, Inc. and the Sithe Stockholders; Exelon (Fossil) Holdings, Inc.; PECO Energy Company; Exelon Generation Company, L.L.C.

[Docket No. EC00–138–000]

Take notice that on September 13, 2000, Sithe Energies, Inc., and its stockholders, Exelon (Fossil) Holdings, Inc., PECO Energy Company and Exelon Generation Company, L.L.C. (together, the Applicants) submitted for filing, pursuant to section 203 of the Federal Power Act (FPA), and part 33 of the Commission's Regulations, an application seeking authorization from the Commission to transfer an indirect interest in certain facilities subject to the Commission's jurisdiction under section 203 of the FPA from Sithe Energies, Inc. and its stockholders, to Exelon (Fossil) Holdings, Inc. These facilities are generator leads, generator step-up transformers, market-based rate schedules and wholesale power sales agreements now held by certain direct and indirect subsidiaries of Sithe Energies, Inc.

Comment date: October 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. North American Electric Reliability Council and North American Electric Reliability Council

[Docket Nos. ER00–2077–000 ER00–2077–001; ER00–1666–000]

Take notice that on September 12, 2000, the North American Electric Reliability Council (NERC) filed a motion for an extension of its Market ReDispatch Pilot Program from December 31, 2000 to December 31, 2001. NERC also notified the Commission that, effective October 17, 2000, it expects to implement new definitions, previously approved by the Commission, to its Transmission Loading Relief levels.

Comment date: October 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. OA97–571–002]

Take notice that on September 12, 2000, New York State Electric & Gas

Corporation filed a compliance filing in response to the Commission's orders dated February 29, 2000 and July 14, 2000 issued in Docket No. OA97–571–000.

Comment date: October 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. New York State Electric & Gas Corporation

[Docket No. ER00–3640–000]

Take notice that on September 13, 2000, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Regulations, 18 CFR 35, service agreements (the Service Agreements) under which NYSEG may provide capacity and/or energy to Merrill Lynch Capital Services, Inc. (Merrill Lynch) and AES Eastern Energy, L.P. (AES Eastern) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested waiver of the notice requirements so that the Service Agreements become effective as of September 14, 2000. NYSEG has served copies of the filing upon the New York State Public Service Commission, Merrill Lynch, and AES Eastern.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. The Dayton Power and Light Company

[Docket No. ER00–3641–000]

Take notice that on September 13, 2000, The Dayton Power and Light Company (DP&L), tendered for filing a Wholesale Market Based Rate Tariff and a pro forma Service Agreement.

DP&L seeks an effective date of September 15, 2000 for all of the tariff sheets submitted with this filing.

DP&L states that its Wholesale Market Based Rate Tariff, and pro forma Service Agreement, are being filed in order to conform to a pro forma tariff prepared by a group of representatives from various segments of the electric industry and to facilitate a standardized master power purchase and sale agreement. DP&L states that it does not propose to eliminate either its currently effective market-based Power Sales Tariff accepted for filing in Docket No. ER96–2602–000.

Copies of this filing have been sent to the Public Utilities Commission of Ohio.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Indianapolis Power & Light Company

[Docket No. ER00–3642–000]

Take notice that on September 13, 2000, Indianapolis Power & Light Company (IPL), tendered for filing service agreements executed under IPL's Open Access Transmission Tariff and an index of customers.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER00–3643–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Public Service Electric and Gas Company (Public). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER00–3644–000]

Take notice that on September 12, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and MIECO Inc., (MIECO). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER00–3645–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and The Dayton Power and Light Company (Dayton). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER00–3646–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and EnerZ Corporation tendered for filing Notice of Cancellation effective May 1, 2000, of Service Agreement No. 188, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of May 1, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services. Inc.

[Docket No. ER00–3647–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Ameren Services Company (Ameren). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER00–3648–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and El Paso Power Services Company, a predecessor Company of El Paso Merchant Energy, L.P., tendered for filing Notice of Cancellation effective September 5, 2000, of Service Agreement No. 181, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER00–3649–000]

Take notice that on September 12, 2000, Cinergy Services, Inc. (Cinergy) and Eastex Power Marketing, Inc., a predecessor Company of El Paso Merchant Energy, L.P., tendered for filing Notice of Cancellation effective September 5, 2000 of Service Agreement No. 109, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Cinergy Services, Inc.

[Docket No. ER00–3650–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Alpena Power Company (Alpena). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER00–3651–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Tennessee Power Company (TPC). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER00–3652–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and Sonat Power Marketing L.P., a predecessor Company of El Paso Merchant Energy, L.P., tendered for filing Notice of Cancellation effective September 5, 2000, of Service Agreements No. 126, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER00–3653–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and Eastex Power Marketing, Inc., a predecessor Company of El Paso Merchant Energy L.P., tendered for filing Notice of Cancellation effective September 5, 2000, of Service Agreement No. 109, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Cinergy Services, Inc.

[Docket No. ER00–3654–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and Sonat Power Marketing L.P., a predecessor Company of El Paso Merchant Energy, L.P., tendered for filing Notice of Cancellation effective September 5, 2000, of Service Agreements No. 126, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER00–3655–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and El Paso Power Services Company, a predecessor Company of El Paso Merchant Energy, L.P. tendered for filing Notice of Cancellation effective September 5, 2000, of Service Agreement No. 184, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER00–3656–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and Sonat Power Marketing, Inc., a predecessor Company of El Paso Merchant Energy, L.P., tendered for filing Notice of Cancellation effective September 5, 2000, of Service Agreements No. 93, under Cinergy Operating Companies, Market-Based Power Sales Tariff —MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Cinergy Services, Inc.

[Docket No. ER00–3657–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and Sonat Power Marketing, Inc., a predecessor Company of El Paso Merchant Energy, L.P., tendered for filing Notice of Cancellation effective September 5, 2000 of Service Agreement No. 93, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of September 5, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Cinergy Services, Inc.

[Docket No. ER00–3658–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy) and EnerZ Corporation tendered for filing Notice of Cancellation effective May 1, 2000 of Service Agreement No. 191, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of May 1, 2000.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Cinergy Services, Inc.

[Docket No. ER00–3659–000]

Take notice that on September 13, 2000, Cinergy Services, Inc. (Cinergy), tendered for filing a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Morgan Stanley Capital Group Inc. (Morgan). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. Avista Corporation

[Docket No. ER00–3660–000]

Take notice that on September 13, 2000, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to Section 35.12 of the Commissions regulations, 18 CFR Part 35.12, an executed Mutual Netting Agreement to be assigned Rate Schedule FERC No. 284, Original Sheet Nos. 1–4, with PPL Montana, LLC effective July 11, 2000.

Notice of the filing has been served upon PPL Montana, LLC.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. Consumers Energy Company

[Docket No. ER00–3662–000]

Take notice that on September 13, 2000, Consumers Energy Company (Consumers), tendered for filing a Service Agreement with Split Rock Energy L.L.C., (Customer) under Consumers FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective September 13, 2000.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: October 4, 2000, in accordance with standard Paragraph E at the end of this notice.

28. Consumers Energy Company

[Docket No. ER00–3664–000]

Take notice that on September 13, 2000, Consumers Energy Company (Consumers), tendered for filing a revised Service Agreement with the City of St. Louis (Customer) for Network Integration Transmission Service (designated First Revised Service Agreement No. 8 under Consumers Energy Company FERC Electric Tariff No. 6). The Revised Service Agreement reflects the terms of Amendment No. 1 to the original Service Agreement which deals with the replacement of direct assignment facilities and the resulting adjustment in the Facilities Usage Fee from $1, 859 to $4,512 per month.

Consumers requests a September 1, 1999 effective date.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

29. West Texas Utilities Company

[Docket No. ER00–3665–000]

Take notice that on September 13, 2000, West Texas Utilities Company (WTU), tendered for filing the First Revised Agreement for Sale and Purchase of Power and Associated Energy and Responsive Reserves (First Revised Agreement) between WTU and Brazos Electric Cooperative, Inc., (Brazos). The First Revised Agreement is being filed under WTU's Market-Based Rate Tariff and replaces in its entirety Service Agreement No. 25, currently on file under CSW Operating Companies FERC Electric Tariff, First Revised Volume No. 8. The First Revised Agreement is designated First Revised Service Agreement No. 25.

WTU seeks an effective date of June 15, 2000 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on Brazos and on the Public Utility Commission of Texas.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

30. Midwest Generation, LLC

[Docket No. ER00–3666–000]

Take notice that on September 13, 2000, Midwest Generation, LLC. (Midwest), tendered for filing a Second Revised Service Agreement No. 1 under Midwest's FERC Electric Tariff, Original Volume No. 1 (the Collins Generating Station Power Purchase Agreement between Commonwealth Edison Company and Midwest).

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

31. Commonwealth Edison Company

[Docket No. ER00–3668–000]

Take notice that on September 12, 2000, Commonwealth Edison Company (ComEd), tendered for filing an unexecuted Interconnection Agreement with University Park Energy, LLC (University Park) and an executed Letter Agreement with University Park.

ComEd requests an effective date of September 13, 2000 for the Interconnection Agreement and the Letter Agreement and accordingly seeks waiver of the Commission's notice requirements.

Copies of the filing were served on University Park and on the Illinois Commerce Commission.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

32. MidAmerican Energy Company

[Docket No. ER00–3669–000]

Take notice that on September 12, 2000, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, tendered for filing with the Commission a First Amended and Restated Interchange Agreement dated February 26, 1997, modified by way of a Second Amendment to First Amended and Restated Interchange Agreement dated May 30, 2000, entered into with the City of Geneseo, Illinois pursuant to its Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (FERC [Docket No. ER96–719–000; amended in FERC [Docket No. ER00–2051–000).

MidAmerican requested and the Director, Division of Tariffs and Rates—Central, approved a June 28, 2000 effective date for the First Amended and Restated Interchange Agreement, as amended, subject to MidAmerican making a compliance filing to conform MidAmerican's previous filing in this matter dated June 27, 2000 to be consistent with the necessary filing rate schedule designations as required by Order 614, FERC Stats. & Regs. ¶ 31,096 (2000) and *Southwest Power Pool, Inc.*, 92 FERC ¶ 61,109 (2000).

MidAmerican has served a copy of the compliance filing on the City of Geneseo, Illinois, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

33. Commonwealth Edison Company

[Docket No. ER00–3670–000]

Take notice that on September 12, 2000, Commonwealth Edison Company (ComEd), tendered for filing an Interconnection Agreement with Reliant Energy Aurora LP (Reliant).

ComEd requests an effective date of September 13, 2000 and accordingly seeks waiver of the Commission's notice requirements.

Copies of the filing were served on Reliant and the Illinois Commerce Commission.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

34. Midwest Generation, LLC

[Docket No. ER00–3230–001]

Take notice that on September 13, 2000, Midwest Generation, LLC tendered for filing in compliance with Order No. 614, a revised amendment to the Collins Generating Station Power Purchase Agreement with Commonwealth Edison Company dated December 15, 1999.

Comment date: October 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–24393 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00–61–000, CP00–62–000, CP00–63–000, CP00–65–000]

Central New York Oil and Gas Company, LLC and Tennessee Gas Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Stagecoach Storage and Expansion Projects

September 15, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas storage and pipeline facilities proposed by Central New York Oil and Gas Company, LLC (CNYOG) and Tennessee Gas Pipeline Company (Tennessee) in the above-referenced dockets.

The EA was proposed to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed projects, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of CNYOG's proposed underground gas storage facilities and Tennessee's related pipeline facilities. CNYOG's proposed Stagecoach Storage Project would include:

- Up to 26 storage injection/withdrawal wells;
- A 25,000-horsepower (hp) electrically-driven compressor station (Central Compression Facility) with gas cleaning and dehydration equipment, regulating facilities, pig launchers and receivers, miscellaneous valves and regulators, and control equipment;
- A total of about 10 miles of 8-, 12-, 16-, and 20-inch-diameter gathering pipeline;
- 14 meter stations and isolating valves along the gathering pipeline system; and
- About 2 miles of access roads not contained within pipeline or well site easements.

The Stagecoach Storage Project also includes a 4.7-mile-long, 12-inch-diameter pipeline (Twin Tier Lateral) from the Central Compressor Facility to a nonjurisdictional electric generating facility (Twin Tier Power Plant); and 1.5-mile-long nonjurisdictional 115 (kilovolt) kV electric transmission line that would extend from the Central Compression Facility to a point of interconnection with a 115 kV transmission line owned by the New York State Electric & Gas Corporation.

Tennessee's proposed Stagecoach Expansion Project would include:

- About 23.7 miles of 30-inch-diameter pipeline (Stagecoach Lateral) extending from an interconnection with Tennessee's mainline system in Bradford County, Pennsylvania to an interconnect with CNYOG's Stagecoach Storage Project in Tioga County, New York;
- A new bi-directional meter station, capable of handling 500,000 dekatherms (Dth) per day, at the northern end of the Stagecoach Lateral;
- About 3.9 miles of 30-inch-diameter loop [1] on its 300-Line in Susquehanna County, Pennsylvania;
- A new 14,550-hp Solar Mars gas turbine centrifugal compressor station near the Tennessee Mainline Valve 323-1 in Pike County, Pennsylvania;
- About 6.5 miles of 24-inch-diameter pipeline to replace various sections along the 300-Line in Pennsylvania and New Jersey as a result of increasing the maximum allowable operating pressure (MAOP) of 74.1 miles of pipeline on the 300-Line; and
- Modifications and/or upgrades at 10 existing meter stations and 3 mainline valves at various locations along the 300-Line to accommodate the MAOP increase.

The Stagecoach Storage Project would have a working gas capacity of up to 13.6 billion cubic feet (Bcf), with the capability of withdrawals of as much as 500 million cubic feet per day (MMcf/d) and injections of as much as 250 MMcf/d. Tennessee's proposed Stagecoach Expansion Project would expand its existing 300-Line to transport an additional 90,000 Dth per day of natural gas to accommodate additional firm transportation service.

[1] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas 1, PJ–11.1;
- Reference Docket Nos. CP00–63–000 and CP00–65–000; and
- Mail your comments so that they will be received in Washington, DC on or before October 16, 2000.

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 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.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–0004 or on the FERC Internet website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders.

notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–24202 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7019–050, Georgia]

Eastern Hydroelectric Corporation; Notice of Availability of Environmental Assessment

September 15, 2000.

An environmental assessment (EA) is available for public review. The EA analyzes the environmental effects of increasing generating capacity. Eastern Hydroelectric Corporation (EHC) requests approval to add a new 1,200-kW generating unit at the East Juliette Project on the Ocmulgee River. EHC proposes to reconstruct a building on an existing foundation at the west side of the Juliette Dam to house the new generating unit and associated power production equipment. EHC does not propose to alter the current license requirement that requires a minimum flow of 297 cubic feet per second be maintained in the bypass reach. EHC proposes to conduct additional studies to investigate the feasibility, optimal design, and future construction of a fishway for anadromous fish at the Juliette Dam.

The EA was written by Federal Energy Regulatory Commission staff in the Office of Energy Projects. Commission staff believe EHC's proposed action would not constitute a major federal action significantly affecting the quality of the human environment. Copies of the EA can be viewed on the internet at *www.ferc.fed.us/online/rims.htm.* Call (202) 208–2222 for assistance. Copies are also 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) 208–1371.

Anyone may file comments on the EA. Federal and state resource agencies are encouraged to provide comments. All comments must filed within 30 days of the date of this notice shown above. Send an original and eight copies of all comments marked with the project number P–7019–050 to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. If you have any questions regarding this notice, please call Jarrad Kosa at (202) 219–2831.

David P. Boergers,

Secretary.

[FR Doc. 00–24201 Filed 9–21–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6874–8]

Agency Information Collection Activities Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3506 (c)(2)), this notice announces an amendment to existing Information Collection Request (ICR) 2060–0078, "Mobile Source Emission Factor Survey." Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on this amendment.

DATES: Comments must be submitted on or before November 21, 2000.

ADDRESSES: U.S. Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Penny Carey, Telephone: (734) 214–4355, Facsimile: (734) 214–4939.

SUPPLEMENTARY INFORMATION:

Affected Entities: The entity affected by this action is the general public who own mobile sources.

Title: Mobile Source Emission Factor Survey—2060–0078.

Abstract: The EPA Office of Transportation and Air Quality, Assessment and Standards Division, through contractors, intends to solicit the general public to voluntarily participate in survey and testing activities involving mobile sources.

EPA will use the information from this survey and testing to provide inputs to various emissions models. These models are used by EPA, state and local air pollution agencies, the automotive industry, and other parties that are interested in estimating mobile source emissions. These models provide a basis for developing State Implementation Plans (SIPs), Reasonable Further Progress (RFP) reports, and attainment status assessments for the National Ambient Air Quality Standards (NAAQS).

The legislative basis for gathering this data is section 103(a)(1)(2)(3) of the Clean Air Act, which requires the Administrator to "conduct * * * research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution" and "conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency * * *"

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; and

(iii) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated technology, (e.g., permitting electronic submission of responses).

Burden Statement: Public reporting burden for this collection of information is estimated to range from ten minutes to an hour for responding to an ownership survey. Installation, removal, and reading of monitoring equipment may take up to 3 hours, although the contractor's personnel will do the actual work. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460;

and the Paperwork Reduction Project (OMB #2060–0078),

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: September 6, 2000.

Penny Carey,

Chemical Engineer.

[FR Doc. 00–24434 Filed 9–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6611–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements Filed September 11, 2000 Through September 15, 2000 Pursuant to 40 CFR 1506.9.

EIS No. 000321, Final EIS, BLM, OR, North Bank Habitat Management Area (NBHMA)/Area of Critical Environmental Concern (ACEC), Federally Endangered Columbian White-Tailed Deer (CWTD) and Special Status Species Habitat Enhancements to Ensure Viability Over Time, Implementation, OR, Due: October 23, 2000, Contact: Jay Carlson (541) 440–4930.

EIS No. 000322, Revised Draft EIS, FAA, CA, Metropolitan Oakland International Airport (MOIA), Airport Development Plan (ADP), Reevaluation of the Forecasts and Planning Assumptions in the ADP, Airport Layout Plan Approval, Funding and COE Section 404 and 10 Permits Issuance, Port of Oakland, Alameda County, CA, Due: October 30, 2000, Contact: Joseph R. Rodriguez (650) 876–2805.

EIS No. 000323, Final EIS, CGD, IL, MI, OH, NY, IN, MN, WI, PA, Great Lakes Icebreaking Operation, Implementation, Ninth District, IL, IN, MI, MN, OH, WI, NY and PA, Due: October 23, 2000, Contact: Gary Nelson (216) 902–6258.

EIS No. 000324, Final EIS, SFW, CA, San Dieguito Wetland Restoration Project, Implementation, Comprehensive Restoration Plan, COE Section 404 Permit, Cities of Del Mar and San Diego, San Diego County, CA, Due: October 23, 2000, Contact: Jack Fancher (760) 431–9440.

EIS No. 000325, Draft EIS, AFS, OK, Quachita National Forest, An Amendment to the Land and Resource Management Plan, Implementation, Glover River, McCurtain County, OK, Due: December 29, 2000, Contact: Elizabeth Estill (404) 347–4178.

EIS No. 000326, Final EIS, AFS, WV, Fernow Experimental Forest, Implementation of New Research Studies, Monongahela National Forest Land and Resource Management Plan, Tucker County, WV, Due: October 23, 2000, Contact: Mary Beth Adams (304) 478–2000.

EIS No. 000327, Final EIS, SFW, MT, WA, ID, Plum Creek Native Fish Habitat Conservation Plan, Issuance of an Incidental Take Permit for Federally Protected Native Fish Species, MT, ID and WA, Due: October 23, 2000, Contact: Ben Harrison (503) 231–2068.

EIS No. 000328, Final EIS, BLM, NM, Rio Puerco Resource Management Plan Amendment, Managing Land and Resource for EL Malpais National Conservation Area and Chain of Craters Wilderness Study Area, Lies South of the City of Grants, Cibola County, NM, Due: October 23, 2000, Contact: Kent Hamilton (505) 761–8746.

EIS No. 000329, Final EIS, USN, GU, Surplus Navy Property Identified in the Guam Land Use Plan (GLUP '94) for Disposal and Reuse, Implementation, GU, Due: October 23, 2000, Contact: Gerald Gibbons (808) 471–9338.

Dated: September 19, 2000.

Anne Norton Miller,

Acting Director, Office of Federal Activities.

[FR Doc. 00–24451 Filed 9–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6611–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–OE–K36133–CA Rating EC2, Whitewater River Basin (Thousand Palms) Flood Control Project, Construction of Facilities to Provide Flood Protection, Coachella Valley, Riverside County, CA.

Summary: EPA expressed concerns that the DEIS did not address the need for air quality mitigation measures that may be necessary for emissions of oxides of nitrogen (NOX), ozone precursors, and carbon monoxide under EPA's general conformity rule. EPA also had concerns that the DEIS asserts that there is no need to secure Clean Water Act Section 401 water quality certification or waiver from the state water pollution control agency, which is an important safeguard to ensure that Federally-authorized projects do not violate State-adopted, EPA-approved Water Quality Standards or impair beneficial uses. The Final EIS should address how the Corps would ensure that Water Quality Standards and beneficial uses are fully protected.

ERP No. D–COE–K39060–CA Rating EC2, Upper Newport Bay Restoration Project, To Develop a Long-Term Management Plan to Control Sediment Deposition, Orange County, CA.

Summary: EPA expressed concerns regarding impacts to air quality and that some reasonable alternatives were not evaluated, including reduced dredging, controlling sediment before reaching the Bay, and beneficial re-use of dredged material. We recommended additional information in the FEIS regarding other reasonable project alternatives, including disposal alternatives; baseline assumptions and evaluation criteria; and conformity with the State Implementation Plan.

ERP No. D–COE–L39056–WA Rating LO, Programmatic EIS—Green/Duwamish River Basin Restoration Program, Capitol Improvement Type Program and Ecological Health, King County, WA.

Summary: EPA had no objection to the proposed project. EPA did however provide comments on the cumulative effects analysis, the need for more information on funding mechanisms and some concerns over the level of public access allowed to restoration sites, especially sensitive wetlands.

ERP No. D–FHW–G40158–TX Rating EO2, Grand Parkway (TX–99) Segment C, Construction from US 59 to TX 288, Funding and Right-of-Way Requirements, City of Houston, Fort Bend and Brazoria Counties, TX.

Summary: EPA expressed objection due to the project's potential contribution to air quality issues in Houston. The project is likely to create significant secondary development that may delay the attainment of the ozone air quality standard. EPA requested that the final document address the overall impact of the project and how the project affects attainment and meets the intent of the Clean Air Act.

ERP No. D–SFW–F64004–OH Rating LO, Little Darby National Wildlife

Refuge Establishment in the Little Darby Creek Watershed for Restoration, Preservation, Enhancement and Protection of Fish and Wildlife Resources, Madison and Union Counties, OH.

Summary: EPA has no objection to the proposed action. EPA believes that the proposed action has the potential to restore, preserve, enhance and protect the biodiversity of the upper Little Darby Creek Watershed.

ERP No. DR–COE–K36051–AZ Rating EC2, Rio de Flag Flood Control Study, Improvement and Flood Protection, To Reduce Damages to Residential Commercial, Industrial and Historic Property, City of Flagstaff, Coconino County, AZ.

Summary: EPA reiterated concerns expressed on the previous Draft EIS that the preferred alternative does not sufficiently address the extent or boundaries of Clean Water Act Section 404 jurisdiction (*i.e.*, waters of the United States). EPA also strongly recommended that the Los Angeles District re-evaluate how determinations of compliance with the Section 404(b)(1) Guidelines are documented for its proposed water resource development projects.

Final EISs

ERP No. F–COE–F39039–00 John T. Myers and Greenup Lock Improvements, To Alleviate Commercial Navigation Traffic Congestion, Ohio River Mainstem Systems Study, (ORMSS), Interim Feasibility Report, Indiana, Kentucky and Ohio.

Summary: EPA continued to express objections with regard to how the project's purpose and need statement was formulated and how the cumulative impact analysis was performed.

ERP No. F–DOE–L00007–00 Sodium-Bonded Spent Nuclear Fuel Treatment and Management, Candidate Disposal Sites are Argonne National Laboratory-West (ANL–W) located within the boundaries of the Idaho National Laboratory, ID and the Savannah River Sites (SRS) F–Area and L–Area, SC.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FAA–G51015–TX George Bush Intercontinental Airport Houston, Construction and Operation, Runway 8L–26R and Associated Near Term Master Plan Projects, Funding and Airport Layout Plan Approval, City of Houston, Harris County, TX.

Summary: The final EIS fully responded to EPA's previous comments on the draft EIS. Therefore, EPA has no objection to the action as proposed.

ERP No. F–FHW–F40377–MI I–96 East Howell Interchange Project, Transportation Improvements, Funding, Major Investment Study, Cities of Howell and Brighton, Livington County, MI.

Summary: EPA continued to express concern regarding potential indirect and cumulative impacts to wetlands.

ERP No. F–FHW–G40153–NM New Mexico Forest Highway 45 (Forest Road 537) known locally as the Sacramento River Road, Improvements from Sunspot to Timberon, Otero County, NM.

Summary: EPA had no objections to the proposed action as described in the draft EIS.

ERP No. F–FHW–H40164–MO MO–50/West-Central Corridor Location Study, Transportation Improvements, Sedalia to St. Martins, Pettis, Cooper, Morgan and Moniteau and Cole Counties, MO.

Summary: The FEIS adequately supplemented needed information and addressed the concerns that EPA expressed in the DEIS review.

ERP No. F–FRC–K03023–00 Southern Trails Pipeline Project (CP99–163–000), Conversion of an Existing Crude Oil Pipeline (known as the ARCO Four Corners Pipeline Line 90 System), Construction and Operation, CA, AZ, UT and NM.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–TVA–E39052–MS Union County Multipurpose Reservoir/Other Water Supply Alternatives Project, To Provide an Adequate and Reliable Water Supply, COE Section 404 Permit and NPDES Permit, City of New Alban, Union County, MS.

Summary: EPA continues to object to the proposed action since it is likely that the multipurpose reservoir would result in lake eutrophication. EPA objected to lack of resolution of several essential elements to maintaining reservoir water quality (e.g., basin management plan, shoreline ownership, identification of a local reservoir manager). EPA also objected that discharge flows from the dam were not sufficiently assessed and not consistent with EPA/FWS instream flow guidelines, and that TVA has not selected a federal preferred alternative in the FEIS for the overall project.

Dated: September 19, 2000.

Anne Norton Miller,

Acting Director, Office of Federal Activities.

[FR Doc. 00–24452 Filed 9–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00297; FRL–6744–3]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on October 23–25, 2000, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: Agents GA, GB, GD, GF, VX; Allyl alcohol; Boron trichloride; Chloromethyl methyl ether; Diborane; Furan; Hydrogen sulfide; Perchloromethyl mercaptan; Phosphine; Propylene oxide; Tetrachloroethylene; Tetranitromethane; and Uranium hexafluoride.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5:30 p.m. on October 23; from 8:30 a.m. to 5:30 p.m. on October 24, 2000; and from 8:30 a.m. to 12:30 p.m. on October 25, 2000.

ADDRESSES: The meeting will be held at the U. S. Department of Transportation, DOT Headquarters, Nassif Bldg., Rooms 6332–6336, 400 7th St., SW., Washington, DC (L'Enfant Center Metro stop). Visitors should bring a photo ID for entry into the building and should contact the Designated Federal Officer (DFO) to have their names added to a security entry list. Visitors must enter the building at the Southwest Entrance/ Visitor's Entrance, 7th and E Sts. Quadrant.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul S. Tobin, DFO, Office of Prevention, Pesticides and Toxic Substances (7406), 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1736; e-mail address: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–00297. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is tentatively scheduled for December 2000. The exact date, location of this meeting, and chemicals to be discussed will be published in a future **Federal Register** notice.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: September 15, 2000.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 00–24439 Filed 9–21–00; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–961; FRL–6737–8]

Notice of Filing Pesticide Petitions to Establish Tolerances for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–961, must be received on or before October 23, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–961 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary L. Waller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9354; e-mail address: waller.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and

certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–961. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–961 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to:"opp-docket@epa.gov", or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–961. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 6, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

I. BASF Corporation Agricultural Products

7E4885

EPA has received a pesticide petition 7E4885 from BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of epoxiconazole, (2RS,3SR)-3-(2-chlorophenyl)-2-(4-fluorophenyl)-2-(1H-1,2,4-triazol-1-yl)methyl oxirane in or on bananas at 0.5 parts per million (ppm) and in or on banana pulp at 0.2 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism in bananas was investigated using 14C labeled epoxiconazole. On average 70% of the total residue could be identified as parent. This corresponds to approximately 80% of the residue extractable from the peel and

approximately 90% of the residue extractable from the edible portion, pulp. Based on this result, a parent only method was developed to analyze residues from the magnitude of the residue trials.

Under worst case practices (unbagged bananas) residue in the whole fruit ranged from <the limit of quantitation (LOQ) (0.025 milligrams/kilograms (mg/kg) to a maximum of 0.41 mg/kg. Banana pulp residues from bagged bananas ranged from < the LOQ (0.025 mg/kg) to 0.17 mg/kg and averaged 0.036 mg/kg. The average value was calculated by assuming all values below the LOQ were equal to one half the LOQ or 0.0125 mg/kg.

2. *Analytical method.* The method of analysis includes extraction, liquid/liquid partition, column clean-up quantitation by gas chromatography/electron capture detection. Forty–three whole banana samples were fortified with epoxiconazole at levels ranging from 0.025 mg/kg to 0.5 mg/kg. Recovery averaged 89.3% +/- 12.4%. Forty–one banana pulp samples were fortified with epoxiconazole at levels ranging from 0.025 mg/kg to 0.25 mg/kg. Recovery averaged 88.8% +/- 9.2.%.

3. *Magnitude of residues.* Fifteen crop residue trials were conducted in the banana growing regions of Mexico, South and Central America including three sites in Colombia, four sites in Costa Rica, four sites in Ecuador, one site in Guataemala, two sites in Hondouras, and one site in Mexico. Four sequential applications were made at the 90 g/ha, slightly higher than the maximum use rate 75 g/ha to both bagged and unbagged bananas at each site. Fruit from both the bagged and unbagged treatments were harvested at 0 days following the last application.

Whole fruit (peel and pulp) samples and pulp only samples were analyzed from all treatments at all sites. Under typical practices (bagged bananas) residue in the whole fruit ranged from < the LOQ (0.025 mg/kg) to a maximum of 0.082 mg/kg. Banana pulp residues from bagged bananas ranged from < the LOQ (0.025 mg/kg) to 0.05 mg/kg and averaged 0.013 mg/kg. The average value was calculated by assuming all values below the LOQ were equal to one half the LOQ or 0.0125 mg/kg.

B. Toxicological Profile

1. *Acute toxicity.* The acute toxicity studies place technical epoxiconazole in acute toxicity category III for acute oral, dermal, and inhalation; and in acute toxicity category IV for skin and eye irritation; and the technical material is not a skin sensitizer.

2. *Genotoxicty.* A modified Ames test (3 studies; point mutation): Negative; *E. coli* reverse mutation assay (1 study; point mutation): Negative; *in vitro* chinese hampster ovary/hypoxanthine guanine phophoribosyl transferase (CHO/HGPRT) mammalian cell mutation assay (1 study; point mutation): Negative; *in vitro* Cytogentics—CHO cells (1 study; chromosome aberrations): Negative; mouse micronucleus assay (1 study; chromosome aberrations): Negative; *in vitro* unscheduled DNA synthesis (UDS) test using rat hepatocytes (1 study; DNA damage and repair): Negative; *in vivo* DNA binding in rats and mice (1 study; DNA binding): Negative.

3. *Reproductive and developmental toxicity.* i. A developmental study via oral gavage in rabbits resulted in dosages of 0, 20, 50, and 80 mg/kg/day highest dose tested (HDT) with a developmental toxicity no observed adverse effect level (NOAEL) of 80 mg/kg/day and a maternal toxicity of 20 mg/kg/day based on the following:

a. Decreased body weight (bwt), food consumption, uterus weight, and increased resorption rate and post-implantation losses in the 80 mg/kg/day dose level.

b. Slight decreases of body weight and food consumption was seen in the 50 mg/kg/day dose level.

c. No substance-related findings were observed in any fetus at all dose levels.

ii. A developmental study was conducted via oral gavage in rats resulted in dosages of 0, 5, 15, and 45 mg/kg/day HDT with a developmental toxicity NOAEL of 5 mg/kg/day and a maternal toxicity of 5 mg/kg/day based on the following:

a. Signs of maternal toxicity, in the form of decreased body weights, food consumption, and increased placental weights observed at the highest dose tested.

b. Maternal animals in the 45 mg/kg/day showed an increase in the number of late resorptions as compared to controls.

c. Increased placental weights in the 15 mg/kg/day dose level.

d. A significant number of fetuses with skeletal variations (especially rudimentary cervical and/or accessory 14th rib(s)) in the high dose group tested were observed. However, no malformations were observed in any pups in this study.

iii. In a second developmental study in rats via dermal exposure for 6 hours/day on intact skin with dosages of 0, 100, 400, and 1,000 mg/kg/day (HDT) with a development toxicity NOAEL of 400 mg/kg/day and a maternal toxicity of 400 mg/kg/day based on increased placental weights and a slight increase in the number of fetuses with skeletal variations was observed at the highest dose tested.

iv. A combination of two multi-generation rat reproduction studies (study A dose levels were 0, 3.0, 30, and 145 mg/kg/day and study B dose levels were 0, 0.9, 2.3, and 23 mg/kg/day). Study A was discontinued after extreme systemic toxicity was observed at 145 mg/kg/day. The following discussion summarizes the results from both studies. A reproductive NOAEL of 2.3 mg/kg/day and with a parental NOAEL of 2.3 mg/kg/day were determined based on:

a. Dose levels ≥23 mg/kg/day resulted in maternal death, clinical signs, clinical chemical effects, liver effects (i.e., damage), histopathology, and limited number of pregnancy and pups with reduced body weights which increased in severity to the upper dose levels, this also indicated that doses above 23 mg/kg/day were considered to be beyond the maximum tolerated dose (MTD) for pregnant rats.

b. Questionable effects were observed in the 3.0 mg/kg/day dose level.

c. No treatment-related clinical signs, body weight changes, parameters of fertility and gestation, or macro- or histopathological changes were observed for the parental F0, F1, and F2 at dose levels equal to and below 2.3 mg/kg/day.

4. *Chronic toxicity.* i. A series of two 1–year dog studies (study A dose levels were 0, 1.6, 15, and 49 mg/kg/day for which a NOAEL was established in females, and study B dose levels were 0, 0.3, 0.6, 0.9, and 1.1 mg/kg/day to determine a NOAEL in males. The NOAEL was established as 1.1 mg/kg/day based on the following effects:

a. Mortality in the 49.0 mg/kg/day dose group with severe clinical signs and evidence of liver damage in those dogs which were sacrificed for humane reasons.

b. Hematological examinations demonstrated effects in either male or female dogs at dose levels ≥1.6 mg/kg/day.

c. Clinical chemical effects of varying types were seen in either male and female dogs at dose levels ≥15.0 mg/kg/day.

d. No effects were observed in male animals at levels of ≤1.1 or female dogs at dose levels of ≤1.6 mg/kg/day.

ii. Separate chronic feeding and oncogenicity studies in rats were performed to assess the chronic toxicity and oncogenic potential of epoxiconazole. The chronic toxicity study was conducted at dose levels of 0 and approximately 2, 8, 38, and 78 mg/

kg/day. The oncogenicity study was conducted at dose levels of 0 and approximately 2, 7, 40, and 80 mg/kg/day.

The results from the 2 studies are combined and summarized as follows:

The NOAEL was determined to be 2.0 mg/kg/day based on the following effects:

a. Decreases in body weights and food consumption were observed in both male and female rats at dose levels ≥38 mg/kg/day dose groups with a very slight progression of severity to the upper level.

b. Varying clinical chemical and hematological effects were observed in either male and/or female rats at dose levels ≥8mg/kg/day with a very slight progression of severity to the upper levels.

c. Increased absolute and relative liver weights were seen for males and/or females at dose levels ≥38 mg/kg/day.

d. Microscopic findings were observed in the liver for male and/or female rats at dose levels ≥38 mg/kg/day, in female adrenals at the highest dose test, and in the ovaries at dose levels ≥38 mg/kg/day.

e. An increased incidence of neoplasms occurred at dose levels greater than the MTD of 8 mg/kg/day in the females for the adrenals and ovaries. No increased number of neoplasms were seen in male rats due to the fact that the MTD in male rats was the HDT as opposed to the female rat which was significantly lower. Taking into account the results obtained in these studies, it is concluded that the reduction in body weight gain at 38 and 78 mg/kg/day levels met the criteria for a maximum tolerated dose. It has been determined that effects observed at the 10 mg/kg/day dose level achieved or approximated the MTD.

The effects on the ovaries were as follows:

• Decreasing aromatase enzyme activity which, is a response from converting both testosterone and adrostendione (male sex-steroids) into female sex steroids (e.g., estradiol). This action would result in decreased estradiol (i.e., estrogen and prolactin) and increased androgen levels (i.e., testosterone). As a consequence of reduced estradiol levels, measured LH and FSH concentrations are slightly altered.

• The increased incidences of neoplasms in the ovaries are considered to be the result of a continuous cell proliferation by these stimulating hormones of the pituitary-gonadal axis (LH and FSH).

The effects on the adrenals were as follows:

• Decreasing adrenal-cortical enzyme activity. This action would result in decreased adrenal hormones such as corticosterone levels. As a consequence of reduced corticosterone levels, pronounced ACTH concentrations are found.

• The increased incidences of neoplasms in the adrenals are considered to be the result of a continuous cell proliferation by these stimulating hormones of the pituitary-adrenal axis (ACTH).

For risk assessment purposes the results obtained at 38 and 78 mg/kg/day dose levels should not be used because an extrapolation to lower dose levels is not justified due to the unphysiological conditions in animals treated at dose levels near or at the MTD. Under these circumstances neoplastic and non-neoplastic mechanisms may be induced which will not occur at dose levels in which the animals are able to maintain their normal physiological homeostasis.

The increases in tumor incidence in endocrine organs due to hormonal imbalance are considered to have a threshold value, because at dose levels which do not induce cellular alterations via hormone levels in these organs, a subsequent proliferation and hence tumor formation cannot occur.

iii. An oncogenicity study in mice fed dosages of 0, 0.17, 0.81, 35.3, and 70.4 (males) or 205.4 (females) mg/kg/day with a NOAEL of 0.81 mg/kg/day for male and female mice based on the following effects:

a. Highly significant decreased body weights were observed in both male and/or female mice at the mid-high and highest dose tested.

b. Clinical sign of deteriorated state of general health were observed in high dose female mice.

c. Increased liver weights and microscopic findings were observed for male and female mice at dose the highest dose tested.

d. An increased incidence of neoplasms occurred at dose levels (70.4/205.4 mg/kg/day) greater than the MTD of 35.3 mg/kg/day in the male and female mice for the liver.

Taking into account the results obtained in this study, the following conclusions are drawn: The severe reduction in body weight and body weight gain at dose levels ≥35.3 mg/kg/day indicates that these dose levels exceeded the criteria for a MTD. It has been determined that liver tumor effects observed at the 70.4 and 205.4 mg/kg/day dose levels clearly exceeded the MTD. The liver necrosis observed in the male and female mice, further support the finding that the MTD was exceeded in the 70.4 and 205.4 mg/kg/day dose levels.

A series of mechanistic studies were performed to elucidate and define the liver promotion properties of epoxiconazole. The following conclusions can be drawn from the data:

• The material is a potent inducer of the hepatic cytocrome P–450 enzyme system, similar to the drug-phenobarbital.

• The material induced proliferation of the smooth endoplasmatic reticulum in the liver centrolobular hypertrophy and induction of phase 1 and phase 2 enzymes of the xenobiotic metabolism.

• The material was determined not to be an initiator of the carcinogenic process, but a promoter of initiated cells in the tumorgenesis as has been similarly shown with drug—phenobarbital.

As stated above, for risk assessment purposes the results obtained at 70.4 and 205.4 mg/kg/day dose levels should not be used because an extrapolation to lower dose levels is not justified due to the unphysiological conditions in animals treated at dose levels exceeding the MTD. Under these circumstances, neoplastic and non-neoplastic mechanisms may be induced which will not occur at dose levels in which the animals are able to maintain their normal physiological homeostasis.

5. *Animal metabolism.* Since there are no animal feed items associated with bananas, there is no likelihood of secondary residues in meat, milk, poultry or eggs. Therefore, data concerning metabolism in livestock is not required.

6. *Metabolite toxicology.* Residues of the parent molecule, epoxiconazole are the only residues of concern.

7. *Endocrine disruption.* A series of mechanistic studies were performed to elucidate and define the aromatase enzyme inhibition properties of epoxiconazole. The following conclusions can be drawn from the *in vivo* data: The effects on the ovaries are assessed to be the result of the following:

• Decreasing aromatase enzyme activity which is responsible for converting both testosterone and adrostendione (male sex-steroids) into female sex steroids (e.g., estradiol). This action would result in decreased estradiol (i.e., estrogen) and increased androgen. As a consequence of reduced estradiol levels, measured LH and FSH concentrations are slightly altered.

• The increased incidences of neoplasms in the ovaries are considered to be the result of a continuous cell proliferation by these stimulating

hormones of the regulating hormones of the pituitary-gonadal axis (LH and FSH).

The changes adrenals are assessed to be the result of the following:

• Decreasing adrenal-cortical enzyme activity. This action would result in decreased adrenal hormones such as corticosterone levels. As a consequence of reduced corticosterone levels, pronounce ACTH concentrations are found.

• The increased incidences of neoplasms in the adrenals are considered to be the result of a continuos cell proliferation by these stimulating hormones of the pituitary-adrenal axis ACTH.

C. Aggregate Exposure

1. *Dietary exposure.* For the purpose of assessing the potential chronic dietary exposure, BASF has estimated aggregate exposure based on theoretical maximum residue contribution (TMRC) from the tolerance of epoxiconazole in or on bananas at 0.2 ppm the maximum residue found in banana pulp. The TMRC is a "worst case" estimate of dietary exposure since it is assumed that 100% of all the crops for which the tolerances are established are treated and that pesticide residues are always found at tolerance levels. Based on the expected reference dose (RfD) of 0.011 mg/kg/day (from the NOAEL determined in the chronic dog study and a 100–fold safety factor) and the tolerance level residue chronic dietary exposure of the general population is less than 1% of the RfD.

i. *Food.* This is a new chemical and there are no other food uses except for the proposed use on bananas.

ii. *Drinking water.* No exposure is expected from drinking water as this is an import tolerance and no U.S. registrations are expected.

2. *Non-dietary exposure.* There are no non-occupational sources of exposure to epoxiconazole for the general population due to fact the action being requested is to establish a tolerance for import purposes only.

D. Cumulative Effects

BASF has considered the potential for cumulative effects of epoxiconazole and other substances which may have a common mechanism of toxicity. BASF is aware of other triazole fungicides but has no reliable toxicology information concerning those other materials which would allow a determination regarding similarity of toxicity mechanisms. Therefore, BASF has considered only the potential risks of epoxiconazole in its exposure assessment.

E. Safety Determination

1. *U.S. population.* Using the exposure assumptions described above, based on the completeness and the reliability of the toxicity data, BASF has estimated that aggregate exposure to epoxiconazole will utilize less than 1% of the RfD for the U.S. population. EPA generally has no concern for exposure below 100% of the RfD. Therefore, based on the completeness and reliability of the toxicity data, and the exposure assessment discussed above, BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of epoxiconazole, including all anticipated dietary exposure and all other non-occupational exposures.

2. *Infants and children.* The findings in the rat and rabbit are most likely as a result of excessive maternal toxicity, treatment of pregnant rats and rabbits with epoxiconazole induced embryotoxic effects which manifested themselves in the form of early resorptions and structural anomalies in the offspring. In both the rat and rabbit, the dose-effect relationship was rather steep and showed clear threshold levels. At dose levels below the threshold of maternal toxicity, reproductive parameters as well as the offsprings remained entirely unaffected.

This data demonstrate that the rat and rabbit are similarly sensitive to epoxiconazole. Additionally, the NOAEL of 1.1 mg/kg/day from the chronic dog study used to set the RfD is 4.5x and 72.7x lower than the maternal developmental NOAELs established in the rat and rabbit teratology studies, respectively. The developmental effects observed in either the rat or rabbit occurred only at maternally toxic doses. Therefore, no additional safety factor is needed for children.

Using the assumption stated for the general population, BASF concluded that the most sensitive child population group is that of children <1–year. Using the same RfD and the same conservative exposure assumptions employed in the dietary risk analysis for the general population, it was calculated that the exposure to this group is to be approximately 2% of the RfD for the use proposed in this document. Therefore, based on the completeness and reliability of the toxicity data, and the exposure assessment discussed above, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to residues of epoxiconazole, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

A maximum residue level has not been established by the Codex Alimentarius Commission for epoxiconazole in bananas.

II. Tomen Agro, Inc.

9E06020

EPA has received a pesticide petition 9E06020 from the TM–210 (SZX 0722) Fungicide Task Force, comprised of Tomen Agro, Inc., 100 First Street, Suite 1700, San Francisco, CA 94105, and Bayer Corporation, 8400 Hawthorn Road, Kansas City, MO 64120 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of iprovalicarb: (1*S*)-2-methyl-1-[[[1-(4-methylphenyl)ethyl] amino] carbonyl] propyl] carbamic acid 1-methylethyl ester in or on the raw agricultural commodity imported grapes at 2 ppm and on the processed commodity imported raisins at 3 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of iprovalicarb was investigated in grapes, potatoes and tomatoes, and the metabolic pathway is similar in the three crops. The rate of degradation on plants is quite low, and the parent compound was always the major component, with quantitatively relevant metabolites formed only in potatoes. The metabolites observed in the potato were also observed in the rat. Therefore, iprovalicarb is the only residue of concern. Plant metabolism proceeds along three pathways:

i. Hydroxylation/glycosylation of parent at the 4–methyl group on the phenyl ring, followed by further conjugations.

ii. Cleavage of the amide group between the L-valine and p-methyl-phenethylamine moieties.

iii. Hydroxylation/glycosylation of parent at the phenyl-ring 3 position.

2. *Analytical method.* The proposed enforcement residue analytical method is an HPLC method with ultra violet (UV) detection. The limit of determination is 0.05 ppm in grapes, wine, juice and raisins, and the mean recovery is 94%. DFG multiresidue method S19 has been evaluated as an

analytical method for the determination of iprovalicarb residues in grapes and other commodities. The limit of quantitation (LOQ) of iprovalicarb in/on grapes is 0.01 ppm. Recoveries in spiked samples ranged from 79% to 119%, with the standard deviations ranging from 0.06 ppm to 0.16 ppm. DFG multiresidue method S 19 (with modified extraction) was successfully validated as an analytical method for the determination of residues in/on grapes and other commodities.

3. *Magnitude of residues.* The maximum measured residue resulting from treatment according to the proposed labels and representative viticulture practices was 1.40 ppm in grapes and 2.55 ppm in raisins. Measured residues in juice and wine were lower than the measured residues in grapes.

B. Toxicological Profile

1. *Acute toxicity.* The acute oral LD_{50} in Wistar rats is greater than 5,000 mg/kg body weight.

2. *Genotoxicty.* Iprovalicarb was non-mutagenic or non-clastogenic in six of six assays:

i. *Salmonella/microsome* test, with and without S9 mix.

ii. V79–HPRT forward mutation assay, with and without metabolic activation.

iii. CHO cell assay, with and without metabolic activation *in vitro.*

iv. *In vitro* rat primary hepatocyte unscheduled DNA synthesis UDS assay.

v. Mouse micronucleus test.

vi. ^{32}P-postlabelling assay of the uterus and urinary bladder of rats.

Based upon these studies, iprovalicarb is non-mutagenic and non-genotoxic both *in vitro* and *in vivo.*

3. *Reproductive and developmental toxicity*— i. In a 2–generation reproduction study in Wistar rats receiving 0, 100, 2,000 or 20,000 ppm iprovalicarb in the diet, the parental NOAEL was 2,000 ppm based upon reduced body weight development and increased liver weight at 20,000 ppm. The reproductive toxicity NOAEL was 2,000 ppm (100 mg/kg bwt/day) based upon delayed body weight development in F1 and F2 pups during lactation, slightly reduced mean litter weight at birth and at day 28, increased relative liver weights and a reduced lactation index in F1 pups at 20,000 ppm.

ii. In a developmental toxicity study in Wistar rats, the maternal and developmental NOAEL was 1,000 mg/kg bwt/day (limit dose for study and highest dose tested (LD/HDT)).

iii. In a developmental toxicity study in Russian rabbits, the maternal and developmental NOAEL was 1,000 mg/kg bwt/day LD/HDT.

4. *Subchronic toxicity*— i. In the 13–week feeding study in Wistar rats, the doses were 0, 1,250, 5,000 and 20,000 ppm. The NOAEL was 5,000 ppm (372.7 mg/kg bwt/day in males; 561.4 mg/kg bwt/day in females) based upon reduced body weight gain, increased feed intake (females only), changed clinical chemistry parameters (including liver enzyme induction) and elevated absolute liver weights at 20,000 ppm.)

ii. In the 13–week feeding study in B6C3F1 mice, the doses were 0, 280, 1,400, 7,000, and 14,000 ppm in the diet. The NOAEL in males was 1,400 ppm (325.0 mg/kg bwt/day) based upon elevated water intake and a changed hematological parameter (MCV) at 7,000 ppm (1,724.6 mg/kg bwt/day). The NOAEL in females was 7,000 ppm (3,599.5 mg/kg bwt/day) based upon elevated water intake, changed parameter in the red blood count, and increased liver weights at 14,000 ppm (6,869.0 mg/kg bwt/day).

iii. In the 13–week feeding study in Beagle dogs, the doses were 0, 250, 2,500 and 50,000 ppm iprovalicarb in the diet (0, 9.1, 62.5 and 1,250 mg/kg bwt/day). The NOAEL was 250 ppm (9.1 mg/kg bwt/day) for males and females based upon liver effects (increased activity of alkaline phosphatase and hepatocellular hypertrophy in one animal) at 2,500 ppm.

5. *Chronic toxicity*— i. Wistar rats received 0, 500, 5,000 or 20,000 ppm iprovalicarb in the diet for 24 months. The NOAEL in females was 500 ppm (31.7 mg/kg bwt/day) based upon decreased body weights, changed clinical chemistry parameters (increased cholesterol concentration and decreased total bilirubin concentration), increased relative liver weights and histopathological findings (increased incidences of hepatocellular hypertrophy) at 5,000 ppm. The NOAEL in males was 5,000 ppm (262.5 mg/kg bwt/day) based upon decreased body weights, increased APh-activity, and slight increase of tumor incidences at 20,000 ppm. The histopathological NOAEL was 5,000 ppm (262.5 mg/kg bwt/day in males and 326.3 mg/kg bwt/day in females).

To further evaluate the results of the chronic feeding study in rats:

a. A special 2–day/13–week metabolism study was conducted in Wistar rats at 500 ppm and 20,000 ppm in the diet. Some quantitative differences (shift in diastereomer ratio in favor of S,R; relative higher amounts of p-methyl-phenethylamine, higher proportions of unchanged parent compound in feces) after administration of 20,000 ppm compared to the low dose of 500 ppm were observed.

b. Plasma concentrations were investigated in a special 12–week feeding study in HsdCpb:WU rats. The plasma concentrations of parent compound increased to a measurable level at a dose of 20,000 ppm in the diet. The concentration of parent in plasma was very low due to extensive metabolism during the first pass in the liver. At a dose of 20,000 ppm, the iprovalicarb-carboxylic acid (S,R) diastereomer increased in relation to the corresponding (S,S) diastereomer when compared to the low dose.

c. A bioavailability study was conducted in Wistar rats. Administration of thermodynamically stable and thermodynamically labile modifications of iprovalicarb to Wistar rats at concentrations of 2,000 and 20,000 ppm for 2 weeks resulted in no toxicologically relevant differences based upon the concentration of the main metabolite, iprovalicarb-carboxylic acid, in plasma. Therefore, the thermodynamically stable and thermodynamically labile modifications of iprovalicarb demonstrated no significant differences in intestinal absorption and bioavailability.

d. An *in vivo* ^{32}P–postlabelling assay of uterus and urinary bladder epithelium was conducted in female Wistar rats dosed at 10,000 or 20,000 ppm in the diet for 7 days. Iprovalicarb was determined to be inactive in the assay.

e. A liver foci test was conducted in male Bor: WISW (SPF-Cpb) rats that were dosed by oral gavage with 0 or 1,000 mg/kg iprovalicarb for 28 days, followed by a promotion treatment with phenobarbital over a period of 8 weeks. Iprovalicarb was determined to not have a tumor initiating potential.

Based upon the 24–month chronic feeding study in rats, plus the special studies, a dose of 20,000 ppm exerts a continuous stress on the xenobiotic metabolizing capacity of the liver that is not observed at lower doses. Moreover, iprovalicarb has no genotoxic potential and no tumor initiation potential. Therefore, iprovalicarb is not carcinogenic in rats.

ii. $B6C3F_1$ mice received 0, 280, 1,400, or 7,000 ppm iprovalicarb in the diet for up to 105 weeks. The NOAEL in males was 1,400 ppm (283.4 mg/kg bwt/day) based upon slightly higher food and water intake and slightly lower body weights at 7,000 ppm (1,566.8 mg/kg bwt/day). The NOAEL in females was 7,000 ppm (2,544 mg/kg bwt/day), the HDT. No oncogenic potential was observed in mice.

iii. Beagle dogs received 0, 80, 800 or 8,000 ppm iprovalicarb in the diet for 53 weeks. The NOAEL was 80 ppm (2.62

mg/kg bwt/day in males and 2.68 mg/kg bwt/day in females) based upon liver effects (increased serum activities of ALT and APh, cellular hypertrophy and periportal fatty change) at 800 ppm (24.69 mg/kg bwt/day in males and 28.10 mg/kg bwt/day in females). A follow-up study was conducted in Beagle dogs that received 0, 10, 20, 40, or 80 ppm iprovalicarb in their diet for 28 days. The NOAEL for microsomal liver enzyme induction was determined to be 20 ppm (0.77 mg/kg bwt/day). Microsomal liver enzyme induction was observed at the higher doses, and reversal of induction was observed within a 4–week recovery period in the 80 ppm dose group (2.93 mg/kg bwt/day).

6. *Animal metabolism.* Iprovalicarb is readily absorbed, and greater than 97.8% of the total radioactivity was eliminated in urine and feces within 48 hours of dosing. Iprovalicarb is extensively metabolized in the rat. The primary metabolites (>58% of the administered dose) were diastereomers of iprovalicarb-carboxylic acid. Eight minor metabolites, each representing less than 2% of the administered dose, were quantified.

7. *Metabolite toxicology.* The toxicity of p-methyl-phenethylamine, a rat, plant and soil metabolite, was investigated in 2 studies:

i. The acute oral LD_{50} in Wistar rats was determined to be in the range of 300 to 500 mg/kg bw.

ii. No mutagenic activity was observed in the *Salmonella/microsome* test. p-Methyl-phenethylamine was found at concentrations of <0.2% and has been determined to not be toxicologically significant.

8. *Endocrine disruption.* No endocrine disruption potential was observed in the 2–generation reproduction study, developmental toxicity studies, subchronic feeding studies, and chronic feeding studies.

C. Aggregate Exposure

1. *Dietary exposure.* There are no registered uses of iprovalicarb in the U.S., and no registrations or other tolerances are pending. Dietary exposure to iprovalicarb in the U.S. is limited to residues in/on imported grapes, grape juice, wine, and raisins.

i. *Food.* The anticipated residue in/on fresh grapes based upon the field studies is 0.50 ppm, and 35.71% of the fresh grapes consumed in the U.S. are imported. The anticipated residue in grape juice based upon the field and processing studies is 0.050 ppm, and 37.05% of the grape juice consumed in the U.S. is imported. The anticipated residue in wine based upon the field and processing studies is 0.32 ppm, and 17.38% of the wine consumed in the U.S. is imported. The anticipated residue in raisins based upon the field and processing studies is 0.91 ppm, and 8.165% of the raisins consumed in the U.S. are imported. Assuming 100% of the imported commodities are treated and have the average residue resulting from the maximum international use of iprovalicarb, the total anticipated residue is 0.000021 mg/kg bwt/day in the U.S. diet and 0.000056 mg/kg bwt/day for the most exposed subpopulation, children 1 to 6 years old.

ii. *Drinking water.* Iprovalicarb is not registered for use in the United States. Therefore, there is no exposure to iprovalicarb through drinking water in the United States.

2. *Non-dietary exposure.* Iprovalicarb is not used in the United States. Therefore, there is no non-dietary exposure to iprovalicarb in the United States.

D. Cumulative Effects

Iprovalicarb is a member of a new class of chemistry and does not have a mode of action that is common with other registered pesticides. Therefore, there are no cumulative effects.

E. Safety Determination

1. *U.S. population.* The reference dose (RfD) is 0.03 mg/kg bwt/day. Based upon anticipated residues in imported commodities and assuming 100% of the imported commodities contain residue resulting from the proposed European use of iprovalicarb, the estimated chronic dietary margin of exposure of the U.S. population is 0.07% of the RfD. Therefore, there is a reasonable certainty of no harm to the U.S. population resulting from exposure to iprovalicarb residues in/on imported commodities.

2. *Infants and children.* The population subgroup with the maximum estimated dietary exposure is children age 1 to 6 years old. For this subgroup, and using the same assumptions as listed for the U.S. population, the estimated chronic dietary margin of exposure is 0.18% of the RfD. Therefore, there is a reasonable certainty of no harm to infants and children in the U.S. resulting from exposure to iprovalicarb residues in/on imported commodities.

F. International Tolerances

The following maximum residue levels are pending in the European Union: 2.0 mg/kg in/on grapes; 0.5 mg/kg in animal fat; 0.05 mg/kg in potatoes, animal meat, animal edible offal and eggs; and 0.01 mg/kg in milk.

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BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51952; FRL–6746–8]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 14, 2000 to August 25, 2000, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51952 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed

in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51952. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51952 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51952 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from August 14, 2000 to August 25, 2000, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 35 PREMANUFACTURE NOTICES RECEIVED FROM: 08/14/00 TO 08/25/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–1114	08/15/00	11/13/00	Cognis Corporation	(G) Synthetic lubricant	(S) 1,3-propanediol, 2,2-dimethyl-, di-C_{5-9} carboxylates*
P–00–1115	08/14/00	11/12/00	CBI	(G) Open, non-dispersive use.	(G) Acrylic dispersant polymer
P–00–1116	08/15/00	11/13/00	Ashland Inc.	(G) Closed compression molding operations.	(G) Unsaturated polyester
P–00–1117	08/15/00	11/13/00	Bedoukian Research, Inc.	(S) Chemical intermediate for flavor/fragrance product (ffdca); chemical intermediate for fragrances used in soaps, detergents, air fresheners, scented papers, etc.	(G) Alkenyl keto acid
P–00–1118	08/15/00	11/13/00	Bedoukian Research, Inc.	(S) Chemical intermediate for flavor/fragrance product (ffdca); chemical intermediate for fragrances used in soaps, detergetns, air freshners, scented papers, etc.	(G) Alkenyl hydroxy acid
P–00–1119	08/16/00	11/14/00	CBI	(G) Resin coating	(G) Polyester resin
P–00–1120	08/16/00	11/14/00	CBI	(G) Resin coating	(G) Polyester resin
P–00–1121	08/17/00	11/15/00	DMC2-Degussa Metals Catalyst Cerdec, Cerdic Division	(G) Pigment	(G) Mixed metal oxide
P–00–1122	08/17/00	11/15/00	DMC2-Degussa Metals Catalyst Cerdec, Cerdic Division	(G) Pigment	(G) Mixed metal oxide
P–00–1123	08/17/00	11/15/00	DMC2-Degussa Metals Catalyst Cerdec, Cerdic Division	(G) Pigment	(G) Mixed metal oxide
P–00–1124	08/17/00	11/15/00	DMC2-Degussa Metals Catalyst Cerdec, Cerdic Division	(G) Pigment	(G) Mixed metal oxide
P–00–1125	08/17/00	11/15/00	DMC2-Degussa Metals Catalyst Cerdec, Cerdic Division	(G) Pigment	(G) Mixed metal oxide
P–00–1126	08/17/00	11/15/00	DmMC2-Degussa Metals Catalyst Cerdec, Cerdic Division	(G) Pigment	(G) Mixed metal oxide
P–00–1127	08/17/00	11/15/00	CBI	(S) Dye for coloring hair	(S) 1 *h*-imidazolium,2-[(4-aminophenyl)azo]-1,3-dimethyl-, chloride*
P–00–1128	08/18/00	11/16/00	Laporte Speciality Inc	(G) Acryalte monomer, intermediate for polymer production (destructive use)	(G) Acrylate ester of polyethylene glycol
P–00–1129	08/21/00	11/19/00	International Flavors and Fragrances, Inc.	(S) Raw materials for use in fragrances for soaps, detergents, cleaners and other household products	(S) 4,7-methano-1h-inden-6-ol, 3a,4,5,6,7,7a-hexahydro-, butanoate*
P–00–1130	08/18/00	11/16/00	Bedoukian Research, Inc.	(S) Chemical intermediate for flavor/fragrance product (ffdca)	(G) Acetylenic alcohol
P–00–1131	08/18/00	11/16/00	Bedoukian Research, Inc.	(S) Chemical intermediate for flavor/fragrance product (ffdca).;chemical intermediate for fragrances used in soaps, detergents, air freshners, scented papers, etc.	(G) Alkynyl acetate
P–00–1132	08/21/00	11/19/00	Degussa-Huls Corporation	(S) Anti-graffiti-systems	(G) Fluoro/amino silane mixture
P–00–1133	08/21/00	11/19/00	Solutia Inc.	(G) Co-curing resin, chemical identity changed in use	(G) Carboxy modified polyester
P–00–1134	08/22/00	11/20/00	CBI	(G) Urethane prepolymer	(G) Urethane prepolymer
P–00–1135	08/21/00	11/19/00	Rohm America Inc.	(G) Binding agent in polymerizable systems	(G) Acrylic polymer on the basis of n-hexyl methacyrlate
P–00–1136	08/23/00	11/21/00	CBI	(G) Dispersant	(G) Substituted alkenyl succinic anhydride reaction product with polyalkylenepolyamine, alkylphenol, hydroxyalkylcarboxylic acid and an aldehyde
P–00–1137	08/23/00	11/21/00	Solutia Inc.	(S) Binder for industrial coatings;binder for printing inks	(G) Polyurethane dispersion
P–00–1138	08/24/00	11/22/00	Burlington Chemical Co., Inc.	(S) Lubricant additive for metal;textile lubricant;process lubricant	(S) Castor oil, dihydrogen phosphate, monopotassium salt*

I. 35 PREMANUFACTURE NOTICES RECEIVED FROM: 08/14/00 TO 08/25/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–1139	08/25/00	11/23/00	CBI	(S) Lubricant for both offshore and onshore oil production sites	(S) Hexanoic acid, 3,5,5-trimethyl-, compd. with 1,1′,1″-nitrilotris[2-propanol] (1:1)*
P–00–1140	08/25/00	11/23/00	CBI	(S) Lubricant for both offshore and onshore oil production sites	(S) Hexanoic acid, 3,5,5-trimethyl-, compd. with 1,1′-iminobis[2-propanol] (1:1)*
P–00–1141	08/25/00	11/23/00	CBI	(S) Lubricant for both offshore and onshore oil production sites	(S) Hexanoic acid, 3,5,5-trimethyl-, compd. with 1-amino-2-propanol (1:1)*
P–00–1142	08/22/00	11/20/00	CBI	(G) Polymer additive and coatings	(G) Aliphatic methacrylate urethane oligomer
P–00–1143	08/24/00	11/22/00	CBI	(G) Resin coating	(G) Polyester acrylate
P–00–1144	08/24/00	11/22/00	Bedoukian Research, Inc.	(S) Chemical intermediate for flavor/fragrance product (ffdca);chemical intermediate for fragrances used in soaps, detergents, air fresheners, scented papers, etc.	(G) Unsaturated alkyl acid
P–00–1145	08/24/00	11/22/00	Bedoukian Research, Inc.	(S) Used in cheese, butter, fruit flavors;other uses: soaps, detergents, air fresheners	(S) Hexanoic acid, 5-methyl-*
P–00–1146	08/24/00	11/22/00	Degussa-Huls Corporation	(S) Surface modifier for inorganic fillers and pigments	(S) Silsesquioxanes, 3-aminopropyl vinyl, hydroxy-terminated, formates (salts)*
P–00–1147	08/25/00	11/23/00	Kalamazoo Paper Chemicals	(S) An optical brightner quenching agent for recycled papers and cellulosics	(S) 1,4-benzenedicarboxylic acid, polymer with n-(2-aminoethyl)-1,2-ethanediamine, sulphate*
P–00–1148	08/25/00	11/23/00	CBI	(G) Industrial coating additive	(G) Castor oil modified alkyd resin
P–00–1149	08/25/00	11/23/00	The Dow Chemical Company	(S) Air pollution control media	(S) Benzene, diethenyl-, polymer with ethenylbenzene and ethenylethylbenzene, chloromethylated, cyclized, reaction products with ethylbenzene*

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 1 TEST MARKETING EXEMPTION NOTICE RECEIVED FROM: 08/14/00 TO 08/25/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–00–0005	08/25/00	10/09/00	CBI	(G) Demulsifies (emulsion breaker) for water-in-oil emulsions	(G) Polyethyleneimine propoxylate quat.

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 58 NOTICES OF COMMENCEMENT FROM: 08/14/00 TO 08/25/00

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0058	08/22/00	08/08/00	(G) Polyester acrylate
P–00–0299	08/21/00	07/25/00	(G) 1,5-naphthalenedisulfonic acid, 3-[[2-(acetylamino)-4-[[4-chloro-6-[substituted]-1,3,5-triazin-2-yl]amino]phenyl]azo]-, trisodium salt
P–00–0366	08/16/00	07/12/00	(G) Alloy of polyolefin and polyamide
P–00–0367	08/16/00	07/12/00	(G) Alloy of polyolefin and polyamide
P–00–0423	08/15/00	07/26/00	(G) Dinonylnaphthalenesulfonic acid compound with amine
P–00–0424	08/22/00	08/09/00	(G) Dinonylnaphthalenesulfonic acid compound with amine
P–00–0472	08/18/00	06/29/00	(G) Halogenated alkane
P–00–0546	08/24/00	07/31/00	(G) Alkyloxy-hydroxypropyl, trialkylamine, ammonium chloride
P–00–0547	08/24/00	07/31/00	(G) Alkyloxy-hydroxypropyl, dialkylamine
P–00–0549	08/21/00	08/16/00	(G) Polyurethane acrylate ester

III. 58 NOTICES OF COMMENCEMENT FROM: 08/14/00 TO 08/25/00—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0591	08/21/00	07/26/00	(G) Organometallic compound
P–00–0593	08/14/00	07/19/00	(S) Pentadecanedioic acid*
P–00–0594	08/14/00	07/19/00	(S) Heptadecanedioic acid*
P–00–0595	08/14/00	07/19/00	(S) Octadecanedioic acid*
P–00–0596	08/14/00	07/19/00	(S) Eicosanedioic acid*
P–00–0597	08/14/00	07/19/00	(S) 5-tetradecenedioic acid, (5z)-*
P–00–0598	08/14/00	07/19/00	(S) 7-hexadecenedioic acid, (7z)-*
P–00–0599	08/14/00	07/19/00	(S) 8-heptadecenedioic acid, (8z)-*
P–00–0600	08/14/00	07/19/00	(S) 9-octadecenedioic acid, (9z)-*
P–00–0601	08/14/00	07/19/00	(S) 6,9-octadecadienedioic acid, (6z,9z)-*
P–00–0602	08/14/00	07/19/00	(S) 9-eicosenedioic acid, (9z)-*
P–00–0613	08/18/00	08/01/00	(S) 1,2,3-propanetriol, homopolymer, isooctadecanoate
P–00–0741	08/25/00	08/17/00	(G) 2-hydroxy-3-alkyl substituted cycloalkenone
P–00–0752	08/23/00	08/16/00	(G) Polyoxyethylene alkyl ether sulfosuccinate metal salts
P–00–0767	08/17/00	08/04/00	(G) Modified carbamate acrylic polymer
P–96–1087	08/15/00	08/01/00	(G) Organo silane ester
P–98–0849	08/14/00	08/07/00	(G) Ppdi polyester-polyether prepolymer
P–99–0150	08/14/00	07/21/00	(G) Capped polyurethane adduct
P–99–0151	08/14/00	07/25/00	(G) Capped polyurethane adduct
P–99–0158	08/14/00	08/02/00	(G) Epoxy resin polymer adduct
P–99–0316	08/25/00	07/31/00	(G) Aminomethylated bisphenol a-bisphenol a epichlorohydrin polymer, phosphoric acid salt
P–99–0338	08/18/00	07/19/00	(G) Substituted aliphatic alcohol
P–99–0344	08/18/00	07/19/00	(G) Substituted aliphatic alcohol
P–99–0374	08/14/00	08/09/00	(G) Alken-yne substituted pyran
P–99–1045	08/14/00	08/08/00	(S) Castor oil, benzoate*
P–99–1189	08/17/00	08/13/00	(G) Isoalkyl methacrylate ester
P–99–1217	08/18/00	08/06/00	(G) Amine neutralized phosphated polyester
P–99–1218	08/18/00	08/06/00	(G) Amine neutralized phosphated polyester

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: September 7, 2000.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 00–24435 Filed 9–21–00; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51951; FRL–6743–1]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from July 24, 2000 to August 11, 2000, consists of the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51951 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51951. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51951 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51951 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from July 24, 2000 to August 11, 2000, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 07/24/00 TO 08/11/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–1053	07/25/00	10/23/00	CBI	(S) Paper	(G) Naphthalene sulfonic acid derivative

I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 07/24/00 TO 08/11/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–1054	07/25/00	10/23/00	Bedoukian Research, Inc.	(S) Chemical intermediate-pharmaceutical products.; chemical intermediae for flavor/fragrance products (ffdca); chemical intermediate for non-cosmetic applications: soaps, detergents, air-fresheners, scented paper, etc.*	(S) 3-butn-1-ol
P–00–1055	07/24/00	10/22/00	Bic USA Inc.	(G) A colorant for ink	(G) Sulfonated-copper phthalocyanine salt of a triarylmethane dye
P–00–1056	07/25/00	10/23/00	CBI	(G) Open, non-dispersive use	(G) Polyester resin
P–00–1057	07/27/00	10/25/00	CBI	(S) Paper dye	(G) Azo dye, copper complex
P–00–1058	07/27/00	10/25/00	CBI	(S) Component of wire enamels used in electrical industry	(G) Aromatic dicarboxylic acid polymer with 1,3-dihydro-1,3-dioxo-5-isobenzofuran-carboxylic acid and 1,1′-methylenebis[4-isocyanatobenzene]
P–00–1059	07/27/00	10/25/00	3M Company	(S) Adhesion promoter	(G) Alkylstyryl polyurea resin
P–00–1060	07/27/00	10/25/00	CBI	(G) Coating additive for open, non-dispersive use	(G) Magnesium salt of phosphate ester
P–00–1061	07/27/00	10/25/00	E.I. Du pont De Nemours & Company, Inc. (dupont)	(G) Elastomeric parts	(G) Modified ethylene/methyl acrylate copolymer
P–00–1062	07/27/00	10/25/00	Vantico Inc.	(S) Cure agent for epoxy floor coating; cure agent for epoxy tank linings; cure agent for maintenance coatings	(G) 4,4′-(1-methylethylidene)bisphenol, polymer with (chloromethyl)oxirane and a diamine
P–00–1063	07/31/00	10/29/00	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances for soaps, detergents, cleaners and other household products	(S) Benzenepropanal, 4-(1-methylethyl)-*
P–00–1064	07/31/00	10/29/00	Orient Corporation of America	(S) Charge stabilizer for lectro-photo copy toner	(S) Ferrate(1-), bis[3,5-bis(1,1-dimethylethyl)-2-(hydroxy-.kappa.o)benzoato(2-)-.kappa.o]-, hydrogen*
P–00–1065	07/31/00	10/29/00	CBI	(G) Intermediate	(S) Methanesulfonamide,1,1,1,-trifluoro-n-[(trifluoromethyl)sulfonyl]-*
P–00–1066	07/31/00	10/29/00	CBI	(G) Destructive use	(G) Methacrylic acid copolymer
P–00–1067	07/28/00	10/26/00	CBI	(G) Oil lubricity modifier	(G) Linear alkyl polyhydroxypolyester
P–00–1068	07/31/00	10/29/00	Mitsui Chemicals America, Inc.	(G) Encapsulating or impregnation	(S) Oxirane, 2,2′-[[1- [4-[1-methyl-1-[4-(oxiranylmethoxy)phenyl]ethyl]phenyl] ethylidene]bis(4,1-phenyleneoxymethylene)]bis-*
P–00–1069	07/31/00	10/29/00	Mitsui Chemicals America, Inc.	(G) Encapsulating or impregnation	(S) 2-propanol, 1,3-bis[4-[1- [4-[1-methyl-1-[4-(oxiranylmethoxy)phenyl] ethyl]phenyl]-1-[4-(oxiranylmethoxy) phenyl]ethyl]phenoxy]-*
P–00–1070	07/31/00	10/29/00	CBI	(G) Additive to security inks dispersive use.	(G) Phosphomolybdo tungstic acid complex of a quaternary amine.
P–00–1071	08/01/00	10/30/00	Atofina Chemicals, Inc.	(S) Paper sizing agent for high end inkjet paper	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, acetates*
P–00–1072	08/01/00	10/30/00	Atofina Chemicals, Inc.	(S) Paper sizing agent for high end inkjet paper	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, sulfates*
P–00–1073	08/01/00	10/30/00	Atofina Chemicals, Inc.	(S) Paper sizing agent for high end inkjet paper	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, phosphates*

I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 07/24/00 TO 08/11/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–1074	08/01/00	10/30/00	Atofina Chemicals, Inc.	(S) Paper sizing agent for high end inkjet paper	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, methanesulfonates*
P–00–1075	08/01/00	10/30/00	Atofina Chemicals, Inc.	(S) Paper sizing agent for high end inkjet paper	(S) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, 3-(dimethylamino)propyl imide, hydrochlorides*
P–00–1076	08/01/00	10/30/00	CBI	(G) Acrylic copolymer salt	(G) Acrylic copolymer salt
P–00–1077	08/01/00	10/30/00	CBI	(G) Open, non-dispersive use	(G) Ferric complex
P–00–1078	08/01/00	10/30/00	CBI	(G) Fuel additive	(G) Potassium sulfonate
P–00–1079	08/02/00	10/31/00	CBI	(G) Printing ink.	(G) Fatty acid, C_{18}–unsatd., dimers, polymers with hexamethylenediamine, acyclic diamine, monocarboxylic acid and a diacarboxylic acid.
P–00–1080	08/02/00	10/31/00	CBI	(G) Printing ink.	(G) Fatty acid, C_{18}–unsatd., dimers, polymers with hexamethylenediamine, a cyclic diamine, a monocarboxylic acid and a diacarboxylic acid.
P–00–1081	08/02/00	10/31/00	CBI	(G) Printing ink.	(G) Fatty acid, C_{18}–unsatd., dimers, polymers with ethylenediamine, hexamethylenediamine, a cyclic diamine, monocarboxylic acid and a diacarboxylic acid.
P–00–1082	08/02/00	10/31/00	CBI	(G) Printing ink.	(G) Fatty acid, C_{18}–unsatd., dimers, polymers with ethylenediamine, hexamethylenediamine, propanoic acid, a cyclic diamine, monocarboxylic acid and a diacarboxylic acid.
P–00–1083	08/02/00	10/31/00	CBI	(G) Printing ink.	(G) Fatty acid, C_{18}–unsatd., dimers, polymers with ethylenediamine, hexamethylenediamine, propanoic acid, a cyclic diamine, monocarboxylic acid and a diacarboxylic acid and polymerized fatty acids.
P–00–1084	08/02/00	10/31/00	CBI	(G) Printing ink.	(G) Fatty acid, C_{18}–unsatd., dimers, polymers with ethylenediamine, hexamethylenediamine, a cyclic diamine, monocarboxylic acid, dicarboxylic and polymerized fatty acids*
P–00–1085	08/02/00	10/31/00	3M company	(G) Surfactant	(G) Fluoroacrylate copolymer
P–00–1086	08/02/00	10/31/00	CBI	(G) Strong base used to perform proton abstractions	(G) Potassium amide salt
P–00–1087	08/02/00	10/31/00	CBI	(G) Chemical intermediate used in the synthesis of chemicals and polymers	(G) Di-alkyl borane
P–00–1088	08/02/00	10/31/00	CBI	(G) Reagent for organic synthesis	(G) Potassium alkoxide
P–00–1089	08/02/00	10/31/00	CBI	(G) Chemical intermediate used in the synthesis of pharmaceuticls	(G) Alkali metal alkyl borohydride
P–00–1090	08/02/00	10/31/00	CBI	(G) Synthetic paper size emulsifier	(G) Modified cationic acrylamide polymer
P–00–1091	08/02/00	10/31/00	3M Company	(G) Paper or film coating	(G) Neutralized acrylate polymer
P–00–1092	08/02/00	10/31/00	3M Company	(G) Surfactant	(G) Perfluoroalkyl derivative
P–00–1093	08/02/00	10/31/00	3M Company	(G) Surfactant	(G) Fluoroacrylate copolymer
P–00–1094	08/02/00	10/31/00	CBI	(G) Dye	(G) Sodium salt of a naphthalene azo dyestuff
P–00–1095	08/04/00	11/02/00	CBI	(G) Moisture curing polyurethane adhesives	(G) Isocyanate terminated urethane polymer
P–00–1096	08/04/00	11/02/00	Solutia Inc.	(S) Solid reactive curing agent for uv-cured powder coatings	(G) Methacrylated aliphatic urethane

I. 61 PREMANUFACTURE NOTICES RECEIVED FROM: 07/24/00 TO 08/11/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–1097	08/04/00	11/02/00	CBI	(G) Cocatalyst	(S) Aluminoxanes, iso-bu, branched, cyclic and linear*
P–00–1098	08/04/00	11/02/00	CBI	(G) Open, non-dispersive (resin)	(G) Prepolymer based on aliphatic polyisocyanate
P–00–1099	08/07/00	11/05/00	CBI	(G) infrared absorber	(G) A functionalized polymethine infrared absorber
P–00–1100	08/07/00	11/05/00	CBI	(G) Coating	(G) Terpolymer condensate
P–00–1101	08/08/00	11/06/00	Kelmar industries, Inc.	(G) Lubricant additive	(G) Alkyl silsesquioxanes
P–00–1102	08/08/00	11/06/00	Kelmar industries, Inc.	(G) Lubricant additive	(G) Alkyl silsesquioxanes
P–00–1103	08/08/00	11/06/00	CBI	(G) Used as an industrial laminating adhesive	(G) Aromatic isocyanate-polyester-polyether base urethane prepolymer with excess isocyanate
P–00–1104	08/09/00	11/07/00	CBI	(S) Base/top coat binder for leather finishing	(G) Block polymer of aromaticdiacid with alkane diamines, polysubstituted cycloalkanes and alkanediols
P–00–1105	08/11/00	11/09/00	CBI	(G) Open, non-dispersive use	(G) Hydroxy functional amino ester
P–00–1106	08/10/00	11/08/00	Degussa-huls corporation	(S) Industrial annealing lacquer for metalworking	(G) Polymer of aliphatic/aromatic polycarboxylic acids and aliphatic /alicyclic polyols, neutralized with alkanolamine
P–00–1107	08/10/00	11/08/00	CBI	(G) Anti-wear additive used in mineral oil industry (contained and dispersive uses)	(G) Polycarboxylate based on natural fatty acids
P–00–1108	08/09/00	11/07/00	CBI	(G) Plasticizer	(G) Modified cyclohexane esters
P–00–1109	08/11/00	11/09/00	CBI	(S) Tube extrusion;injection molding	(G) Polyolefin-polyamide
P–00–1110	08/11/00	11/09/00	CBI	(S) Tube extrusion;injection molding	(G) Polyolefin-polyamide
P–00–1111	08/11/00	11/09/00	CBI	(G) Open, non-dispersive (resin)	(G) Unsaturated urethane acrylate resin
P–00–1112	08/11/00	11/09/00	CBI	(G) Amine synergists for coatings and inks	(G) Amino acrylate
P–00–1113	08/11/00	11/09/00	CBI	(G) Amine synergists for coatings and inks	(G) Amino acrylate

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 55 NOTICES OF COMMENCEMENT FROM: 07/24/00 TO 08/11/00

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0104	08/04/00	07/11/00	(S) 1h-benzimidazolium, 2-(6-methoxy-2-benzofuranyl)-1,3-dimethyl-5-(methylsulfonyl)-, acetate, acetate*
P–00–0178	08/10/00	07/26/00	(G) Modified acrylic polymer
P–00–0345	07/25/00	06/22/00	(G) Styrene acrylate;acrylic polymer
P–00–0351	08/07/00	07/24/00	(G) Sulphonated azo dye
P–00–0370	08/07/00	07/05/00	(G) Aliphatic alcohol
P–00–0372	08/07/00	07/11/00	(G) Acrylic monomer
P–00–0447	07/31/00	06/27/00	(G) Polyester polyol
P–00–0492	08/03/00	08/01/00	(G) Chelated metal complexes
P–00–0506	07/25/00	07/03/00	(G) Sodium salt of a naphthalene azo dyestuff
P–00–0513	07/28/00	07/11/00	(G) Arylazo substituted sufonated naphthalene compound
P–00–0516	07/28/00	07/11/00	(G) Sulfonated dioxazine compound
P–00–0517	07/28/00	07/11/00	(G) Arylazo substituted sulfonated naphthalene compound
P–00–0527	08/11/00	08/02/00	(G) Polyester resin
P–00–0539	08/01/00	07/26/00	(G) Blocked polyisocyanate
P–00–0540	08/04/00	07/03/00	(G) Saturated dicarboxylic acid, polymer with polyester, polyamide and substituted carboxylic acids
P–00–0557	08/07/00	07/11/00	(G) Epoxy modified saturated polyester resin
P–00–0564	08/07/00	07/11/00	(G) Saturated polyester resin solid
P–00–0565	08/01/00	07/24/00	(G) Azo violet pigment
P–00–0567	07/25/00	07/05/00	(G) Melamine
P–00–0578	07/25/00	06/28/00	(G) Polyester
P–00–0587	07/28/00	07/10/00	(G) Amine terminated resin
P–00–0618	08/11/00	07/11/00	(G) Substituted hydroxy alkane ether

II. 55 NOTICES OF COMMENCEMENT FROM: 07/24/00 TO 08/11/00—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0621	08/01/00	07/07/00	(G) Long chain fatty acids, polymer with a polyoxyalkylene and a cyclic diacid
P–00–0640	07/25/00	06/30/00	(G) Alkyd emulsion
P–00–0647	07/25/00	07/12/00	(G) Fatty acids, tall -oil, polymers with diamine, 5 (or 6) -carboxy-4-hexyl-2-cyclohexene-1-octanoic acid, fumaric acid, polyol, maleic anhydride, pentaerythritol and rosin)
P–00–0655	08/11/00	08/03/00	(G) Aromatic urethane
P–00–0656	08/04/00	07/07/00	(G) Alkenyl ester
P–00–0681	08/11/00	08/01/00	(G) Isocyanate—functional polyester polyurethane
P–00–0687	08/07/00	07/24/00	(G) Polyetherurethane and polyurea copolymer
P–00–0692	08/04/00	07/24/00	(G) Aliphatic polyurethane
P–00–0695	08/07/00	07/25/00	(G) Perfluoroalkylated polyamino acid
P–00–0713	07/28/00	07/17/00	(G) Arylazo substituted sulfonated naphthalene compound
P–00–0724	07/31/00	07/21/00	(G) Polyether modified acrylic
P–00–0734	08/03/00	07/25/00	(G) Substituted heterocyclic metal complex
P–96–0094	07/27/00	07/06/00	(S) N,n-diethylethanamine trihydrofluoride
P–96–0677	07/28/00	07/17/00	(G) 2-propenoic acid copolymer
P–97–0565	08/03/00	05/12/00	(G) Poly carboxylic acid, sodium salt
P–98–1179	08/01/00	07/06/00	(S) 2-butenedioic acid (*z*)-, mono–C_8–C_{11}–isoalkyl esters, C_9 rich*
P–98–1180	08/01/00	07/06/00	(S) 2-butenedioic acid (*z*)-, mono-C_9–C_{11}–isoalkyl esters, C_{10} rich*
P–99–0160	07/31/00	07/24/00	(G) Modified acrylic polymer
P–99–0366	07/27/00	07/18/00	(S) Silsesquioxanes, 3-aminopropyl, iso-bu, formates (salts)*
P–99–0519	07/31/00	07/30/00	(G) 1,1-diphenylethane, reaction products, distillation residues
P–99–0522	07/31/00	07/30/00	(G) Diphenylalkane, distillation residues
P–99–0593	07/31/00	07/30/00	(G) Polyethylbenzene bottoms, middle fraction, reaction products, distillation heavies
P–99–0594	07/31/00	07/30/00	(G) Polyethylbenzene bottoms, middle fraction, reaction products, distillation heavies
P–99–0640	08/02/00	07/03/00	(G) Organomodified polysiloxane resin
P–99–0943	07/31/00	07/16/00	(G) Polyurethane adhesive purge
P–99–0951	07/25/00	06/06/00	(G) Polyisobutene epoxide
P–99–0963	07/31/00	07/24/00	(G) Alkylether sulfate, sodium salt
P–99–1072	07/31/00	07/11/00	(G) Styrenated alkyd
P–99–1107	07/24/00	06/29/00	(S) 3,8,13-trioxa-4,7,9,12-tetrasilapentdecane, 4,12-diethoxy-4,7,7,9,9,12-hexamethyl-*
P–99–1108	07/24/00	06/29/00	(G) Fluorosilicone polymer
P–99–1201	08/03/00	07/25/00	(S) 2-propenoic acid, reaction products with chloroacetic acid and 4,5-dihydro-1h-imidazole-1-ethanamine 2-nortall-oil alkyl derivs., sodium salts*
P–99–1205	07/24/00	06/22/00	(S) 4,4′-(9*a*-fluoren-9-ylidene) bis[2,6-dibromo]phenol*
P–99–1377	08/07/00	07/25/00	(G) Polydimethylsiloxane resin

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: September 14, 2000.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 00–24437 Filed 9–21–00; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks 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 offices 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 October 6, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. James G. Fitzgerald, Barrington Hills, Illinois; and Jane M. Fitzgerald; Andrew James Fitzgerald Irrevocable Trust, James G. Fitzgerald as trustee; Timothy Edward Fitzgerald Irrevocable Trust, James G. Fitzgerald as trustee; Gerald F. Fitzgerald Jr.; Thomas Gosselin Fitzgerald, Jr., Trust, Thomas G. Fitzgerald as trustee; Lauren Webb Fitzgerald Trust, Thomas G. Fitzgerald as trustee; Julie Schauer, all of Inverness, Illinois, and Gerald F. Fitzgerald, Palatine, Illinois; to acquire shares of Southern Wisconsin Bancshares Corp., Mineral Point, Wisconsin, and thereby indirectly acquire Farmers Savings Bank, Mineral Point, Wisconsin.

Board of Governors of the Federal Reserve System, September 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–24360 Filed 9–21–00; 8:45 am]

BILLING CODE 6210–01–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 October 17, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Bank Hapoalim B.M., Tel Aviv, Israel; Zahar Hashemesh Le'Hashkaot Ltd., Tel Aviv, Israel, & Hapoalim U.S.A. Holding Company, Inc., New York, New York; to become bank holding companies by acquiring 100 percent of the voting shares of Signature Bank, New York, New York, a proposed *de novo* bank.

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. FNB Corporation, Christiansburg, Virginia; to merge with CNB Holdings, Inc., Pulaski, Virginia, and thereby indirectly acquire Community National Bank, Pulaski, Virginia.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Guaranty Corporation, Denver, Colorado; to merge with Bank Capital Corporation, Strasburg, Colorado, and thereby indirectly acquire The First National Bank of Strasburg, Strasburg, Colorado, and Collegiate Peaks Bancorporation, Strasburg, Colorado, and its subsidiary, Collegiate Peaks Bank, Buena Vista, Colorado. In connection with this proposal, Guaranty Corporation, Denver, Colorado; also has applied to acquire Bank Capital Mortgage LLC, Strasburg, Colorado, and thereby engage in extension of credit and servicing of loans activities pursuant to § 228.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, September 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–24359 Filed 9–21–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 2000.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Tehama Bancorp, Red Bluff, California; to acquire convertible preferred shares of Central Pacific Mortgage Company, Folsom, California, and thereby engage in originating and selling mortgage loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, September 19, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–24430 Filed 9–21–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, September 27, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: September 20, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–24535 Filed 9–20–00; 10:55 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services; Grant to the Community Economic Development and Information Technology

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the Community Economic Development and Information Technology to support their national demonstration project to conduct a food e-commerce system for poor residents living in America's public housing projects to shop on-line for nutritional food.

This one-year project is being funded noncompetitively because it is expected to provide valuable information useful to this Department and other practitioners regarding research and demonstration initiatives related to welfare reform and the well being of low-income children and families. The national project will demonstrate that the New Digital Economy can offer new opportunities to all low-income communities. The cost of the project is $63,315 for one year.

CONTACT FOR FURTHER INFORMATION: Catherine Rivers, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–401–5252.

Dated: September 18, 2000.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 00–24414 Filed 9–21–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services; Grant to the National Association of Farmers' Market Nutrition Programs

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grand award is being made to the National Association of Farmers' Market Nutrition Programs to initiate a Nationwide Farmers' Market Connections Campaign to serve low-income communities, limited resource farmers, and low-income women and children who participate in the WIC Program.

This one-year project is being funded noncompetitively because it is expected to provide valuable information useful to this Department and other practitioners regarding research and demonstration initiatives related to welfare reform and the well being of low-income children and families. The nationwide campaign will be piloted in four states, and will promote the development and coordination of farmers' markets and marketing services among federal, state and local agencies. The cost of the project is $33,000 for one year.

Contact for Further Information: Catherine Rivers, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–401–5252.

Dated: September 18, 2000.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 00–24415 Filed 9–21–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 19, 2000, 9:30 a.m. to 5 p.m.

Location: Best Western Washington Gateway Hotel, Grand Ballroom, 1251 West Montgomery Ave., Rockville, MD.

Contact Person: Jeffrey W. Cooper, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220, ext. 122, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a device for the treatment of vesicoureteral reflux.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 12, 2000. Oral presentations from the public will be scheduled between approximately 10 a.m. and 10:30 a.m., and between approximately 3:30 p.m. and 4 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 12, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 15, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–24337 Filed 9–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1458]

Draft Guidance for Infant/Child Apnea Monitor 510(k) Submissions; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Guidance for Infant/Child Apnea Monitor 510(k) Submissions." This guidance is not final nor is it in effect at this time. This draft guidance describes minimum performance, testing, labeling, and clinical criteria for the infant/child monitor. Upon considering comments on the draft document, FDA will modify the

guidance so that it is applicable to apnea monitors for patients of all ages. Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify the apnea monitor into class II with this guidance document as the special control. FDA is issuing this draft guidance because the agency believes it is necessary to provide reasonable assurance of the safety and effectiveness of the apnea monitor.

DATES: Submit written comments on the draft guidance by December 21, 2000.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled "Guidance for Infant/Child Apnea Monitor 510(k) Submissions" to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Joanna H. Weitershausen, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609, ext. 164.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 21, 1995 (60 FR 9762), FDA issued a proposed rule setting forth requirements for a mandatory performance standard for the infant apnea monitor (hereinafter referred to as the 1995 proposal). Elsewhere in this issue of the **Federal Register**, FDA is withdrawing the 1995 proposal. Because of reduced mortality rates for infants at risk for death due to apparent life-threatening events, and after considering other factors, FDA no longer believes that a mandatory performance standard is needed for this class II device.

In conjunction with the withdrawal of the 1995 proposal, FDA is proposing also to create a separate classification for the apnea monitor device. This proposal, which also appears elsewhere in this issue of the **Federal Register**, will remove apnea monitors from their current classification within the generic type of device known as the breathing (ventilatory) frequency monitor (21 CFR 868.2375). The proposed rule will classify the apnea monitor as a group in class II (special controls), with an industry guidance document issued by FDA as the special control. The generic apnea monitor will include devices used to monitor apnea, i.e., the cessation of breathing, in all patient populations. The infant/child apnea monitor used on infants and children under 3 years of age will fall within the generic type of device proposed for classification as the apnea monitor.

The draft guidance describes minimum performance characteristics, testing procedures and criteria, labeling, and, as appropriate, clinical testing recommendations for infant/child apnea monitors. After considering comments on this draft guidance and further evaluating appropriate clinical study parameters, FDA intends to modify the guidance so that the final guidance document is applicable as the special control for the apnea monitor used on patients in other age groups, as well as infants and children.

II. Significance of Guidance

This guidance document represents the agency's current thinking on infant/child apnea monitor 510(k) submissions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both. As noted above, the agency believes the performance, testing, labeling, and clinical criteria in this draft guidance are applicable as well to apnea monitors used on patients of other ages. FDA intends to modify the final guidance document accordingly. FDA invites comments on how this guidance may be adapted to apply to apnea monitors used on patients other than infants and children.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive the draft guidance entitled "Guidance for Infant/Child Apnea Monitor 510(k) Submissions" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system and enter the document number (1178) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the Center for Devices and Radiological Health (CDRH) home page includes "Guidance for Infant/Child Apnea Monitor 510(k) Submissions," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. "Guidance for Infant/Child Apnea Monitor 510(k) Submissions" is available at http://www.fda.gov/cdrh/ode.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance by December 21, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 1, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–24336 Filed 9–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1965, HCFA–2649, HCFA–5011A & HCFA–5011B]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration

(HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Hearing—Part B Medicare Claim and Supporting Regulations in 42 CFR 405.821; *Form No.:* HCFA–1965 (0938–0034); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with any determination and amount of benefit paid. This form is used so that a party may request a hearing by a Hearing Officer because the review determination failed to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individual or Households, and Not-for-profit institutions; *Number of Respondents:* 55,000; *Total Annual Responses:* 55,000; *Total Annual Hours:* 9,167.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Reconsideration of Part A Insurance Benefits and Supporting Regulations in 42 CFR 405.711; *Form No.:* HCFA–2649 (0938–0045); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the intermediary's Part A determination or the benefit amount paid. This form is used by a party to request a reconsideration of the initial determination of benefits. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 62,000; *Total Annual Responses:* 62,000; *Total Annual Hours:* 15,500.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Part A Medicare Hearing by an Administrative Law Judge and Supporting Regulations in 42 CFR 498 Subpart D and E; *Form No.:* HCFA–5011A–U6 (0938–0486); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the intermediary's Part A determination or the amount paid. This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the reconsideration determination fails to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 2,500.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Part B Medicare Hearing by an Administrative Law Judge and Supporting Regulations in 42 CFR 498 Subpart D and E; *Form No.:* HCFA–5011B–U6 (0938–0567); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the carrier's Part B determination or the amount paid. This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the hearing officer's decision fails to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 2,500.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's Web Site Address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 3, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–24344 Filed 9–21–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Research and Demonstration Projects for Indian Health

AGENCY: Indian Health Service, DHHS.

ACTION: Notice of Single Source Cooperative Agreement With the Center for Native American Health, College of Public Health, University of Arizona.

SUMMARY: The Indian Health Service (IHS) announces continuation of an award of a cooperative agreement to the Center for Native American Health (CNAH), College of Public Health, University of Arizona, for a demonstration project to build and expand on a unique collaborative partnership that currently exists among the CNAH, the IHS, and the Indian tribes located in the southwestern part of the country. This award is for a final 1-year continuation of a project previously funded for a 2-year period (September 1, 1998 through August 31, 2000). The continuation will be effective September 1, 2000, through August 31, 2001. Funding for the continuation period is $229,288 plus an annual in-kind contribution by the University of $94,696.

The award is issued under the authority of the Public Health Service Act, Section 301(a). A general program description is contained in the Catalog of Federal Domestic Assistance, number 93.933.

The specific objectives of the project are: to increase opportunities for sub-specialty medical care at reservation health care facilities; to increase the availability of telemedicine at reservation health care facilities; to enhance community health planning and prevention activities; to facilitate counseling of high school level Indian students for entry into health careers; and to demonstrate the possibilities of replication of this collaborative project at other sites.

Justification for Single Source: This project has been awarded for an additional 1-year continuation on a non-competitive single source basis. The CNAH is a unique organization within the University that is guided by an

Advisory Council composed of leaders from 13 Indian tribes and tribal organizations located in the southwestern part of the country and health professionals from the Arizona Department of Health, the IHS, and the University. This final year of funding should allow this model demonstration project to become self-sustaining.

Award of Cooperative Agreement: An IHS employee who is serving as the Director of CNAH will provide substantial on-going IHS programmatic involvement in the development and direction of this demonstration project. Also, the IHS has health professionals providing project guidance as members of the Advisory Council.

Contacts: For program information, contact Ms. Jan Frederick, Acting Chief, Nutrition and Dietetics, Phoenix Area IHS, Two Renaissance Square, 40 North Central, Phoenix, Arizona 85004, telephone (602) 364–5197. For grants information, contact Ms. Martha Redhouse, Grants Management Specialist, Division of Acquisitions and Grants Management, Indian Health Service, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, telephone (301) 443–5204.

Dated: September 14, 2000.

Michel E. Lincoln,

Acting Director.

[FR Doc. 00–24338 Filed 9–21–00; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: August 2000

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of August 2000, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALMARALES, BEATRIZ MIAMI, FL	09/20/00
ARORA, VASU LEXINGTON, KY	09/20/00
ARTEAGA, ISIDORO MIAMI, FL	09/20/00
BAKER, VALERIE MELVILLE, NY	09/20/00
BARTZ, NICHOLAS W PHOENIX, AZ	09/20/00
BENNETT, DEREK KEVIN DETROIT, MI	09/20/00
BRACKNEY, JOHN ALBERT PEORIA, IL	09/20/00
BROWNING, JOSEPHINE A SYLVANIA, OH	09/20/00
CARMONA, MARIA CLARA HIALEAH, FL	09/20/00
CASSITY, SHARON A TOLEDO, OH	09/20/00
CHONG, NANI PHILADELPHIA, PA	09/20/00
CHONG, JOHN Y PHILADELPHIA, PA	09/20/00
CRAUSMAN, JEFFREY TAFT, CA	09/20/00
CUELLO, CARMEN MIAMI, FL	09/20/00
CULLEN, ANDREW OCEANSIDE, NY	09/20/00
DALTON, NANCY SUE CLINTON, IA	09/20/00
DICKSON, DAVID MECHANICSBURG, PA	09/20/00
DREYFUSS, DONALD S BLOOMFIELD HILLS, MI	09/20/00
DUBOIS, MAXINE ELAINE SWARTZ CREEK, MI	09/20/00
EALY, MELISSA DAVINA GOSHEN, OH	09/20/00
EDELSTEIN, JOSEPH ARNOLD, PA	09/20/00
FINA, JOSE MIAMI, FL	09/20/00
FRENCH, PAUL COMLY JR BANGOR, MI	09/20/00
GANN, CHARLES THOMAS OKLAHOMA CITY, OK	09/20/00
GARCIA, HERIBERTO MIAMI, FL	09/20/00
GARRETT, KATHERYN JANE POTEAU, OK	09/20/00
GLENN, SANDRA SUE FORT SMITH, AR	09/20/00
GOMAN, TRISH M GRADY, AR	09/20/00
GONZALEZ MARTINEZ, LILIANA MIAMI, FL	09/20/00
HADDOCK, CARROLL DEANE YUMA, AZ	09/20/00
HANSON MEDICAL SUPPLY, INC	09/20/00
HANSON, MA	
HYNES, GEORGE ADELBERT MINERSVILLE, PA	09/20/00
JEFFRIES-GLASGOW, DEBORAH VIRGINIA BEACH, VA	09/20/00
KEY, LEE T CHICAGO, IL	09/20/00
KLAGES, LISA ANN MILO, IA	09/20/00
MINASYAN, NSHAN LOS ANGELES, CA	09/20/00
MINASYAN, AKOP MONTEBELLO, CA	09/20/00
OTERI, ROSEMARY HANSON, MA	09/20/00
PAPOLCZY, THERESA SANDOVAL, IL	09/20/00
PICCIOTTI, JOSEPH VOORHEES, NJ	09/20/00
PROGRESSIVE CARE AMBULANCE SVC JESSUP, MD	09/20/00
PUBLIC GUARDIAN OF WEST MICHIG BANGOR, MI	09/20/00
RAWANA, SOROJUNI GANADO, AZ	09/20/00
REINKE, HOLLY TOLEDO, OH	09/20/00
RIVERA, SUSAN CHANDLER, AZ	09/20/00
ROBINSON, BYRON C MILTON, MA	09/20/00
ROSENBLATT, SIDNEY MARVIN BRONX, NY	09/20/00
ROSSITER, GROVER CLEVELAND LONGMONT, CO	09/20/00
RUSSELL, THOMAS W WHITE OAK, PA	09/20/00
SANCHEZ-ARGUELLO, JOSE E MIAMI, FL	09/20/00
SHEPPARD, MILLARD C JR JESSUP, MD	09/20/00
SIEGEL, HAROLD EASTCHESTER, NY	09/20/00
SIVERHUS, JAMES DELAINE YOUNGTOWN, AZ	09/20/00
SPATZ, JEFFREY PITTSBURGH, PA	09/20/00
UPSHAW, ROBINLENE FRESNO, CA	09/20/00
VOLOSEVICH, EVELYN BALDWIN, NY	09/20/00
VOLOSEVICH HOME CARE, INC BALDWIN, NY	09/20/00
FELONY CONV FOR HC FRAUD 1128(a)(3)	
ALEXANDER, LEROY BONITA, CA	09/20/00
ANAYA, JAVIER MEDA TIJUANA, MEXICO	09/20/00
BAILEY, TONYA PHILADELPHIA, PA	09/20/00
BLACKSHER, MARY MARGARET BRYAN, TX	09/20/00
BROWER, CHRISTINA	09/20/00

Subject city, state	Effective date
AURORA, CO	
CASEY, SIMON ANDREW ..... SAN CLEMENTE, CA	09/20/00
CORDOVA, MARCO ANTONIO TIJUANA, MEXICO	09/20/00
CUBILLAS, VICTOR ..... TIJUANA, MEXICO	09/20/00
ENG-PEREZ, FERNANDO ..... TIJUANA, MEXICO	09/20/00
FIGUEROA, PASCUAL ..... TIJUANA, MEXICO	09/20/00
FLORES, SILVIA ..... TIJUANA, MEXICO	09/20/00
GRANTHAM, EDMOND C ..... ALEXANDRIA, VA	09/20/00
LEDEZMA, DAVID ..... TIJUANA, MEXICO	09/20/00
LIPKIN, PAUL ..... MINERSVILLE, PA	09/20/00
MACIAS, MARTIN ..... TIJUANA, MEXICO	09/20/00
MAL, MARIAN ..... TROUTDALE, OR	09/20/00
MERLOS, JOAQUIN ..... BASTROP, TX	09/20/00
MIRO, JOSE ..... TIJUANA, MEXICO	09/20/00
MUNGUIA, JOSE ANGEL ..... TIJUANA, MEXICO	09/20/00
OCEGUERA, ANTONIO ..... TIJUANA, MEXICO	09/20/00
PALMER, DAVID ..... LA MESA, CA	09/20/00
QUINTANA, ELIZABETH ..... TIJUANA, MEXICO	09/20/00
RAMIREZ-MERLOS, JAVIER .. SAN YSIDRO, CA	09/20/00
ROBINSON, DAVID ..... NORTH WALES, PA	09/20/00
RODRIGUEZ, ANN R ..... DOYLESTOWN, PA	09/20/00
RODRIGUEZ, ANTONIO ..... TIJUANA, MEXICO	09/20/00
VALDEZ, LUIS ..... TIJUANA, MEXICO	09/20/00
VAZQUEZ, ADRIAN ..... TIJUANA, MEXICO	09/20/00
VEGA, SALVADOR ..... IMPERIAL BEACH, CA	09/20/00
WALKER, DORISTEEN L ..... CHICAGO, IL	09/20/00
FELONY CONTOL SUBST CONV 1128(a)(4)	
AYERS, JERRY DANIEL ..... ESCONDIDO, CA	09/20/00
FROMM, JACKIE L ..... PEKIN, IL	09/20/00
HAMER, LAWRENCE ALLEN .. WEST LIBERTY, IA	09/20/00
HEWES, MAUREEN C ..... LANSDOWNE, PA	09/20/00
JASPERSON, LESLIE KAY ..... LEGRAND, IA	09/20/00
KORTE, GREGORY G ..... MIAMISBURG, OH	09/20/00
MORLAN, PAMELA ANN ..... NORTHFIELD, MN	09/20/00
TALBOT, KATHLEEN ELLEN .. AMHERST, OH	09/20/00
PATIENT ABUSE/NEGLECT/CONVICTIONS	
BOSWORTH, MARSHA K ..... LAS VEGAS, NV	09/20/00
BRADLEY, LANA LENOR ..... MARRERO, LA	09/20/00
BRASWELL, TAMMY ..... GREELEY, CO	09/20/00
BROWN, SHANTAY ..... BALTIMORE, MD	09/20/00
CHEN, TAN ..... PINE BROOK, NJ	09/20/00
CLARK, CHAFFONDA ANTOINETTE ..... WOONSOCKET, RI	09/20/00
COLE, STANFORD ..... LAUREL, MS	09/20/00
COLLINS, JEAN ..... BUFFALO, NY	09/20/00
CRIST, DENISE L ..... OKLAHOMA CITY, OK	09/20/00
DEAN, JAMES C ..... MATTOON, IL	09/20/00
DUMAS, REGINA ANN ..... COLUMBUS, OH	09/20/00
ELSWICK, PAMELA VIOLET ... LEON, WV	09/20/00
FIGARY, JACK M II ..... EAST MOLINE, IL	09/20/00
GARRETT, WILLIAM CLIFFORD ..... WESTMINSTER, CO	09/20/00
HEATH, BEVERLY HALLUMS DETROIT, MI	09/20/00
JARRELS, WILLIAM COLIN .... FORT SMITH, AR	09/20/00
KAHUT, RICHARD A ..... BELLBROOK, OH	09/20/00
KNIGHT, SABRINA FELISHA .. PICAYUNE, MS	09/20/00
LEE, JACQUOLYN RENEE ..... HOUSTON, TX	09/20/00
MARTIN, KRISTY ANNE ..... OAKDALE, CA	09/20/00
MATCHETT, ANNETTE C ..... LORAIN, OH	09/20/00
MCCANN, WAYNE EUGENE .. CAMP HILL, PA	09/20/00
MIDENBERG, DAVID SEAMON ..... DETROIT, MI	09/20/00
MILLER, JACQUELYN A ..... NORWALK, OH	09/20/00
MIRANDA, CESAR P ..... BUTLER, PA	09/20/00
MORRIS, DEBBIE ..... TUPELO, MS	09/20/00
NAMBI, EVA RITA ..... WELLESLEY, MA	09/20/00
NORTON, WAYNE PETER ..... GARDINER, ME	09/20/00
PATTERSON, RACHEL KATHLEEN ..... MT VERNON, IL	09/20/00
PRESBERY, DENISE R ..... DARLINGTON, SC	09/20/00
SCHWERS, ELAINE FATIMA .. BROKEN ARROW, OK	09/20/00
SCOTT, VIVIAN DIANE ..... LONG BEACH, CA	09/20/00
SHIPLEY, MICHELLE L ..... MORGANTOWN, WV	09/20/00
SHIRLEY, RUBY BEATRICE ... HUMBOLT, TN	09/20/00
SIEGEL, PHILIP ..... MIAMI, FL	09/20/00
SMITH, RONZELL C ..... BEACON, NY	09/20/00
VANBENCOTEN, THOMAS ..... ELMIRA, NY	09/20/00
VANKAMPEN, JACK CHRISTIAN ..... LAINGSBURG, MI	09/20/00
WALKER, FATIMA ..... BUFFALO, NY	09/20/00
WILLIAMS, KIMBERLY ..... BUFFALO, NY	09/20/00
WINSTON, EMILY WILL ..... LONG BEACH, CA	09/20/00
YALE, DONNA APPEL ..... FARMINGDALE, NJ	09/20/00
CONVICTION FOR HEALTH CARE FRAUD	
BEACHAM, TERRY ..... PEARL, MS	09/20/00
CONTROLLED SUBSTANCE CONVICTIONS	
MCNEIL, JENNIFER L ..... BELGIUM, WI	09/20/00
SHARMA, KUSUM ..... FORTH WORTH, TX	09/20/00
SNOOK, RANDALL LYNN ..... LITTLETON, CO	09/20/00
WARD, MARY JANE ..... HUMMELSTOWN, PA	09/20/00
LICENSE REVOCATION/SUSPENSION	
AKERS, KYLE RAY ..... VIOLA, IA	09/20/00
ALLRED, MICHAEL B ..... OREM, UT	09/20/00
ANTHONY, VIOLET K ..... GREELEY, CO	09/20/00
ARITA, VALERIE EMIKO ..... SAN DIEGO, CA	09/20/00
BARBA, FIDELIS A ..... SADDLE RIVER, NJ	09/20/00
BARRETT, ROYCE ALAN ..... REDDING, CA	09/20/00
BECK, JAMES BRAD ..... HENDERSON, NV	09/20/00
BERKIL, KRISTIE J ..... CHAMPAIGN, IL	09/20/00
BOHLMAN, LORI GAYLE ..... BRISTOL, CT	09/20/00
BOYD, JUDITH ANN ..... RIVERSIDE, RI	09/20/00
BRACKETT, ROSEMARY M .... MIAMI, FL	09/20/00
BUDAY, PATRICK A ..... GILBERTSVILLE, PA	09/20/00
BURKE, ARNOLD T ..... WHITEHALL, NY	09/20/00
BURKE, JANICE A ..... ROCHESTER, NY	09/20/00
BURNS, MARCIA ANN ..... AURORA, CO	09/20/00
BURRA, DIANE RUTH ..... TARZANA, CA	09/20/00
BYRD, HELENA LOU	09/20/00

Subject city, state	Effective date
SAN ANTONIO, TX	
CARDOSI, ANN C	09/20/00
PAWTUCKET, RI	
CARDWELL, MARTHA M	09/20/00
KNOXVILLE, TN	
CARINGAL, LEOGILDO MAGBUHOS	09/20/00
LOS ANGELES, CA	
CARLOS, MARTHA SUAREZ	09/20/00
OZONA, TX	
CARRINGTON, KURLEIGH	09/20/00
DENVER, CO	
CARTER, VERONICA M	09/20/00
RIVERTON, UT	
CASTRO, RAMEILA JAN	09/20/00
LODI, CA	
CAVER, KENNETH WENSTON	09/20/00
NORTH LITTLE ROCK, AR	
CERKAN, DENISE MARIE	09/20/00
CHICAGO, IL	
CHIDLOWSKY, SERGEI	09/20/00
ROHNERT PARK, CA	
CHOINIERE, DAVID MICHAEL	09/20/00
PARADISE, CA	
CLAPPER, JAMES S	09/20/00
IOWA CITY, IA	
CLAUSE, GRACIANO EVANS	09/20/00
BROOKLYN, NY	
COFFEY, PETER N	09/20/00
CHINA, ME	
COLE, PATRICIA S	09/20/00
SPRINGFIELD, VT	
COLLINS, JERRI L	09/20/00
ROCKFORD, IL	
CRISTMAN, MOLLY	09/20/00
ALEXANDRIA, VA	
CRUM, TIMOTHY JAMES	09/20/00
JOLIET, IL	
DECARLO, DEBRA MARIE	09/20/00
CLARENCE, NY	
DEMMERS, DANIEL GAREY	09/20/00
VISALIA, CA	
DIGIORGIO, DOROTHY L	09/20/00
SOMERSWORTH, NH	
DRUMMOND, ERNEST M	09/20/00
BAKERSFIELD, CA	
DULL, HEATHER R	09/20/00
YORK, PA	
DUTTON, GWENDOLYNN J	09/20/00
BARRE, VT	
EARLEY, JERRALLDEAN	09/20/00
POCAHONTAS, AR	
FATUCH, SUSAN MARIE	09/20/00
EL PASO, TX	
FORBES, DEBORAH LYNN	09/20/00
THERMAN, CA	
FORESTER, SANDY ALAN	09/20/00
LYNWOOD, WA	
FOWLER, RICHARD T JR	09/20/00
CONWAY, AR	
FRANK, RUTH MARIE	09/20/00
PEQUOT LAKES, MN	
GALENA, MARY E	09/20/00
PUEBLO, CO	
GARLEY, JACQUELYN MARIE	09/20/00
UNION CITY, CA	
GLADDEN, NYLA MAXINE	09/20/00
SAN LEANDRO, CA	
GREENWAY, RANDALL TODD	09/20/00
ROGERS, AR	
GUERRERO, MICHAEL JASON	09/20/00
KINGSBURG, CA	
GUNN, GARY M	09/20/00
TALLULAH, LA	
HA, JAE KYO	09/20/00
TORRANCE, CA	
HAN, HE SOOK	09/20/00
RANCHO PALOS VERDES, CA	
HANNIGAN, KENNETH E	09/20/00
CHICAGO, IL	
HAUSKEN, KATHRYN J	09/20/00
DENVER, CO	
HAYSE, RAYMOND II	09/20/00
SAN BERNARDINO, CA	
HENDRICKS, JAMES WALLACE	09/20/00
ROCHESTER, MN	
HENNEFER, ROBERTA EILEEN	09/20/00
ELKO, CA	
HENSLEY JOBE, BETH ANN	09/20/00
OKLAHOMA CITY, OK	
HOLT, ANDREA JEAN	09/20/00
MOORE, OK	
HOLTAN, LYNN MARIE	09/20/00
BRIDGEVIEW, IL	
HOWELL, HEATHER ANN MEADOWS	09/20/00
MOUNT JULIET, TN	
HUTCHINSON, JIMMIE L	09/20/00
BOISE, ID	
INGRASSIA, JOHN FRANK	09/20/00
STATEN ISLAND, NY	
JARAMILLO, AARON T	09/20/00
DENVER, CO	
JARVIS, KATHLEEN JOYCE	09/20/00
STILLWATER, MN	
JOHNSON, SHARON FRANCINE	09/20/00
FORD HEIGHTS, IL	
JONES, VINCENT P III	09/20/00
NEW BRITAIN, CT	
JOSEPH, BRAD EDWARD	09/20/00
PITTSBURGH, PA	
JOYNER, NICHOLAS CHARLES	09/20/00
E PALO ALTO, CA	
KELLY, OBRA DELL	09/20/00
LITTLE ROCK, AR	
KELLY, SHERI LEIGH	09/20/00
AYLETT, VA	
KEMP, SONYA CHERIS	09/20/00
CHICAGO, IL	
KENT, CHARLES FOSTER	09/20/00
CANTON, CT	
KING, ELIZABETH ANNE	09/20/00
NEW MILFORD, CT	
KNIGHT, ROBERT ARLIE	09/20/00
GOLDEN, CO	
KUBICEK, TAMMY W	09/20/00
HOUSTON, TX	
LAFLAM, MAUREEN ANNE	09/20/00
GILL, MA	
LANZ, JAMES EVERETT	09/20/00
SAUK RAPIDS, MN	
LAUNER, MARY M CALDWELL	09/20/00
JOHNSONBURG, PA	
LEE, PHILIP JHUNE WHAN	09/20/00
HONOLULU, HI	
LEWANDOWSKI, PAULINE M	09/20/00
SAN DIEGO, CA	
LINDSAY, RUSSELL VERN	09/20/00
SACHSE, TX	
LOGE, DARLA JEAN	09/20/00
AUSTIN, MN	
LYBBERT, GLEN DOUGLAS	09/20/00
LAS VEGAS, NV	
MATHEWS, ROGER DEAN	09/20/00
LOMPOC, CA	
MAWYER, MARY FRANCES	09/20/00
TROY, VA	
MAYFIELD, APRIL E	09/20/00
RUTLAND, VT	
McCAFFREY, CHERYL ANN	09/20/00
SULPHUR SPRINGS, AR	
McCARTY, SONJA MARIE	09/20/00
WEST HELENA, AR	
MILLER, LINDA J	09/20/00
CLOVIS, CA	
MILLER, ANDREW F	09/20/00
SCOTTSDALE, AZ	
MOORE, BONNIE	09/20/00
SUFFOLK, VA	
MORGAN, JEROLD	09/20/00
GILBERT, AZ	
MOTLEY, EDWARD J JR	09/20/00
CHESTER, PA	
NIX, TASHA JUAN	09/20/00
RED OAK, OK	
O'CONNER, NANCY	09/20/00
TUCSON, AZ	
O'ROURKE, TERRENCE	09/20/00
BOONVILLE, NY	
OROZCO, DAVID FERNAN	09/20/00
CHICAGO, IL	
OSRUD, VINCENT J	09/20/00
HOLLYWOOD, MD	
PACK, A STEPHEN	09/20/00
MILLWOOD, NY	
PADY, STACY	09/20/00
NEDERLAND, TX	
PAPE, PAMELA ELLEN	09/20/00
ALDERSON, WV	
PARKER, APRIL RENEE	09/20/00
HYATTSVILLE, MD	
PATTERSON, LINDA KAY	09/20/00
LAWTON, OK	
PEARCE, MITCHELL JAMESON	09/20/00
SAN JOSE, CA	
PERRY, GLENDA A	09/20/00
LAKE CITY, FL	
PLANK, JUDITH ANNE	09/20/00
DAVIS, CA	
PRASKE, BECKY SUE	09/20/00
AITKIN, MN	
PRINCE, JONATHAN SWOPE	09/20/00
LAGUNA BEACH, CA	
PROKOP-BERGEMANN, LAUREN HELEN	09/20/00
BRANFORD, CT	
RASMUSSEN, RHETT DAVID	09/20/00
BAKERSFIELD, CA	
RAU, TIMOTHY J	09/20/00
PITTSBURGH, PA	
REAVES, ROGER S	09/20/00
FERRON, UT	
REED, ROBERT WILLIAM	09/20/00
VACAVILLE, CA	
REES-LONG, HEATHER LOUISE	09/20/00
SPARLAND, IL	
REYNOLDS, MICHAEL J	09/20/00
SOLEDAD, CA	
REYNOLDS, LINDA TOMASEK	09/20/00
UNIONTOWN, PA	
RICE, SHIRLEY H	09/20/00

Subject city, state	Effective date
SOUTH BOSTON, VA	
RIFKIND, STEPHEN PAUL ..... SANTA YNEZ, CA	09/20/00
ROBERTS, JULIE C ..... GOLDEN, CO	09/20/00
ROCK, JUDY LYNN ..... HAMMOND, WI	09/20/00
ROMERO, MARLENE ..... TRINIDAD, CO	09/20/00
ROUNDTREE, COSETTA LYNN ..... ST CLOUD, MN	09/20/00
ROYAL, JEFFREY L ..... KENSINGTON, MD	09/20/00
RYAN, MARGARET A ..... LOUISVILLE, KY	09/20/00
RYAN, ROBERT E ..... PARACHUTE, CO	09/20/00
SALKIND, SCOTT A ..... CHERRY HILL, NJ	09/20/00
SANDAKER, GINA M ..... MONTROSE, CO	09/20/00
SANTOS, ORLANDO ..... LOS ANGELES, CA	09/20/00
SEIPERT, KEVIN ERIC ..... OREM, UT	09/20/00
SIMMONS, ELIZABETH ANNE ROYAL, AR	09/20/00
SIMMONS, LESTER ALWYN .. EL DORADO HILLS, CA	09/20/00
SLATON, CYNTHIA NATIONS YAZOO CITY, MS	09/20/00
SMILEY, JAMES DWIGHT ..... BURLINGAME, CA	09/20/00
SPEKTOR, IOSEF G ..... WOODCLIFF LAKE, NJ	09/20/00
STELZIG, JONI ELIZABETH .... SEWICKLEY, PA	09/20/00
STEWARD, ROBERT H ..... HOUSTON, TX	09/20/00
STOVALL WHITTLE, SHELLY KAY ..... LITTLE ROCK, AR	09/20/00
SUMO, EDWARD QUIQUI ..... BROOKLYN PARK, MN	09/20/00
TANNE, LOUIS ALEXANDER .. CANON CITY, CO	09/20/00
THOMPSON, LORI B ..... GRANITE CITY, IL	09/20/00
TURNER, CINDY ..... WELLS, NV	09/20/00
VALDEPENAS, EDWIN B ..... CHULA VISTA, CA	09/20/00
VIALPANDO, EVON M ..... DENVER, CO	09/20/00
WAGNER, CHRISTINA MARIE EAST BETHEL, MN	09/20/00
WALSBURG, GARY JOHN ..... DULUTH, MN	09/20/00
WAYMENT, DARLA ..... MIDVALE, UT	09/20/00
WEISS, TOBA NANCY ..... PROVIDENCE, RI	09/20/00
WELLER, MARK RONALD ..... WHITE BEAR LAKE, MN	09/20/00
WERNER, DONALD R ..... MAHOPOC, NY	09/20/00
WILLIAMS, JOSEPH MATHEW JR ..... CHICAGO, IL	09/20/00
WOOD, LAURIE W ..... WILLIAMSBURG, VA	09/20/00
WOODS, VERONICA GAYE .... CARSON, CA	09/20/00
WYSOCKI, SHARON M ..... PEORIA, IL	09/20/00
YAM, CHE L ..... SACRAMENTO, CA	09/20/00
YEDVAB, MIRIAM ..... SHERMAN OAKS, CA	09/20/00
ZIMMERMAN, DANIEL J ..... HAWTHORNE, NJ	09/20/00
LIMIT MEDICAL SUPPLY ..... ROSEMEAD, CA	09/20/00
NEWMAN, KELLYE DAWN ..... ALEXANDRIA, LA	09/20/00
TATE, EDWARD ..... CLAYTON, MO	09/20/00
FRAUD/KICKBACKS	
HARRIS, LILLIE MAE ..... HARVEY, IL	06/30/00
INTERNATIONAL HEALTH LAB ..... HIALEAH, FL	04/19/00
PERALTA, MARIANO C ..... TAMPA, FL	04/19/00
PONY SYSTEMS LIMITED, INC. ..... HARVEY, IL	06/30/00
ENTITIES OWNED/CONTROLLED BY CONVICTED	
CHURCH MEDICAL SERVICES, P C ..... BROOKLYN, NY	09/20/00
JAY DRUGS, INC ..... COPIAGUE, NY	09/20/00
JULIE ROBERTS, L L C ..... SPRINGFILED, MO	09/20/00
MEDI-EXPRESS MEDICAL ..... MIAMI, FL	09/20/00
DEFAULT ON HEAL LOAN	
ALDEN, THOMAS E ..... CAMBRIDGE, MA	09/20/00
ANYAJI, GEORGE I ..... SAN DIEGO, CA	07/03/00
BALDWIN, TIMOTHY ALLEN .. WEBSTER, TX	09/20/00
BEARDEN, THOMAS R ..... FRESNO, CA	09/20/00
BLEVINS, STEVEN W ..... CARY, IL	09/20/00
BLITZ, ARIE ..... ORANGE, CA	09/20/00
BOLTON, PAUL K ..... DENVER, CO	09/20/00
BORDEN, MARK G ..... SANTA BARBARA, CA	09/20/00
BRADSHAW, MARK F ..... WACONIA, MN	09/20/00
BRANTNER, RAY J ..... PHOENIX, AZ	09/20/00
BRYANT, CLIFFORD E ..... GREENVILLE, TN	09/20/00
CANTRELL, EDWARD GENE SPRING HILL, KS	09/20/00
CARTER, ERIC W JR ..... NASHVILLE, TN	09/20/00
CAUSEY, DENNIS M ..... SAN FRANCISCO, CA	09/20/00
COLLINS, MATTHEW W C ..... VAN NUYS, CA	09/20/00
COPELAND, JERRELLE M ..... APACHE JUNCTION, AZ	09/20/00
CORY, ROBERT GLEN ..... TRABUCO CANYON, CA	09/20/00
CULBERTSON, VIRGINIA B .... BRAINTREE, MA	09/20/00
DOLAN, CAROLYN L ..... SHAWNEE MISSION, KS	09/20/00
FELTON, DWAYNE A ..... NEW ORLEANS, LA	09/20/00
FLOYD, HARVELL L ..... PARK FOREST, IL	09/20/00
FONT, DAVID E JR ..... LORAIN, OH	07/24/00
GEORGE, ANTONY M ..... EUCLID, OH	09/20/00
GROSS, SHEPHERD JR ..... CHICAGO, IL	09/20/00
HARDMAN, RONALD D ..... MARSHALL, TX	09/20/00
HENDERSON, TERRY L ..... FORT THOMAS, KY	09/20/00
HERRON, WOODIE D ..... ABERDEEN, MS	08/02/00
HURLEY, RANDALL S ..... PRESCOTT, AZ	09/20/00
KAISER, GORDON W III ..... CHAMBERSBURG, PA	09/20/00
KAYE, LARRY C ..... CLEVELAND, OH	09/20/00
KING, EDGARD M JR ..... SHAWNEE MISSION, KS	09/20/00
LINDLY, MAURICE T III ..... SALINAS, CA	09/20/00
LISNER, BLAINE M .... BOWLING GREEN, KY	09/20/00
MACKEY ANNNING, JUDY A .. NEW ORLEANS, LA	09/20/00
MARTINSON, DAVID L ..... FARGO, ND	07/03/00
NILES-HASTY, GLORIA Y ..... SAN LORENZO, CA	09/20/00
OJUKWU, EMEKA P ..... HOUSTON, TX	09/20/00
PENA, CARMEN F ..... N BERGEN, NJ	09/20/00
REID, SOPHIA B ..... PHILADELPHIA, PA	09/20/00
RIVERA-LOPEZ, AIXA ..... CAGUAS, PR	09/20/00
SCHULTEN, ERIC A ..... SARASOTA, FL	09/20/00
STARINSKI, JOHN S ..... BANGOR, PA	09/20/00
STILLMAN, JEFFREY C ..... BINGHAMTON, NY	09/20/00
SUTPHIN, BARRY W ..... BRADENTON, FL	09/20/00

Dated: September 13, 2000.

Calvin Anderson,

Acting Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 00–24345 Filed 9–21–00; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Protection and Advocacy for Individuals with Mental Illness (PAIMI) Final Rule, 42 CFR Part 51 (OMB No. 0930–0172—Extension)—These regulations meet the directive under, 42 USC 10826(b) requiring the Secretary to promulgate final regulations to carry out the PAIMI Act. The regulations contain information collection requirements.

The Act authorized funds to support activities on behalf of individuals with mental illness. Recipients of this formula grant program are required by law to annually report their activities and accomplishments to include the number of individuals served, types of facilities involved, types of activities undertaken and accomplishments resulting from such activities. This summary must also include a separate report prepared by the PAIMI Advisory Council descriptive of its activities and assessment of the operations of the protection and advocacy system. The annual burden estimate for the reporting requirements for these regulations is as follows.

42 CFR Citation	Number of respondents	Responses per respondent	Burden per response (Hrs.)	Total annual burden
51.(8)(a)(2) Program Performance Report	56	1	26.0	1,456 [1]
51.8(8)(a)(8) Advisory Council Report	56	1	10.0	560 [1]
51.10 Remedial Actions:				
Corrective Action Plan	6	1	8.0	48
Implementation Status Report	6	3	2.0	36
51.23(c) Reports, materials and fiscal data provided to Advisory Council	56	1	1.0	56
51.25(b)(2) Grievance Procedure	56	1	.5	28
Total	122			2,184

[1] Burden hours associated with these reports are approved under OMB Control No. 0930–0169.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 15, 2000.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 00–24367 Filed 9–22–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–38]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: September 22, 2000.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: September 15, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

[FR Doc. 00–24287 Filed 9–21–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Minerals Management Advisory Board; Notice of Renewal/Revision

AGENCY: Minerals Management Service, Interior.

ACTION: Minerals Management Advisory Board Notice of Renewal/Revision.

SUMMARY: This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix). Notice is hereby given that the Secretary of the Interior is renewing the Minerals Management Advisory Board Charter.

The purpose of the Minerals Management Advisory Board is to provide advice to the Secretary of the Interior and other officers of the

Department of the Interior in the performance of discretionary functions of the Outer Continental Shelf Lands Act, as amended, including all aspects of leasing, exploration, development, and protection of the resources of the OCS. It also allows the Board to advise the Department on discretionary functions under the Federal Oil and Gas Royalty Management Act of 1982, the Federal Oil and Gas Royalty Simplification and Fairness Act, the Geothermal Steam Act of 1970, and the mineral leasing laws for coal and other solid mineral leases.

FOR FURTHER INFORMATION CONTACT: Further information regarding the Board may be obtained from the Office of Policy and Management Improvement, Department of the Interior, Minerals Management Service, 1849 C Street, NW., MS 4230, Washington, DC 20240–0001.

Certification

I hereby certify that the renewal of the Minerals Management Advisory Board Charter is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 43 U.S.C. 1331 *et seq.*, 30 U.S.C. 1701 *et seq.*, and 30 U.S.C. 1001 *et seq.*

Dated: September 15, 2000.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 00–24348 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Expansion of Chickasaw and Lower Hatchie National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We are expanding the acquisition boundary of the Chickasaw and Lower Hatchie National Wildlife Refuges by approximately 43,532 acres, primarily located in Lauderdale and Tipton Counties, Tennessee.

DATES: This would be effective on September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Charles R. Danner with the Fish and Wildlife Service in Atlanta, 1–800–419–9582.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Act of 1956 (16 U.S.C. 742a–754j–2) allows the Secretary of Interior to acquire refuge lands for all wildlife. The Migratory Bird Conservation Act (16 U.S.C. 715d) established authority to acquire migratory bird habitat. National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668 dd–ee) consolidated all of the different refuge areas into a single refuge "System" with all units of the System now administered by the Fish and Wildlife Service and restrictions placed on the transfer, exchange or other disposal of lands within the System.

We are expanding the Chickasaw and Lower Hatchie National Wildlife Refuge acquisition boundaries by 43,532 acres (17,616.85 ha). This area is located in western Tennessee and is comprised primarily of bottomland hardwoods. These refuges lie within 10 miles (16 km) of each other in Lauderdale and Tipton Counties, Tennessee. The acquisition boundaries of both refuges contain approximately 223 private landowners. The tracts within this expanded boundary range from less than one acre (.4047 ha) to approximately 6,000 acres (2,428.12 ha). The lands within the expanded boundary will be acquired from willing sellers and may include full fee or less than fee title. Less than fee title can include easements, leases, and cooperative agreements that maintain some ownership rights with a private landowner. The lands consist of forested wetlands interspersed with agricultural lands and open water. These lands are home to many species of fish and wildlife, including migratory birds and waterfowl.

We notified the public of the proposed refuge expansion and the availability of the Draft Environmental Assessment and Land Protection Plan for public review through a mass mailing, to approximately 200 affected landowners, on or about November 15, 1999. Copies of the document were provided to representatives of Federal, State and county governments, other Federal and State agencies, interested groups, affected landowners, and the general public. Written comments were accepted through December 15, 1999.

Only four written comments on the proposal were received. Comments supporting the project were received from the State of Tennessee's Wildlife Resource Agency and two individuals. Only one written comment expressed opposition to the project. Several landowners expressed their concerns by telephone and were generally supportive of the project, but had some questions and concerns regarding the land acquisition process. These concerns were answered either by telephone or in written responses explaining our acquisition program. Concerns were expressed by constituents of Tennessee Representative Ed Bryant and Missouri Representative Jo Ann Emerson relating to funding of the project and our land acquisition program. Written responses addressing these concerns were made to the respective congressional delegations, explaining the sources of funding and our land acquisition program. The State of Tennessee concurs with the proposal.

In compliance with the National Environmental Policy Act of 1969, we prepared an environmental assessment that evaluates two alternatives and their potential impacts on the project areas. Based on the documentation contained in the environmental assessment, we signed a Finding of No Significant Impact on July 6, 2000, for the expansion of Chickasaw and Lower Hatchie National Wildlife Refuges. We have completed an interim compatibility determination, and a conceptual management plan. Comprehensive planning is on the eve of completion to satisfy the requirements under the National Wildlife Refuge System Improvement Act of 1997.

Chickasaw and Lower Hatchie National Wildlife Refuges are administered as part of a much larger refuge complex with the main office located in Dyersburg, Tennessee. There is adequate funding to allow for administration of the expansion areas.

Primary Author

Leslie Marler, Management Analyst, Branch of Planning and Policy, Division of Refuges, National Wildlife Refuge System.

Dated: September 15, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–24365 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review of Foreign Listed Psittacine Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a review of all endangered and threatened foreign species in the Order Psittaciformes (parrots, parakeets, macaws, cockatoos, etc.; also known as

psittacine birds) listed under the Endangered Species Act (Act) of 1973, as amended. This first announcement of review of species' status will be followed by additional announcements of review for other groups of endangered and threatened foreign species. The Act requires such a review at least once every 5 years. The purpose of the review is to ensure that the Lists of Endangered and Threatened Wildlife and Plants accurately reflect the most current status information for each listed species. We request comments and the most current scientific or commercial information available on these species, as well as species that may warrant future consideration for listing. If the present classification of species is not consistent with the best scientific and commercial information available at the conclusion of this review, we may propose changes to the list accordingly.

DATES: Your comments on the notice of review must be received by December 21, 2000 to receive consideration from the Service.

ADDRESSES: Submit comments, information, and questions to the Chief, Division of Scientific Authority; Mail Stop: Room 750, Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240 (Fax number: 703–358–2276; E-mail address: r9osa@fws.gov). Address express and messenger-delivered mail to the Division of Scientific Authority; Room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203. Comments and materials received will be available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia, address.

FOR FURTHER INFORMATION CONTACT: Michael D. Kreger, Division of Scientific Authority (See **ADDRESSES** section) (phone: 703–358–1708, fax: 703–358–2276, E-mail: r9osa@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Where can the lists of endangered and threatened species be found?

The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 17.12 (plants). The most recent lists were published in the Code of Federal Regulations on October 1, 1999; however, we have amended the list since then through final rules published in the **Federal Register**. The lists are also available on the World Wide Web at http://ecos.fws.gov/webpage/webpage_foreign.html. These lists contain the names of all species of U.S. and foreign wildlife and plants that have been determined by both the Service and the National Marine Fisheries Service to be endangered or threatened. The lists also contain the names of species of wildlife that are treated as endangered or threatened because of a similarity of appearance to endangered or threatened species.

Why is this review being conducted?

The procedural rules for listing, reclassifying, or removing species from the lists can be found in 50 CFR Part 424. The Act, as amended, and 50 CFR 424.21 require that the Secretary of the Interior and the Secretary of Commerce conduct a review of each listed species at least once every 5 years. This review will consider all foreign psittacine birds listed as endangered or threatened by the United States. The following table lists the species under review.

Foreign Species in the Order Psittaciformes Listed Under the Endangered Species Act.

Note: All of the following are listed as endangered.

Common name	Scientific name	Historic range	Year listed
Kakapo (owl parrot)	*Strigops habroptilus*	New Zealand	1970
Macaw, glaucous	*Anodorhynchus glaucus*	Paraguay, Uraguay, Brazil	1976
Macaw, indigo	*Anodorhynchus leari*	Brazil	1976
Macaw, little blue	*Cyanopsitta spixii*	Brazil	1976
Parakeet, blue-throated (ochre-marked)	*Pyrrhura cruentata*	Brazil	1970
Parakeet, Forbes'	*Cyanoramphus auriceps forbesi*	New Zealand	1970
Parakeet, golden	*Aratinga guarouba*	Brazil	1976
Parakeet, golden-shouldered (hooded)	*Psephotus chrysopterygius*	Australia	1970
Parakeet, Mauritius	*Psittacula echo*	Indian Ocean—Mauritius	1970
Parakeet, Norfolk Island	*Cyanoramphus cookii (novaezelandiae c.)*	Australia (Norfolk Island)	1990
Parakeet, orange-bellied	*Neophema chrysogaster*	Australia	1970
Parakeet, paradise (beautiful)	*Psephotus pulcherrimus*	Australia	1970
Parakeet, scarlet-chested (splendid)	*Neophema splendida*	Australia	1970
Parakeet, turquoise	*Neophema pulchella*	Australia	1970
Parrot, Bahamian or Cuban	*Amazona leucocephala*	West Indies—Cuba, Bahamas, Caymans	1970
Parrot, ground	*Pezoporus wallicus*	Australia	1973
Parrot, imperial	*Amazona imperialis*	West Indies—Dominica	1970
Parrot, night (Australian)	*Geopsittacus occidentalis*	Australia	1970
Parrot, red-browed	*Amazona rhodocorytha*	Brazil	1970
Parrot, red-capped	*Pionopsitta pileata*	Brazil	1976
Parrot, red-necked	*Amazona arausiaca*	West Indies—Dominica	1979
Parrot, red-spectacled	*Amazona pretrei pretrei*	Brazil, Argentina	1976
Parrot, red-tailed	*Amazona brasiliensis*	Brazil	1990
Parrot, Seychelles lesser vasa	*Coracopsis nigra barklyi*	Indian Ocean—Seychelles (Praslin Island).	1995
Parrot, St. Lucia	*Amazona versicolor*	West Indies—St. Lucia	1970
Parrot, St. Vincent	*Amazona guildingii*	West Indies—St. Vincent	1970
Parrot, vinaceous-breasted	*Amazona vinacea*	Brazil	1976

Why start the review process with psittacine birds?

We have chosen to begin the review process with psittacine birds due to the high level of public interest in these species. We receive frequent communications from the avicultural community and others regarding the status of these birds. Of more than 350 species of psittacine birds, 27 foreign species are listed under the Act. All except four species were listed in the 1970s, and each species was classified as endangered. Since listing, however, national legislation in range countries, international treaties such as the Convention on International Trade in Endangered Species of Wild and Fauna

and Flora (CITES), and additional U.S. legislation such as the Wild Bird Conservation Act (P.L. 102–440) have been enacted to control trade in wild birds and encourage species' conservation. New technologies such as the use of Global Positioning Systems (GPS) and advances in telemetry have improved monitoring of wild populations. Habitat protection, captive breeding, and other activities may also affect the biological sustainability of these species. We intend to examine the effectiveness of relevant regulatory and scientific programs to determine the current status of the species listed, to determine whether they should be reclassified or removed from the list, and perhaps to recommend additional species for listing if warranted.

Definitions

What definitions would be helpful in reviewing this list?

The following definitions are provided to assist anyone considering submitting information for this review.

(a) *Psittacine bird* means any member of the Order Psittaciformes, which includes parrots, macaws, budgerigars, parakeets, lovebirds, cockatoos, and similar species.

(b) *Species* includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate, that is capable of interbreeding when mature.

(c) *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

(d) *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How do we determine whether a species is endangered or threatened?

A species is determined, or reclassified, to be endangered or threatened because of any of the following factors:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

How does a species get removed from the list?

These same five factors must be considered before removing a species from the list. The regulations (50 CFR 424.11(d)) state that the data to support a removal must be the best scientific and commercial information available to the Service to substantiate that the species is neither endangered nor threatened for one or more of the following reasons:

(a) *Extinction.* Unless all individuals of a listed species had been previously identified and located and later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to indicate clearly that the species is in fact extinct.

(b) *Recovery of the species.* Our principal goal is to improve the status of listed species to a point where protection under the Act is no longer required. A species may be delisted on the basis that it has recovered only if the best scientific and commercial information available indicate that it is no longer threatened or endangered.

(c) *Original data for classification was in error.* Additional investigations may show that the best scientific or commercial information available when a species was listed, or the interpretation of the data, was in error.

What could happen as a result of this review?

If anyone provides us with substantial new information for one or more species in the table above, we may propose new rules that could do any of the following:

(a) reclassify a species from endangered to threatened; or

(b) consider removal of a species from the List of Endangered and Threatened Wildlife.

Distinct geographic populations of vertebrate species, as well as subspecies of all listed species, may be proposed for separate reclassification or for removal from the list. New species may also be proposed for addition to the list.

What will happen if no new information is submitted on any of the listed species?

No changes will be made to the classification of any of the species as a result of this review unless substantial information is received. The next formal status review for psittacine species in the List of Endangered and Threatened Wildlife will occur approximately 5 years after the completion of this review. However, within existing resource capabilities, we will continue to review the status of other listed species and try to initiate reclassification or delisting whenever substantial new information indicates that doing so would be appropriate.

Request for Information

We request comments on this Notice of Review from any foreign government or agency, the public, other Federal, State, and local governmental agencies, the scientific community, industry, or any other interested party. We will provide this Notice to all countries where these species are known to occur in the wild. The comments should provide as much scientific information as possible (*e.g.*, literature citations). Submissions with detailed information are much more helpful than those that advocate or state a position, but contain no biological information. In particular, we are seeking information:

(1) That indicates a need for a change in the status of any of the listed or unlisted psittacine species;

(2) Regarding past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate populations and particular factors currently threatening or no longer threatening the species;

(3) Pointing out taxonomic or nomenclatural changes for any of the taxa;

(4) Suggesting appropriate common names; and

(5) Noting any mistakes, such as errors in the indicated historical ranges.

If possible, this information should be supported by documentation such as maps, a list of bibliographic references, or copies of any pertinent publications, reports, or letters by knowledgeable sources.

What if we receive extensive substantive information on a large number of species?

We will evaluate information received and information in our files and determine: (1) Whether or not any currently listed species should be evaluated; and (2) whether or not the listing of any currently unlisted species should be considered. Due to limited resources available for this effort, our highest priority will be for those species whose conservation status in the wild would most benefit from a change in their listing status under the Act.

Authority: This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: September 13, 2000.

Jamie Rappaport Clark,

Director.

[FR Doc. 00–24423 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Final Clark County Multiple Species Habitat Conservation Plan and Environmental Impact Statement for Clark County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public of the availability of the Final Clark County Multiple Species Habitat Conservation Plan (Multispecies Plan) and Environmental Impact Statement. Clark County, Nevada; the Cities of Las Vegas, North Las Vegas, Henderson, Boulder City, and Mesquite; and the Nevada Department of Transportation (Applicants) have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed 30-year permit would authorize the incidental take of 2 federally-listed threatened and endangered species, and 77 non-listed species of concern in the event these species become listed under the Act during the term of the permit, in connection with economic growth and development of up to 145,000 acres of non-Federal lands in Clark County.

The Service has assisted in the preparation of the Final Multispecies Plan and an Implementation Agreement (legal contract). We also have directed the preparation of a Final Environmental Impact Statement addressing the potential effects on the human environment that may result from the granting of an incidental take permit and other Federal actions associated with implementation of the Multispecies Plan.

DATES: We will issue a Record of Decision and make a permit decision no sooner than October 23, 2000.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for addresses of locations where you may review copies of the documents.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Williams, Field Supervisor of the Nevada Fish and Wildlife Office in Reno, at (775) 861–6331; or Ms. Janet Bair, Assistant Field Supervisor of the Southern Nevada Field Office in Las Vegas, at (702) 647–5230.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the Final Multispecies Plan/Environmental Impact Statement, and associated Implementation Agreement, are available for review at the following government offices and libraries:

Government Offices—Fish and Wildlife Service, Southern Nevada Field Office, 1510 North Decatur Boulevard, Las Vegas, Nevada 89108, (702) 647–5230; Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502, (775) 861–6300; Bureau of Land Management, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108, (702) 647–5000; U.S. Forest Service, 2881 South Valley View Boulevard, Las Vegas, Nevada 89102, (702) 873–8800; National Park Service, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, (702) 293–8946; Nevada Department of Transportation, Environmental Services Division, 1263 South Stewart Street, Room 104A, Carson City, Nevada 89712, (775) 888–7889; Clark County Department of Comprehensive Planning, 500 South Grand Central Parkway, Third Floor, Las Vegas, Nevada 89155, (702) 455–3859; Clark County Northeast Office, Moapa Community Center, 320 North Moapa Valley Boulevard, Overton, Nevada, 89040, (702) 397–6475; City of Las Vegas, Department of Public Works, 731 South Fourth Street, Las Vegas, Nevada 89101, (702) 229–6541; City of North Las Vegas Public Works, 2266 Civic Center Drive, North Las Vegas, Nevada 89030, (702) 633–1225; City of Henderson, 240 Water Street, Henderson, Nevada 89015, (702) 565–2474; City of Boulder City, City Hall, 401 California Avenue, Boulder City, Nevada 89005, (702) 293–9200; and the City of Mesquite, 10 East Mesquite Boulevard, Mesquite, Nevada 89027, (702) 346–2835.

Library—Clark County Public Library, Main Branch, 833 Las Vegas Boulevard North, Las Vegas, Nevada 89101, (702) 382-3493.

Alternatively, you may view the Final Multispecies Plan/Environmental Impact Statement at the following website: www.co.clark.nv.us. Click on "Health and the Environment," then click on "Environmental Planning," and finally click on "Habitat Conservation."

A CD–ROM copy of the document is also available by calling Ms. Sandy Helvey, Administrative Secretary, Clark County Department of Comprehensive Planning, at (702) 455–4181. To view the document, you will need access to an IBM or Macintosh computer with the capacity to read CD–ROMs.

Background

Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. The Act defines "take" as: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). "Harm" is further defined by regulation as any act that kills or injures wildlife including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Under certain circumstances, the Service may issue permits to authorize "incidental" take of listed animal species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). The taking prohibitions of the Act do not apply to listed plants on private land unless their destruction on private land is in violation of State law. The Applicants have considered plants in the Multispecies Plan and request permits for them to the extent that State law applies. Regulations governing permits for threatened and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

On July 11, 1995, the Service issued an incidental take permit, effective August 1, 1995, to Clark County; the Cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City; and the Nevada Department of Transportation for the Clark County Desert Conservation Plan (Desert Conservation Plan). This plan provides conservation measures for the threatened desert tortoise (*Gopherus agassizii*), in Clark County. The associated permit authorizes incidental take of the desert tortoise in Clark County consistent with the long-term viability of the species in this portion of its range.

The Desert Conservation Plan includes provisions for a proactive approach to conservation planning for multiple species in Clark County. The intent was to reduce the likelihood of future listings of plants and wildlife as threatened or endangered under the Act. The Multispecies Plan is the direct outgrowth of provisions of the Desert Conservation Plan and will provide stand-alone conservation measures for species included in the plan. We anticipate that implementation of the conservation measures in the Multispecies Plan will be a cooperative effort among the Applicants, the Service, Bureau of Land Management, U.S. Forest Service, National Park Service, Nevada Division of Wildlife, and other Federal and State land managers and regulators.

Clark County and the Cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City are seeking a 30-year permit for the incidental take of federally-listed threatened and endangered species, and other non-listed species of concern in the event that these species become listed under the Act during the term of the permit, in connection with the development of non-Federal lands within Clark County, Nevada. In addition, the Nevada Department of Transportation has joined as an Applicant for the permit to allow the incidental take of desert tortoise within desert tortoise habitat below 5,000 feet in elevation and south of the 38th parallel in Nye, Lincoln, Mineral, and Esmeralda Counties, Nevada, and the incidental take of other non-listed species of concern within Clark County in connection with the construction and maintenance of roads, highways, and material sites.

The permit to the Applicants would authorize incidental take of 79 species on no more than 145,000 acres of land potentially available for development in Clark County. This acreage includes non-Federal lands that currently exist and non-Federal lands which result from sales or transfers from the Federal government after the issuance of the permit. This acreage excludes existing development, the Boulder City Conservation Easement established under the current Desert Conservation Plan for the desert tortoise, and State lands managed for resource values. The 79 species proposed for incidental take coverage under the Multispecies Plan (covered species) include 2 listed species (the desert tortoise and the southwestern willow flycatcher, *Empidonax traillii extimus*), 1 candidate for listing (Blue Diamond cholla, *Opuntia whipplei* var. *multigeniculata*), and 76 unlisted species including 4 mammals, 7 birds, 14 reptiles, 1 amphibian, 10 invertebrates, and 40 plants.

To minimize and mitigate the impacts of take of species, the Applicants propose to impose a $550-per-acre development fee and maintain an endowment fund that will provide up to $4.1 million per biennial period to fund conservation measures for covered species and to administer the Multispecies Plan. The plan includes measures to implement a public information and education program; purchase grazing allotments and interest in real property and water; maintain and manage allotments, land, and water rights which have been acquired; construct barriers to wildlife movement along linear features such as roads; translocate displaced desert tortoises; participate in and fund local habitat rehabilitation and enhancement programs; and develop and implement an adaptive management process that allows for responses to new information.

The underlying purpose of the Multispecies Plan is to achieve a balance between (1) long-term conservation of natural habitat and native plant and animal diversity that are an important part of the natural heritage of Clark County, and (2) the orderly and beneficial use of land in order to promote the economy, health, well-being, and custom and culture of the growing population of Clark County, Nevada.

On March 3, 1997, the Service published a notice in the **Federal Register** (62 FR 9443) announcing that the we would take the lead in preparing an Environmental Impact Statement addressing the Federal actions associated with the Multispecies Plan. The notice invited comments on the scope of the Environmental Impact Statement. Our consideration of the comments received were reflected in the Draft Multispecies Plan/Environmental Impact Statement made available for comment (65 FR 36709).

The Draft Multispecies Plan/ Environmental Impact Statement analyzed the potential environmental impacts that may result from the Federal action requested in support of the proposed development of up to 145,000 acres of non-Federal land in Clark County, and identified various alternatives, including the No Action Alternative, the Proposed Multispecies Plan, the Low Elevation Ecosystems Multispecies Plan, a Permit Only for Threatened or Endangered and Candidate Species, and Alternative Permit Durations for the Multispecies Plan. Alternatives considered but not advanced for further analysis included a Permit to Include the Entire Mojave Desert Ecosystem, a Permit to Mitigate Impacts Only on Non-Federal Lands, and a High Elevation Ecosystems Multispecies Plan.

The analysis provided in the Final Multispecies Plan/Environmental Impact Statement is intended to accomplish the following: Inform the public of the proposed action and alternatives; address public comment received during the scoping period; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

Dated: September 14, 2000.

Elizabeth H. Stevens,

Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 00–24199 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Assessment for the Proposed Exchange of Lands With Federal Interest on South Fox Island, Leelanau County, Michigan, Between the State of Michigan and a Private Citizen

AGENCY: Fish and Wildlife Service, Interior, lead; National Park Service, Interior, cooperating.

ACTION: Notice of Intent to prepare an Environmental Assessment for the proposed exchange of lands with Federal interest on South Fox Island, Leelanau County, Michigan.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) intends to gather the information necessary for the preparation of an EA. The actions to be evaluated by this EA are: (1) The approval by FWS of the exchange of 325.8 acres, acquired by the State with Federal Aid in Wildlife Restoration assistance, for lands with equal monetary and wildlife restoration values; (2) the approval by the National Park Service (NPS) for the State to exchange 115.1 acres with NPS interest for private lands with equal or better public value; and (3) the related exchange of 212.4 acres of unencumbered State-owned land for fee title and easements for private lands of equal value. All acreage is approximate. This will consolidate and confine State ownership to approximately the northern one-third of South Fox Island, Leelanau County, Michigan, about 30 miles WNW of Charlevoix, in Lake Michigan.

The Service Regional Director is considering, under the authority of 50 CFR 80.14 and 43 CFR 12.71, exchange of lands acquired with Federal Aid in Wildlife Restoration funds. The NPS and General Service's Administration are considering the removal of a title reversion clause to allow the disposal of certain lands on South Fox Island and for the placement of a title reversion clause on replacement lands of equal public value. Alternatives could include approval, disapproval, or modification of the State's current proposal of the land exchange. Modifications could include, but are not limited to: changes

in the boundaries and acreage of tracts to be exchanged; elimination of the NPS tract from the exchange; and deed restrictions on private lands to protect wildlife and historic resources.

This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR1501.7 and 1508.22). The intent of the notice is to obtain suggestions and additional information from other agencies and the public on the scope of issues to be addressed in the EA. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received on or before October 23, 2000. A scoping meeting is scheduled for October 12, 2000 at Charlevoix City Hall, 215 State Street, Charlevoix, Michigan, with duplicate sessions from 2 to 5 pm and from 7 to 10 pm. This meeting will also be announced in the local news media.

Public Involvement: The public will be invited to participate in the scoping process, a public meeting, and review of the draft EA when it is produced. One scoping meeting is scheduled on October 12, 2000, at the Charlevoix, Michigan City Hall and will be announced in the local news media. Release of the draft EA for public comment will also be announced in the local news media, as these dates are established. Written scoping comments should be received within 30 days from the date of publication of this Notice of Intent.

All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)]. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

ADDRESSES: Comments should be addressed to: Regional Director, Region 3, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota 55111. Electronic mail comments may also be submitted within the comment period to: fw3foxisland@fws.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Craig Czarnecki, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823, telephone: (517) 351–8470, facsimile: (517) 351–1443; Mr. Jon Parker, U.S. Fish and Wildlife Service, Division of Federal Aid, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111; telephone: 612–713–5142, facsimile: (612) 713–5290; or Mr. John Kelly, National Park Service, 15 State Street, Boston, MA 02109, telephone (617) 223–5190.

SUPPLEMENTARY INFORMATION: The 115.1—acre State owned tract with NPS and GSA interest contains the South Fox Island Lighthouse facilities that are either listed or are likely eligible to be listed on the National Register of Historic Places; other historical or archeological resources may be present. The National Historic Preservation Act and other laws require these properties and resources be identified and considered in project planning. The public is requested to inform the FWS of concerns about archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns.

The NPS tract also includes proposed Critical Habitat for the Federally Endangered Piping plover. The tract also contains Federally Threatened Pitcher's thistle, which is also present at other locations on the island.

The Grand Traverse Band of Ottawa and Chippewa Indians has unresolved claims to title and other property rights on the island. There is an Indian cemetery on the private lands.

There have been ongoing conflicts over trespass on both public and private land parcels on the island. Public access is an ongoing issue.

The Service estimates that the draft EA will be made available to the public by early November, 2000.

Barbara Milne,

Acting Regional Director, Region 3, Fort Snelling, MN.

[FR Doc. 00–24249 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force (Task Force) will meet from 8 a.m. to 5 p.m. on Wednesday, October 18, 2000 and from 8 a.m. to 3:20 p.m. on Thursday, October 19, 2000.

PLACE: The meeting will be held at the Best Western Miner's Inn, 122 East Miner Street Yreka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, 1829 South Oregon Street, Yreka, California 96097, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: September 8, 2000.

Elizabeth H. Stevens,

Acting California/Nevada Operations Manager, California/Nevada Office, U.S. Fish and Wildlife Service.

[FR Doc. 00–24369 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming Between the Sauk Suiattle Indian Tribe and the State of Washington, which was executed on April 20, 2000.

DATES: This action is effective September 22, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC, 20240, (202) 219–4066.

Dated: September 7, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–24357 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–1220–DH]

Notice of Availability of a Proposed Resource Management Plan Amendment (RMPA) and Final Environmental Impact Statement (FEIS) ; Albuquerque Field Office, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) Albuquerque Field Office has completed a Proposed RMPA/FEIS. This document contains a 20-year strategy for managing the El Malpais National Conservation Area (NCA) and contiguous lands. The document also addresses activity level plans for these lands and as required by P.L. 100–225 makes a recommendation of the suitability/nonsuitability of the Chain of Craters Wilderness Study Area for inclusion in the wilderness system. The document also recommends to Congress the inclusion of certain additional contiguous acres in the Cebolla Wilderness and the addition of other acres to the NCA.

Copies are available for review at public libraries in Albuquerque and nearby cities or towns. Additional copies are available at the following BLM Offices: Albuquerque Field Office, 435 Montanño Road NE, Albuquerque, New Mexico 87107; New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico 87505. The document will also be available on the internet at *www.nm.blm.gov*.

DATES: Protests related to decisions at the Resource Management Plan level must be filed in writing to: Director (WO–210), Bureau of Land Management, Attention: Ms. Brenda Williams, 1849 C Street NW., Washington, DC 20240. Protests must be postmarked no later than October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Kent Hamilton, Planning and Environmental Coordinator, Bureau of Land Management, 435 Montaño Road NE, Albuquerque, New Mexico 87107–4935, Telephone (505) 761–8746.

SUPPLEMENTARY INFORMATION: This proposed RMPA /FEIS is a plan for managing NCA and contiguous public lands and resources. The plan addresses the following public land issues that amend the Rio Puerco RMP: Recreation (Visual Resource Management), Access and Transportation, Wilderness Suitability, and Boundary and Land Tenure Adjustments. Issues addressed at the activity plan level are: Recreation, Facility Development, Access and Transportation, Wilderness Management, Wilderness Suitability, American Indian Uses and Traditional Cultural Practices, Cultural Resources, Wildlife Habitat, Vegetation, and Boundary & Land Ownership Adjustments.

Under the Proposed Plan BLM would provide:

- A combination of developed and dispersed recreational opportunities.
- Approximately 105,000 acres closed to vehicle and mechanical access.
- Approximately 273 miles of designated vehicle routes.
- Approximately 101,000 acres of designated wilderness with approximately 4,000 additional acres recommended for designation.
- Emphasis to cultural resource conservation for future use and recommend additional acreage for inclusion in the NCA to provide for cultural resource management.
- Management of wildlife habitat for habitat improvement.
- Vegetative management practices to emphasize health of the land and improvement of ecological conditions.
- Recommendations to Congress for boundary changes that will provide for more effective resource management.

Public input has occurred throughout the planning process and public comments and BLM's responses to these comments are included as an important part of this proposed plan.

Dated: September 18, 2000.

Edwin J. Singleton,

Field Manager.

[FR Doc. 00–24368 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1990; CA–40204]

Correction to Notice of Availability of the Draft Environmental Impact Report/ Environmental Impact Statement on the Proposed Expansion of the Existing Mesquite Gold Mine

AGENCY: Bureau of Land Management.

ACTION: Notice corrections.

SUMMARY: The Bureau of Land Management published a notice in the **Federal Register** on August 29, 2000, regarding the availability of the Draft Environmental Impact Report/ Environmental Impact Statement on the proposed expansion of the existing Mesquite Gold Mine in Imperial County, Ca. The notice contains information that has changed.

FOR FURTHER INFORMATION CONTACT: Kevin Marty, Bureau of Land Management, 1661 South 4th Street, El Centro, CA; telephone (760) 337–4422.

Corrections

(a) In the **Federal Register** of August 29, 2000, in DOCID fr29au00-85, on page 52436, under the **DATES** caption, change the comment period ending date to November 7, 2000.

(b) On the same page as above, under the **ADDRESSES** caption, change the extension for the Imperial County Planning and Building Department to 4313.

(c) On the same page as above, under the **FOR FURTHER INFORMATION CONTACT** caption, change the Imperial County Planning and Building Department contact name to Richard Cabanilla, and change the telephone extension to 4313.

Dated: September 15, 2000.

Greg Thomsen,

Field Manager.

[FR Doc. 00–24371 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Mills County, IA in the Possession of the Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Office of State Archaeologist, University of Iowa, Iowa City, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the

museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Office of the State Archaeologist, University of Iowa, professional staff in consultation with representatives of the Pawnee Nation of Oklahoma and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1984, human remains representing one individual were recovered from site 13ML176, Mills County, IA, by the Office of State Archaeologist, University of Iowa, during the salvage excavation of an earthlodge. No known individuals were identified. There are no associated funerary objects.

This earthlodge was occupied by people of the Nebraska phase (A.D. 1050–1250) of the Central Plains tradition based on the material culture, art style, architecture, and geographical location of the site. Archeological evidence, especially continuities and similarities in material culture, and Pawnee tribal history indicate that the historic Pawnee and Arikara tribes may have their origins among the late prehistoric Nebraska phase people of the Missouri River area of southwestern Iowa and eastern Nebraska. The Arikara today are members of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Based on the above-mentioned information, officials of the Office of State Archaeologist, University of Iowa, have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Also, officials of the Office of State Archaeologist, University of Iowa, have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Pawnee Nation of Oklahoma and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. This notice has been sent to officials of the Pawnee Nation of Oklahoma and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Shirley Schermer, Burials Program Director, Office of the State Archaeologist, 700 Clinton Street Building, University of Iowa, Iowa City, IA 52242, telephone (319) 384–0740, before October 23, 2000. Repatriation of the human remains to the Pawnee Nation of Oklahoma and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may begin after that date if no additional claimants come forward.

Dated: September 5, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–24358 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Coachella Canal Lining Project, Imperial and Riverside Counties, California

AGENCY: Bureau of Reclamation, Interior

ACTION: Notice of Availability, Draft Environmental Impact Statement/Draft Environmental Impact Report—Coachella Canal Lining Project (INT–DES 00–40).

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969 (as amended) and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) and the Coachella Valley Water District (CVWD) have prepared a joint Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the "Coachella Canal Lining Project." The document is a revised and updated version of a DEIS/DEIR filed by Reclamation and the CVWD and issued for public comment on January 11, 1994.

DATES: A 60-day public review period shall begin with the publication date of this notice. Note that there will be no extension of the comment period for this DEIS/DEIR. In addition to mailing submissions, comments will also be received by Reclamation and CVWD at a public hearing scheduled for 6:30 p.m. on October 25, 2000, at the Coachella Valley Water District Office, Highway 111 and Avenue 52, Coachella, California. This facility is disability accessible. Please contact the persons identified below within two weeks prior to the hearing date to arrange for accommodations to meet other special needs, such as interpreters for the hearing-impaired.

ADDRESSES: To request copies of the DEIS/DEIR or to obtain further information about the Coachella Canal Lining Project, please contact Mr. Don Young, Reclamation, Yuma Area Office, P.O. Box D, 7301 Calle Agua Salada, Yuma, Arizona, 85366; telephone: (520) 343–8159; or Mr. Steve Robbins, Coachella Valley Water District, P.O. Box 1058, Highway 111 and Avenue 52, Coachella, California, 92236; telephone: (760) 398–2651. Written comments on the DEIS/DEIR should be sent to Mr. Don Young at the above address.

Note that Reclamation's standard practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that his or her name or identity be withheld from public disclosure. Requests for non-disclosure must be made in writing when comments are submitted. Reclamation shall accommodate such requests to the extent allowable by law. All comments submitted by organizations and businesses and from individuals identifying themselves as representatives or officials of organizations or businesses shall be available for public disclosure in their entirety.

Copies of the DEIS/DEIR are now available for public review at the following locations:

- Bureau of Reclamation, Yuma Area Office, Central Files, Room 145, 7301 Calle Agua Salada, Yuma, Arizona; telephone: (520) 343–8147
- Coachella Valley Water District, Highway 111 and Avenue 52, Coachella, California, telephone: (760) 398–2651
- Bureau of Reclamation, Lower Colorado Regional Office, 400 Railroad Avenue, Boulder City, Nevada, telephone: (702) 293–8000
- Bureau of Reclamation, Reclamation Service Center Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, Colorado, telephone: (303) 236–6963
- Bureau of Reclamation, Program Analysis Office, Room 7456, 1849 C Street NW, Washington, DC, telephone: (202) 208–4662
- California Department of Water Resources, 6900 Devils Canyon Road, San Bernardino, California; telephone: (909) 886–5028
- Yuma County Library, 350 South Third Avenue, Yuma, Arizona, telephone: (520) 782–1871
- Coachella Branch Library, 1538 7th Street, Coachella, California; telephone: (760) 398–5148
- Brawley Public Library, 400 Main Street, Brawley, California; telephone: (760) 344–1891
- El Centro Public Library, 539 W. State Street, El Centro, California; telephone: (760) 337–4565

- Imperial Public Library, 200 W. 9th Street, Imperial, California; telephone: (760) 355–1332
- Indio Branch Library, 200 Civic Center Mall, Indio, California; telephone: (760) 347–2383
- Palm Springs Library, 300 S. Sunrise Way, Palm Springs, California; telephone: (760) 322–7323
- San Diego Central Library, 820 E Street, San Diego, California; telephone: (619) 236–5800
- Los Angeles Public Library, 630 W. Fifth Street, Los Angeles, California 90071; telephone: (213) 228–7000

SUPPLEMENTARY INFORMATION: This DEIS/DEIR is a revised and updated version of a DEIS/DEIR for the Coachella Canal Lining Project filed by Reclamation and the CVWD and issued for public comment on January 11, 1994. At that time, because of funding constraints, construction of the project was deferred, and a Final EIS/EIR was not completed. The proposed action evaluated in the revised DEIS/DEIR is the same as in the previous document—to install a concrete lining within the existing cross-section of unlined portions of the canal (33.2 miles) using conventional construction methods and diverting water around each section while it is being lined. Alternatives evaluated in the DEIS/DEIR, also the same as in the original DEIS/DEIR, include No Action, Underwater Lining, and Parallel Canal Construction.

The purpose of this federal action is to conserve 30,850 acre-feet annually of water presently being lost as seepage from the earthen reaches of the Coachella Canal. A specific quantity of conserved water would be assigned to the Department of the Interior to facilitate implementation of the San Luis Rey Indian Water Rights Settlement Act (Public Law 100–675, November 17, 1988). Remaining quantities of conserved water would be distributed to southern California to meet present water demand and to assist the State in attaining the goals of California's Colorado River Water Use Plan. The federal action includes approval of transfers and exchanges of conserved Coachella canal water among California's Colorado River water contractors.

Dated: September 13, 2000.

Robert W. Johnson,

Regional Director.

[FR Doc. 00–24425 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Interim Surplus Criteria; Correction

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of correction to published **Federal Register** notice of availability.

SUMMARY: The Bureau of Reclamation is correcting information published in the **Federal Register** issue date of Tuesday, August 8, 2000 (Vol. 65, No. 153).

FOR FURTHER INFORMATION CONTACT: For additional information, contact Ms. Jayne Harkins at (702) 293–8785.

SUPPLEMENTARY INFORMATION: On page 48534, in Table 1., "Cooperative Water Conservation/Transfer Projects", under the column labeled "Cooperative water conservation/transfer projects", the footnote for "All American Canal Lining-MWD/SLR" should be "4" instead of "3." In the "Estimated start date" column of the same table, the footnote for year "2006" should be "5" instead of "4."

On page 48536, in the far right column, subsection "IV.B.3.b." should read "Allocate and distribute the Quantified Surplus 50% to California, 46% to Arizona and 4% to Nevada subject to c. though f. that follow." instead of "* * * subject to c. though g. that follow."

Dated: September 15, 2000.

Robert W. Johnson,

Regional Director.

[FR Doc. 00–24424 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to renew its authority to collect information for the permanent program inspection and enforcement procedures at 30 CFR Part 840.

DATES: Comments on the proposed information collection must be received by November 21, 2000, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. This notice identifies information collections that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR 840.

OSM has received burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Permanent Program Inspection and Enforcement Procedures, 30 CFR Part 840.

OMB Control Number: 1029–0051.

Abstract: This provision requires the regulatory authority to conduct periodic inspections of coal mining activities, and prepare and maintain inspection reports for public review. This information is necessary to meet the requirements of the Surface Mining Control and Reclamation Act of 1977 and its public participation provisions. Public review assures the public that the State is meeting the requirements for the

Act and approved State regulatory program.

Bureau Form Number: None.

Frequency of Collection: Once, monthly, quarterly, and annually.

Description of Respondents: State Regulatory Authorities.

Total Annual Responses: 99,013.

Total Annual Burden Hours: 578,509.

Dated: September 18, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–24373 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for the title described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: Comments must be submitted on or before October 23, 2000, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information contained in 30 CFR 700, General. OSM is requesting a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is listed in 30 CFR Part 700, which is 1029–0094.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on June 28, 2000 (65 FR 39924). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: General, 30 CFR Part 700.

OMB Control Number: 1029–0094.

Summary: This Part establishes procedures and requirements for terminating jurisdiction of surface coal mining and reclamation operations, petitions for rulemaking, and citizen suits filed under the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State and tribal regulatory authorities, private citizens and citizen groups, and surface coal mining companies.

Total Annual Responses: 6.

Total Annual Burden Hours: 12.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210–SIB, Washington, DC 20240, or electronically to jtreleas@osmre.gov.

Dated: September 18, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–24374 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Wright Junior/Senior High School Improvements Project in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Wright Junior/Senior High School improvements project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $500,000 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Wright Junior/Senior High School Improvements project in Campbell County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Wright Junior/Senior High School Improvements project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office. Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from

the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representative or officials of organizations or businesses, available for public inspection in their entirety.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 24, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (3), and (f), of SMCRA.

State law and regulations that apply to the proposed Wright school funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request to Fund Part of the Cost of theWright Junior/Senior High School Improvements Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $500,000 that it will use to pay for part of the cost of building the Wright Junior/Senior High School Improvements project. This project is a public facility in a community impacted by coal and mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Campbell County School District #1 (50 percent). The Governor of Wyoming certified the need and urgency to fund the Wright Junior/Senior High School Improvements project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal and mineral mining activities. The project will rectify dangerous overcrowding and inadequate ventilation in the industrial arts shop area. The project is designed to mitigate impacts resulting from growth in both coal mining and the electrical power industry that uses coal which are currently occurring in Campbell County. Students and teachers have received medical attention for complaints due to overcrowding and inadequate ventilation of the existing facility. Injuries have also been reported due to crowded conditions in the current shop area.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Wright Junior/Senior

High School Improvements project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e) (1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML project. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What to Do if You Want to Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Wright Junior/Senior High School Improvements Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 8, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24375 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Rock Springs Stormwater Channel Improvements Project in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Rock Springs Stormwater Channel improvements project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $189,333 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Rock Springs Stormwater Improvement project in Sweetwater County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Rock Springs Stormwater Channel Improvement project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t. October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy v. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office. Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws .

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the

priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concerns, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Rock Springs Stormwater Channel Improvement project funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request to Fund Part of the Cost of the Rock Springs Stormwater Channel Improvement Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $189,333 that it will use to pay for part of the cost of building the Rock Springs Stormwater Channel Improvement project. This project is a public facility in a community impacted by coal and mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Town of Rock Springs (50 percent). The Governor of Wyoming certified the need and urgency to fund the Rock Springs Stormwater Channel Improvement project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal and mineral mining activities. The project consists of the second phase of a stormwater drainage project designed to mitigate the flood potential in two residential areas and one commercial area in Rock Springs. This project will reduce the risk associated with the potential for flooding that may cause property damage or may result in loss of life.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Rock Springs Stormwater Channel Improvement project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What to Do if You Want to Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Rock Springs Stormwater Channel Improvement project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 12, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24376 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Sheridan Slope Stability in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Sheridan slope stability project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $346,725 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of stabilizing the dangerous slopes along Big Goose Creek in Sheridan County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Sheridan Slope Stability project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Sheridan Slope Stability funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request to Fund Part of the Cost of the Sheridan Slope Stability Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $346,725 that it will use to pay for part of the cost of building the Sheridan Slope Stability project. This project is a public facility in a community impacted by coal and mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Town of Sheridan (50 percent). The Governor of Wyoming certified the need and urgency to fund the Sheridan Slope Stability project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal and mineral mining activities. The project consists of stabilization of a high bank of Big Goose Creek. Fills for an athletic field, a hillside road, erosion from an existing storm drain, saturation of the hillside, and naturally unstable soils have caused slumping and created the potential for a major slope failure. This slope failure could block Big Goose Creek and cause flooding that may cause property damage or loss of life.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a

priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Sheridan Slope Stability project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do If You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Sheridan Slope Stability Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 12, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24377 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Kemmerer Medical Center access improvements project in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Kemmerer Medical Center access improvements project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $174,946 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Kemmerer Medical Center Improvement project in Lincoln County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Kemmerer Medical Center Access Improvement project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office. Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 24, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related

problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Kemmerer Medical Center Access Improvement project funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request to Fund Part of the Cost of the Kemmerer Medical Center Access Improvement Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $174,946 that it will use to pay for part of the cost of building the Kemmerer Medical Center Access Improvement project. This project is a public facility in a community impacted by coal and phosphate mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Town of Kemmerer (50 percent). The Governor of Wyoming certified the need and urgency to fund the Kemmerer Medical Center Access Improvement project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal and mineral mining activities. The project consists of realigning and reconstructing the entrance to the Lincoln County Medical Center in Kemmerer to eliminate a hazardous intersection providing both primary and emergency access to the medical center. The restricted line of sight at the intersection creates a substantial hazard for drivers and pedestrians as well as emergency vehicles and vehicles entering the facility for routine purposes.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Kemmerer Medical Center Access Improvements project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What to Do if You Want to Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Kemmerer Medical Center Improvement Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 9, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24378 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Hudson Elementary School Improvements Project 48 in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Hudson Elementary School improvements project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $196,213 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Hudson Elementary School Improvements project in Fremont County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Hudson Elementary School Improvements project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office: Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1997, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 3, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and 9f), of SMCRA.

State law and regulations that apply to the proposed Hudson school funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of the Hudson Elementary School Improvements Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $196,213 that it will use to pay for part of the cost of building the Hudson Elementary School Improvements project. This project is a public facility in a community impacted by uranium and iron ore mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Fremont County School District #1 (50 percent). The Governor of Wyoming certified the need and urgency to fund the Hudson Elementary School Improvements project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by mineral mining activities. The project consists of demolition of the 1914 era portion of the Hudson Elementary School and construction of an addition to house facilities necessary to support the kindergarten through third grade. Portions of the current building have been condemned by the state fire marshal due to physical unsoundness in case of high wind or earthquake. The roof and chimney poses a safety hazard for the children in the Hudson School.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e)(1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will

have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies will oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by mining activities; and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Hudson Elementary School Improvements project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do If You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Hudson Elementary School Improvements Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 12, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24379 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Medicine Bow Water Treatment Plant Improvements Project in Wyoming

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

ACTION: Notice of application for granting funding; public comment period on request to fund the Medicine Bow Water Treatment Plant improvements project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $324,150 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Medicine Bow Water Treatment Plant Improvement project in Carbon County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Medicine Bow Water Treatment Plant Improvement project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OMS's Casper Field Office: Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyomings' AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536).

Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Medicine Bow Water Treatment Plant Improvement project funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of the Medicine Bow Water Treatment Plant Improvement Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $324,150 that it will use to pay for part of the cost of building the Medicine Bow Water Treatment Plant Improvement project. This project is a public facility in a community impacted by coal or mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Town of Medicine Bow (50 percent). The Governor of Wyoming certified the need and urgency to fund the Medicine Bow Water Treatment Plant project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by coal and mineral mining activities. The project consists of constructing an ion exchange water treatment facility designed to remove Radium 226 and 228 from the Medicine Bow municipal public water supply. The project will bring the supply into compliance with EPA drinking water standards and will rectify inadequacies that have resulted in an Enforcement Order against the town. Current treatment consists of chlorination only.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities; and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Medicine Bow Treatment Plant Improvements project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we received and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Medicine Bow Water Treatment Plant Improvements Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 12, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24380 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Frannie Sewer Line Replacement Project in Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Frannie sewer line replacement project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $249,050 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Frannie Sewer Line Replacement Project in Park and Big Horn county, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will

benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Frannie Sewer Line Replacement project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office: Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusively authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to use for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983 **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411(b), (e), and (f), of SMCRA.

State law and regulations that apply to the proposed Frannie Sewer Line Replacement funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of the Frannie Sewer Line Replacement Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $249,050 that it will use to pay for part of the cost of building the Frannie Sewer Line Replacement project. This project is a public facility in a community impacted by bentonite and gypsum mineral mining activities. The requested funding is 50 percent of the project's total cost. Money for the balance of the project cost will come from the Town of Frannie (50 percent). The Governor of Wyoming certified the need and urgency to fund the Frannie Sewer Line Replacement project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by mineral mining activities. The project will rectify a threat to human health and safety and to the environment. This project will replace a sewer system with numerous failures that have threatened to contaminate groundwater aquifers in the area. A need and urgency for the project exists, and an impact on the coal or minerals industry has been documented. Sewer line failures are increasing, and each failure poses a threat to area groundwater aquifers, and thus a threat to both human health and safety and to the environment.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) of the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Frannie Sewer Line Replacement project contains the information described in these seven subsections.

Section 875.15(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e) (1) through (7) described above. It also requires us to determine if the request is in the best interests of he State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

V. What To Do if You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Frannie Sewer Line Improvements Project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 12, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24381 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Greybull Sewer Improvements Project In Wyoming

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

ACTION: Notice of application for grant funding; public comment period on request to fund the Greybull sewer improvements project.

SUMMARY: OSM is announcing its receipt of a grant application from the Wyoming Department of Environmental Quality, Abandoned Mine Land Division (AMLD). Wyoming is requesting $105,668 from the Abandoned Mine Reclamation Fund to pay approximately 50 percent of the cost of building the Greybull Sewer Improvement project in Big Horn County, Wyoming. In its application, the State proposes paying for part of the reconstruction cost as a public facility project that will benefit a community impacted by coal and mineral mining activities.

This notice describes when and where the Wyoming abandoned mine land (AML) program and the grant application for funding the Greybull Sewer Improvement project are available for you to read. It also sets the time period during which you may send written comments on the request to us.

DATES: We will accept written comments until 4:00 p.m., m.s.t., October 23, 2000.

ADDRESSES: You should mail or hand-deliver written comments to Guy V. Padgett, Casper Field Office Director, at the address shown below. You may read Wyoming's grant application for this proposed project during normal business hours Monday through Friday (excluding holidays) at the same address. Also, we will send one free copy of the grant application to you if you contact OSM's Casper Field Office: Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2403, 100 East "B" Street, Casper, Wyoming 82601–1918.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–6555.

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

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of the Surface Mining Control and Reclamation Act (SMCRA) established an Abandoned Mine Land Reclamation (AMLR) program. The purpose of the AMLR program is to reclaim and restore lands and waters that were adversely affected by past mining. The program is funded by a reclamation fee paid by active coal mining operations. Lands and waters eligible for reclamation under Title IV are primarily those that were mined, or affected by mining, and abandoned or inadequately reclaimed before August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, or other laws.

Title IV of SMCRA allows States to submit AMLR plans to us. We, on behalf of the Secretary, review those plans and consider any public comments we receive about them. If we determine that a State has the ability and necessary legislation to operate an AMLR program, the Secretary can approve it. The Secretary's approval gives a State exclusive authority to put its AMLR plan into effect.

Once the Secretary approves a State's AMLR plan, the State may annually apply to us for money to fund specific projects that will achieve the goals of its approved plan. We follow the requirements of the Federal regulations at 30 CFR Parts 874, 875, and 886 when we review and approve such applications.

II. Background on the Wyoming AMLR Plan

The Secretary of the Interior approved Wyoming's AMLR plan on February 14, 1983. You can find background information on the Wyoming AML program, including the Secretary's findings and our responses to comments, in the February 14, 1983, **Federal Register** (48 FR 6536). Wyoming changed its plan a number of times since the Secretary first approved it. In 1984, we accepted the State's certification that it addressed all known coal-related impacts in Wyoming that were eligible for funding under its program. As a result, the State may now reclaim low priority non-coal reclamation projects. You can read about the certification and OSM's acceptance in the May 25, 1984, **Federal Register** (49 FR 22139). At the same time, we also accepted Wyoming's proposal that it will ask us for funds to reclaim any additional coal-related problems that occur during the life of the Wyoming AML program as soon as it becomes aware of them. In the April 13, 1992, **Federal Register** (57 FR 12731), we announced our decision to accept other changes in Wyoming's plan that describe how it will rank eligible coal, non-coal, and facility projects for funding. Those changes also authorized the Governor of Wyoming to elevate the priority of a project based upon the Governor's determination of need and urgency. They also expanded the State's ability to construct public facilities under section 411 of SMCRA. We approved additional changes in Wyoming's plan concerning noncoal lien authority and contractor eligibility that improve the efficiency of the State's AML program. That approval is described in the February 21, 1996, **Federal Register** (61 FR 6537).

Once a State certifies that it has addressed all remaining abandoned coal mine problems, and the Secretary concurs, then it may request funds to undertake abandoned noncoal mine reclamation, community impact assistance, and public facilities projects under sections 411 (b), (e), and (f) of SMCRA.

State law and regulations that apply to the proposed Greybull Sewer Improvement project funding request include Wyoming Statute 35–11–1202 and Wyoming Abandoned Mine Land Regulations, Chapter VII, of the Wyoming Abandoned Mine Program.

III. Wyoming's Request To Fund Part of the Cost of the Greybull Sewer Improvement Project

The Wyoming Department of Environmental Quality submitted to us a grant application requesting new funding for the FY2002 consolidated grant. In that application, Wyoming asked for $105,668 that it will use to pay for part of the cost of building the Greybull Sewer Improvements project. This project is a public facility in a community impacted by bentonite and typsum mineral mining activities. The requested funding is 50 percent of the project's total costs. Money for the balance of the project costs will come from the Town of Greybull (50 percent). The Governor of Wyoming certified the need and urgency to fund the Greybull Sewer Improvements project prior to completing the State's remaining inventory of non-coal reclamation, as allowed by section 411(f) of SMCRA. That certification says the project is in a community impacted by mineral mining activities. The project consists of replacement of old and failing clay tile sewer lines. Potential contamination of groundwater by sewage poses both a threat to human health and safety and a possible negative impact on the environment. I.

The Governor's certification states that the project meets the requirements for his certification under the authority of Wyoming Statute W.S. 35–11–1202(c) and the AML Regulations, Chapter VII, Section 6(c).

IV. How We Will Review Wyoming's Grant Application

We will review this grant application with respect to the regulations at 30 CFR 875.15, specifically subsections 875.15(e) (1) through (7). As stated in those regulations, the application must include the following information: (1) The need or urgency for the activity or the construction of the public facility; (2) the expected impact the project will have on Wyoming's coal or minerals industry; (3) the availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved; (4) documentation from other local, State, and Federal agencies with oversight for such utilities or facilities describing what funding they have available and why their agency is not fully funding this specific project; (5) the impact on the State, the public, and the minerals industry if the facility is not funded; (6) the reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities, and (7) an analysis and review of the procedures Wyoming used to notify and involve the public in this funding request, and a copy of all comments received and their resolution by the State. Wyoming's application for the Greybull Sewer improvements project contains the information described in these seven subsections.

Section 875.159(f) requires us to evaluate all comments we receive and determine whether the funding meets the requirements of sections 875.15(e)(1) through (7) described above. It also requires us to determine if the request is in the best interests of the State's AML program. We will approve Wyoming's request to fund this project if we conclude that it meets all the requirements of 30 CFR 875.15.

What To Do If You Want To Comment on the Proposed Project

We are asking for public comments on Wyoming's request for funds to pay for part of the cost of completing the Greybull Sewer Improvement project. You are welcome to comment on the project. If you do, please send us written comments. Make sure your comments are specific and pertain to Wyoming's funding request in the context of the regulations at 30 CFR 875.15 and the provisions of section 411 of SMCRA. You should explain any recommendations you make. If we receive your comments after the time shown under **DATES** or at locations other than the Casper Field Office, we will not necessarily consider them in our final decision or include them in the administrative record.

Dated: September 12, 2000.

Guy Padgett,

Director, Casper Field Office.

[FR Doc. 00–24382 Filed 9–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,013]

Alcatel Telecommunications Cable Roanoke, Virginia; Amended Notice of Negative Determination on Remand

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Negative Determination on Remand applicable to workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**. In the second paragraph, second sentence, of

the decision document, the Department inadvertently included an irrelevant citation, 19 U.S.C. 2231(a)(1)(A)(iii) and (B). Accordingly, the notice of negative determination on remand is amended to delete the reference to 19 U.S.C. 2231(a)(1)(A)(iii) and (B).

Signed at Washington, D.C. this 15th day of September 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–24419 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,013]

Alcatel Telecommunications Cable Roanoke, Virginia; Notice of Negative Determination on Remand

On July 27, 2000, the United States Court of International Trade remanded this matter to the Secretary of Labor for further investigation in *Former Employees of Alcatel Telecommunications Cable* v. *Secretary of Labor,* No. 98–03–00540 (Ct. Int'l Trade 2000).

The Department's initial negative determination of eligibility to apply for trade adjustment assistance (TAA) for the workers and former workers of Alcatel Telecommunications Cable located in Roanoke, Virginia was issued on December 9, 1997 and published in the **Federal Register** on January 6, 1998, *see* 63 Fed. Reg. 577 (1998). The denial was based on the finding that criteria (3) of the group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, 19 U.S.C. 2231(a)(1)(A)(iii) and (B), were not met: *i.e.,* imports did not contribute importantly to the worker separations, and the company transferred production to another domestic location.

On remand, the court ordered the Department to undertake a full and complete investigation into the eligibility of former workers at Alcatel Telecommunications cable, Roanoke, Virginia to apply for trade adjustment assistance (TAA).

A complete investigation was undertaken, and the results of that investigation revealed that increased imports of singlemode optical fiber did not contribute importantly to the worker separations. Information provided by the company revealed that the company imports of singlemode optical fiber in 1998 were less than 2% of the 1997 production levels at the Roanoke facility. Further, a survey of Alcatel's customers who were purchasing singlemode optical fiber for the U.S. market revealed that those customers did not increase their reliance on purchases of imported singlemode optical fiber.

Conclusion

After careful consideration of the results of the remand investigation, I affirm the original notice of negative determination of eligibility to apply for trade adjustment assistance for workers and former workers of Alcatel Telecommunications Cable, Roanoke, Virginia.

Signed at Washington, DC this 11th day of September 2000.

Edward A. Tomchick,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–24422 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,715; TA–W–37,715A]

Murray, Incorporated, Lawrenceburg, TN, and Mantachie, MS; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 20, 2000, applicable to workers of Murray, Incorporated, Lawrenceburg, Tennessee. The notice was published in the **Federal Register** on July 24, 2000 (65 FR 45620).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations will occur at Murray, Incorporated's Mantachie, Mississippi facility when it closes in October, 2000. The workers are engaged in the production of bicycles.

Accordingly, the Department is amending the certification to cover workers at Murray, Incorporated, Mantachie, Mississippi. The intent of the Department's certification is to include all workers of Murray, Incorporated adversely affected by increased imports.

The amended notice applicable to TA–W–37,715 is hereby issued as follows:

All workers of Murray, Incorporated, Lawrenceburg, Tennessee (TA–W–37,715) and Mantachie, Mississippi (TA–W–37,715A) engaged in employment related to the production of bicycles who became totally or partially separated from employment on or after May 11, 1999 through June 20, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of September, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–24420 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–37,940; Cloverland Manufacturing, Inc., Escanaba, MI

TA–W–37,670; Berstone Knitting Mills, Brooklyn, NY

TA–W–37,753; Spray Cotton Mills, Nova Yarns Div., Eden, NC

TA–W–37,501; Stant Manufacturing, Inc., Plating Operation, Connersville, IN

TA–W–37,891; Acorn Window Systems, Quincy, MI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–37,826; Blastco Service Co., Oil Refinery Demolition Workers, Odessa, TX

TA–W–37,944; Chief Tonasket Growers, Tonasket, WA

TA–W–37,957; Miller Harness Co., LLC, East Rutherford, NJ

TA–W–37,973; General Motors Corp., Desert Proving Ground, Mesa, AZ

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–37,704; Fernwood Magnetics, Belvidere, NJ

TA–W–37,679; National Semiconductor, Die Products Business Group, South Portland, ME

TA–W–37,798; KPT, Inc., Bloomfield, IN

TA–W–37,871; Robinson Fiddler's Green Manufacturing Co., Inc., Springville, NY

TA–W–37,855; Graphic Vinyl Products, Inc., Newark, NJ

TA–W–37,948; Rock-Tenn Corp., Madison, WI

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–37,808; Edgewater Steel, LTD, Oakmont, PA

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–38,019; West Mill Clothes, Inc., Woodside, NY: August 10, 1999.

TA–W–37,931; Tri State Data Products, Feasterville, PA: July 24, 1999.

TA–W–37,756; NRV Manufacturing Co., Inc., Carollton, AL: May 27, 1999.

TA–W–37,955; J.A. Thurston Co., Inc., Rumford, ME: August 4, 1999.

TA–W–37,954; Brestl, Inc., High Point, NC: August 4, 1999.

TA–W–37,991; New Haven Industries, Inc., Lock Haven, PA: August 10, 1999.

TA–W–37,937; Wolverine Worldwide, Inc., Kirksville, MO: July 17, 1999.

TA–W–37,894; GT Bicycles, Inc., Santa Ana, CA: June 19, 1999.

TA–W–37,760; Marijon Dyeing and Finishing Co., East Rutherford, NJ: May 18, 1999.

TA–W–37,952; Ochoco Lumber Col, Prineville, OR: July 28, 1999.

TA–W–37,550; Lermer Aircraft Galley Equipment, Inc., Eatontown, NJ: May 25, 1999.

TA–W–37,968; Vesuvius Premier Refractories, Washington, PA: August 3, 1999.

TA–W–37,880; AII Technologies, Inc., El Paso, TX: August 21, 1999.

TA–W–37,714; Gambro Renal Service, Lakewood, CO: May 11, 1999.

TA–W–37,502; Leica Microsystems, Inc., Analytical Div., Depew, NY: March 17, 1999.

TA–W–37,807; Southern Trim, Inc., Opp, AL: June 9, 1999.

TA–W–37,963; Prestolite Wire Corp., Battery Cable and Battery Terminal Dept., Bristol, TN: July 22, 1999.

TA–W–37,913; United Filters, Inc., Amarillo, TX: September 11, 2000.

TA–W–37,746; N.N. Apparel, Inc., Mt. Vernon, NY: May 23, 1999, Hermitage, MO: May 22, 1999.

Also, pursuant to title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of September, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–03948; Spray Cotton Mills, Nova Yarns Div., Eden, NC

NAFTA–TAA–04068; Rock-Tenn Corp., Madison, WI

NAFTA–TAA–04035; Acorn Window Systems, Quincy, MI

NAFTA–TAA–03811; Stant Manufacturing, Inc., Plating Operation, Connersville, IN

NAFTA–TAA–04084; WP Industries, Inc., South Gate, CA

NAFTA–TAA–04099; Adirondack Knitting Mills, Inc., Amsterdam, NY

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–4063; RMH Teleservices, Inc., Sergeant Bluff, IA

NAFTA–TAA–04064; General Motors Corp., Desert Proving Ground, Mesa, AZ

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–03971; Edgewater Steel, Ltd., Oakmont, PA

The investigation revealed that criteria (1) and criteria (4) have not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04041; B.F. Goodrich Aerospace, Landing Gear Div., Euless, TX: July 14, 1999.

NAFTA–TAA–04057; Permair Leathers, Salem, MA: August 4, 1999.

NAFTA–TAA–04050; Prestolite Wire Corp., Battery Cable and Battery Terminal Dept., Bristol, TN: July 22, 1999.

NAFTA–TAA–04108; Parker Seal Co., Parker-Hannifin Corp., Berea, KY: August 11, 1999.

NAFTA–TAA–04065; Academy Broadway Corp., Sleeping Bag Div., Pine Knot, KY: August 4, 1999.

NAFTA–TAA–04119; Bulk Manufacturing Co., Plant City, FL: August 14, 1999.

NAFTA–TAA–04073; Smith and Nephew, Inc., Dynacast Extra Casting Dept., Charlotte, NC: August 11, 1999.

NAFTA–TAA–4047; AII Technologies, Inc., El Paso, TX: July 12, 1999.

NAFTA–TAA–04069; Alaria Medical Systems, Creedmoor, NC: August 9, 1999.

NAFTA–TAA–04055; Melvin Quilting, Rocky Mount, NC: July 31, 1999.

NAFTA–TAA–04004; MNCO, LLC, (Formerly McGuire-Nicholas Co., LLC), Commerce, CA: May 23, 1999.

NAFTA–TAA–04040; VF Workwear, Inc., Red Kap Industries, Dickson, TN: July 20, 1999.

NAFTA–TAA–04123; Eastman Kodak Co., Precision Plastics Tech Center, Rochester, NY: August 11, 1999.

I hereby certify that the aforementioned determinations were issued during the month of September, 2000. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 15, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–24421 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494), as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic areas indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, the following General Wage Determinations:

SD000028 See SD000027
SD000029 See SD000027
SD000030 See SD000027
SD000031 See SD000027
SD000032 See SD000027
SD000033 See SD000027
SD000034 See SD000027
SD000035 See SD000027
SD000036 See SD000027
SD000037 See SD000027
SD000038 See SD000027
SD000039 See SD000027
SD000040 See SD000027
SD000042 See SD000027
SD000043 See SD000027
SD000044 See SD000027

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office documented entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA000005 (Feb. 11, 2000)
PA000006 (Feb. 11, 2000)
PA000026 (Feb. 11, 2000)
PA000031 (Feb. 11, 2000)

Volume III

Florida
FL000017 (Feb. 11, 2000)
FL000032 (Feb. 11, 2000)
FL000096 (Feb. 11, 2000)
Georgia
GA000022 (Feb. 11, 2000)
GA000084 (Feb. 11, 2000)
Kentucky
KY000001 (Feb. 11, 2000)
KY000002 (Feb. 11, 2000)
KY000003 (Feb. 11, 2000)
KY000004 (Feb. 11, 2000)
KY000007 (Feb. 11, 2000)
KY000025 (Feb. 11, 2000)
KY000027 (Feb. 11, 2000)
KY000028 (Feb. 11, 2000)
KY000029 (Feb. 11, 2000)

Volume IV

Michigan
MI000060 (Feb. 11, 2000)
MI000062 (Feb. 11, 2000)
MI000063 (Feb. 11, 2000)
MI000066 (Feb. 11, 2000)
MI000069 (Feb. 11, 2000)
MI000070 (Feb. 11, 2000)
MI000071 (Feb. 11, 2000)
MI000072 (Feb. 11, 2000)
MI000073 (Feb. 11, 2000)
MI000074 (Feb. 11, 2000)
MI000075 (Feb. 11, 2000)
Ohio
OH000001 (Feb. 11, 2000)
OH000002 (Feb. 11, 2000)
OH000003 (Feb. 11, 2000)
OH000020 (Feb. 11, 2000)
OH000028 (Feb. 11, 2000)
OH000029 (Feb. 11, 2000)
OH000034 (Feb. 11, 2000)
Wisconsin
WI000068 (Feb. 11, 2000)

Volume V

Louisiana
LA000001 (Feb. 11, 2000)
LA000005 (Feb. 11, 2000)
LA000018 (Feb. 11, 2000)
LA000045 (Feb. 11, 2000)
LA000054 (Feb. 11, 2000)
Nebraska
NE000011 (Feb. 11, 2000)
Texas
TX000018 (Feb. 11, 2000)
TX000100 (Feb. 11, 2000)
TX000114 (Feb. 11, 2000)

Volume VI

Alaska
AK000001 (Feb. 11, 2000)
Idaho
ID000001 (Feb. 11, 2000)
South Dakota
SD000027 (Feb. 11, 2000)
Washington
WA000001 (Feb. 11, 2000)
WA000002 (Feb. 11, 2000)
WA000003 (Feb. 11, 2000)
WA000006 (Feb. 11, 2000)
WA000007 (Feb. 11, 2000)
WA000008 (Feb. 11, 2000)
WA000010 (Feb. 11, 2000)
WA000011 (Feb. 11, 2000)
Wyoming
WY000008 (Feb. 11, 2000)
WY000009 (Feb. 11, 2000)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 14th day of September 2000.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–24122 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0147(2000)]

Definition and Requirements for a Nationally Recognized Testing Laboratory; Extension of the Office of Management of Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the extension of the information-collection requirements contained in the regulation titled "Definition and Requirements for a Nationally Recognized Testing Laboratory" (29 CFR 1910.7).

Request for Comment

The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

DATES: Submit written comments on or before November 21, 2000.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0147 (2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Directorate of

Technical Support, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue, N.W., Washington, DC 20210, telephone: (202) 693–2110. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements specified by OSHA for becoming a nationally-recognized testing laboratory (29 CFR 1910.7) is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Bernard Pasquet at (202) 693–2110. For electronic copies of the ICR, contact OSHA on the Internet at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

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 information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necesssary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

A number of standards issued by the Occupational Safety and Health Administration (OSHA) contain requirements for equipment, products, or materials. These standards often specify that employers use only equipment, products, or material "tested" or "approved" by a "nationally recognized testing laboratory" (NRTL); this requirement ensures that employers use safe and efficacious equipment, products, or materials in complying with the standards. Accordingly, OSHA promulgated the regulation titled "Definitions and Requirements for a Nationally Recognized Testing Laboratory" (the "Regulation"). The Regulation specifies procedures that organizations must follow to apply for, and to maintain, OSHA's recognition to test and certify equipment, products, or material for this purpose.

As part of the recognition process, the Regulation requires that organizations seeking recognition submit an initial-recognition application to OSHA. The Agency reviews the information provided in the initial-recognition application to determine if an organization meets the qualification criteria specified in the Regulation. These criteria address an organization's capability to test and examine equipment, products, or material for safety (for example, fire or electrical safety). In this regard, the Agency evaluates an organization's facilities, equipment, staff training, written testing procedures, and calibration and quality-control programs necessary to test and examine equipment, products, and material for safety. If OSHA approves the initial-recognition application, it will recognize the organization as an NRTL for five years.

Once recognized, an NRTL may apply to expand its current recognition to cover additional categories of NRTL testing. To do so, an NRTL must submit an expansion-of-recognition application that provides the Agency with information demonstrating that it meets the testing criteria specified by the Regulation for these additional categories. An NRTL may also revise its testing procedures, such as testing methods or pass-fail criteria, provided the revisions are at least as effective as the prior testing procedures; OSHA reviews these revisions during the annual site visit to the NRTL.

To renew recognition for another five-year period, an NRTL must submit a renewal-of-recognition application to the Agency several months before the current recognition expires. OSHA may in some cases dispense with this renewal requirement provided the organization certifies its continuing compliance with the Regulation.

To ensure that NRTLs are meeting the requirements of the Regulation, the Agency attempts to conduct site visits (i.e., audits) at each NRTL annually. During these site visits, an NRTL provides OSHA with written information to evaluate its compliance with the requirements for recognition. These reviews also permit the Agency to determine if revisions to testing procedures made by NRTLs are at least as effective as the prior testing procedures. These site visits help to ensure that equipment, products, or material used by employers to comply with OSHA's standards are providing employees with the highest level of protection available.

II. Proposed Actions

OSHA proposes to extend OMB's approval of the collection-of-information (paperwork) requirements contained in the requirements for becoming a nationally-recognized testing laboratory. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirements.

Title: Definition and Requirements for a Nationally Recognized Testing Laboratory (29 CFR 1910.7).

OMB Number: 1218–0147.

Affected Public: Business or other for-profit organizations; Not-for-Profit institutions; State, Local or Tribal governments.

Number of Respondents: 58.

Frequency: On occasion.

Total Responses: 58.

Average Time per Response: 53 hours.

Estimated Total Burden Hours: 1,345 hours.

Estimated Cost (Operation and Maintenance): $0.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on September 12, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–23900 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10800, et al.]

Proposed Exemptions; The Masters, Mates and Pilots Pension Plan (the Pension Plan) and Individual Retirement Account Plan (the IRAP; Together, the Plans)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of

proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Masters, Mates and Pilots Pension Plan (the Pension Plan) and Individual Retirement Account Plan (the IRAP; together, the Plans), Located in Linthicum Heights, Maryland

[Application Nos. D–10800 and D–10801]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The transfer and sale by the Plans of their shares of stock (the AHL Stock or the Stock) in American Heavy Lift Shipping Company (AHL) to AHL Holdings, Inc. (AHL Holdings), in exchange for a note (the Note) from AHL Holdings to the Plans; (2) the holding of the Note by the Plans; (3) the guarantee (the Guarantee) of the Note to the Plans by AHL; (4) the continued holding of the AHL Stock by the Plans for the period from January 1, 1999 until the date of the sale of the Stock by the Plans to AHL Holdings; and (5) the holding by the Plans for a period of two years of any collateral, including the Stock, received by the Plans as a result of the exercise of their rights in the event of a default under the Note or under the Guarantee, provided that: (a) The Plans' independent fiduciary, Independent Fiduciary Services, Inc. (IFS), has determined that the transactions are appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; (b) the Plans' independent investment manager with respect to the Stock, Hellmold Associates, Inc. (HAI), negotiated the terms of the subject transactions with AHL Holdings and has made the decision for the Plans' to enter the subject transactions with AHL Holdings; (c) HAI continues to monitor the Plans' holding of the Note, determines at all times that such transaction remains in the best interests of the Plans and takes whatever actions are necessary to enforce the Plans' rights under the Note; (d) HAI has determined that the current fair market value of the Note is not less than the current fair market value of the Stock; and (e) HAI has determined that the proposed transactions have terms and conditions which are at least as favorable to the Plans as terms and conditions which would exist in similar transactions with unrelated parties.

EFFECTIVE DATE: With respect to the Plans' holding of the AHL Stock, this proposed exemption, if granted, will be effective from January 1, 1999 until the date of the sale of the Stock by the Plans to AHL Holdings; with respect to the sale of the AHL Stock by the Plans to AHL Holdings, this proposed exemption, if granted, will be effective the date of publication of the grant in the **Federal Register.**

Summary of Facts and Representations

1. The Pension Plan is a defined benefit plan that currently has approximately 5,026 participants. As of December 31, 1998, the Pension Plan had approximately $797,144,611 in assets. The IRAP is a defined contribution plan that currently has approximately 3,959 participants. As of December 31, 1998, the IRAP had approximately $163,618,557 in assets. The Plans principally cover members of the International Organization of Masters, Mates and Pilots (the Union).

2. IFS is a registered investment advisor which serves as the Named Fiduciary for the Special Assets Portfolio of the Plans. The Special Assets Portfolio consists of various venture capital and other non-liquid investments which were made by a former investment manager of the Plans, Tower Asset Management, Inc. (Tower), and which were the subject of protracted litigation (the Litigation) between the Department, Tower, the Plans and certain of their trustees, and certain plan participants.[1] The Litigation ultimately was settled pursuant to Court Order entered by the United States District Court for the Southern District of New York (the Court).

[1] *In re Masters, Mates and Pilots Pension Plan and IRAP Litigation, Lead File No. 85 Civ. 9545 (VLB) (S.D.N.Y.)*

3. In the course of the Litigation, IFS [2] was appointed Named Fiduciary for the Plans' Special Assets Portfolio by Court Order dated September 18, 1990 (the Court Order). IFS assumed its responsibilities on November 8, 1990. The Court Order provided that the Named Fiduciary, rather than the Plans' trustees, has the "* * * sole, exclusive, full and complete authority and discretion concerning the control, management and disposition of the Special Assets Portfolio."

4. Since February, 1987, the Plans have each owned 45 shares of the Stock, which Stock represents all of the outstanding shares of AHL. AHL is a Delaware corporation, headquartered in New Orleans, Louisiana, that is engaged in the shipping industry. Its principal assets consist of four double-hulled tankers, built in the 1950's as single-hulled ships and converted to double-hulled beginning in 1995 to comply with Federal law, that are used primarily for the transportation of petroleum products in the Jones Act trade (*i.e.,* American-flagged tankers in the domestic intra-coastal trade). The Plans' Stock can be traced back to certain prior investments made by Tower and is held in the Plans' Special Assets Portfolio, along with the Plans' other remaining Tower-initiated investments.

5. In connection with the double-hulling of the ships, AHL assumed significant long-term debt. AHL issued $125 million U.S. Government Ship Financing Bonds on May 12, 1995. AHL sold an additional $23.7 million U.S. Government Ship Financing Bonds on December 18, 1996. Proceeds from the sales of bonds were deposited with the U.S. Treasury and may be used for ship construction pursuant to Title XI of the Merchant Marine Act. AHL was required to pay the following minimum amounts through sinking fund deposits:

1998—$3,326,000
1999—$3,568,000
2000—$3,827,000
2001—$4,104,000
Thereafter—$132,302,000

In addition to this $148.7 million of debt (the MARAD Loans), AHL also borrowed $3.35 million from Avondale Industries, Inc. (the Avondale Loan), one of the nation's leading shipbuilding companies. This amount, together with interest at approximately 7.5%, is due to be repaid in 20 years or earlier under certain circumstances if cash flow, as defined, exceeds certain minimum amounts. The payment of principal and interest is secured by a second mortgage on AHL's ships. No payments are anticipated to be due in the next five years.

6. Since AHL is an employer of employees covered under the Plans, the AHL Stock constitutes employer securities under section 407(d)(1) of the Act. The applicants represent that the Stock constituted qualifying employer securities within the meaning of section 407(d)(5) of the Act at the time of its acquisition, but as of January 1, 1993, the AHL Stock may have ceased to be a qualifying employer security because the Stock is wholly-owned by the Plans and thus may not meet the requirements of section 407(f) of the Act. However, the applicants state that the Plans' continued holding of the Stock was exempt from the prohibited transaction restrictions of the Act pursuant to Prohibited Transaction Class Exemption No. 79–15 (44 FR 26979, May 8, 1979) as a result of a court order, dated November 2, 1992, entered in the Litigation (the PTE 79–15 Order). Under the terms of the PTE 79–15 Order, this exemption was effective until the later of: (a) December 31, 1993; or (b) December 31, 1994, provided the Plans made application to the Department for an exemption to permit the continued holding of the Stock. The Plans did file a request for an exemption in timely fashion, and thus the exemption provided under the PTE 79–15 Order was automatically extended to December 31, 1994. On December 19, 1994, the Department granted Prohibited Transaction Exemption 94–85 (PTE 94–85; 59 FR 65403), which continued the exemption for the holding of the Stock by the Plans until the later of: (a) December 31, 1995, or (b) December 31, 1996, provided another application for exemption was filed with the Department prior to December 31, 1995. Another exemption application was filed prior to December 31, 1995, so that PTE 94–85 remained effective until December 31, 1996. On October 2, 1996, the Department granted Prohibited Transaction Exemption 96–73 (61 FR 51463), which continued the exemption for the holding of the Stock by the Plans until the later of: (a) December 31, 1997, or (b) December 31, 1998, provided another application for exemption was filed with the Department prior to December 31, 1997. Another exemption application was filed on October 15, 1997, so that PTE 96–73 remained in effect until December 31, 1998. That application was later withdrawn, and a revised application was filed on August 13, 1999. The applicant has requested that the exemption proposed herein be made retroactive to January 1, 1999 with respect to the holding of the Stock by the Plans.

7. While IFS, in its capacity as Named Fiduciary, has ultimate investment management responsibility for the Special Assets Portfolio, it does not exercise investment management discretion over the portfolio's assets on a day-to-day basis. Rather, as contemplated by the Court Order, responsibility for the day-to-day management and supervision of the portfolio's assets has been delegated at all times to independent investment managers selected by IFS. With respect to the Plans' investment in the Stock, such responsibility was first delegated to Sunwestern Advisors, L.P. (Sunwestern), which served as the investment manager for this investment until July 14, 1992. Effective that date, Sunwestern's responsibilities were assumed by a new investment manager, Potomac Asset Management, Inc. (Potomac). On October 15, 1996, IFS appointed HAI as the investment manager for certain investments of the Plans, including the AHL Stock. HAI continues to serve in that capacity.

8. HAI is a private investment banking firm offering financial advisory services and investment management services. HAI has specialized in working with troubled companies or their creditors to raise capital, divest businesses and restructure liabilities, whether in or outside bankruptcy. HAI is also the general partner of a hedge fund that invests primarily in the securities of distressed companies. HAI is registered with the Securities and Exchange Commission as an investment advisor and broker/dealer. HAI is located in New York, New York. Since its retention, HAI has devoted substantial time and effort to developing a thorough understanding of AHL's business and financial condition. As required by the terms of its engagement, HAI has provided IFS with quarterly reviews of AHL's financial results and operations, including the status of ships under construction, charter status, and the status of collective bargaining negotiations, including negotiations involving the transaction which is the subject of this proposed exemption.

9. The applicants have requested an exemption that would permit the Plans to sell their AHL Stock to AHL Holdings. Subsequently, all of the shares of AHL Holdings (Holdings Stock) will be acquired by a newly created ESOP to be established by AHL. The ESOP is represented by the ESOP Committee. The ESOP Committee is a five-person ad hoc committee of AHL employees represented by the Union.

[2] IFS was then known as "Bear Stearns Fiduciary Services, Inc."

The ESOP Committee has functioned as an advisory group to the Union and its advisors in connection with the collective bargaining negotiations that resulted in the proposed transaction.[3]

10. In connection with the transaction involving the transfer of the AHL Stock, the Union and AHL have adopted a new conditional eight-year collective bargaining agreement (CBA), which took effect in part on September 1, 1997, and will take effect in full upon the closing of the proposed transaction. The new CBA provides for a 7.5% reduction in base wages and vacation pay by Union members, certain benefit concessions and a reduction in crew size. On August 31, 2002, the wage rate reductions and other benefit modifications (the CBA Concessions) to the CBA adopted pursuant to agreement between the Union and AHL will be terminated and certain wages and benefit provisions will be restored to their 1996 levels. In addition, AHL will continue to benefit from certain productivity improvements in the new agreement.

According to AHL and the Union, the modifications to the CBA would reduce AHL's actual cash compensation costs by more than $1,500 per day, per ship—or more than seventeen percent of AHL's actual cash compensation costs under the prior collective bargaining agreement—for a period through August 31, 2002. The net present value of these proposed contractual reductions in wages, staffing and pension contributions and benefits over five years, as estimated by AHL and the Union, exceeds $7.7 million.

11. AHL Holdings will issue the Note to the Plans in exchange for the Stock.[4] The Note will have a six-year term and a stated principal value of $6.9 million. The Note will have an interest rate of nine percent for the initial three years and ten percent for the remaining three years. The interest will be payable semi-annually (with a total of twelve interest payments), but the first six semi-annual interest payments will be "payable in kind", *i.e.*, accrued and added to the principal amount of the Note. A single $2.5 million payment will be due on the fifth anniversary of the date of issuance of the Note, and the remaining principal balance will be due at the conclusion of the six-year term.

Principal may be pre-paid at any time, without penalty. In order to provide an incentive for the repayment of principal, in the event that at least $250,000 of principal is prepaid in cash at one time, the final principal payment will be reduced by an amount calculated in accordance with the following formula:

(1+R/2) to the Y power times the Prepayment Amount

Where

Y=Number of semi-annual periods until maturity.

R=Semi-Annually Compounded Discount Rate.

If the Prepayment Amount is between $250,000—$499,999, the Annual Discount Rate is 8.00% and the Semi-Annually Compounded Discount Rate is 7.85%.

If the Prepayment Amount is between $500,000—$749,999, then the Annual Discount Rate is 12.00% and the Semi-Annually Compounded Discount Rate is 11.66%.

If the Prepayment Amount is between $750,000—$999,999, the Annual Discount Rate is 15.00% and the Semi-Annually Compounded Discount Rate is 14.48%.

If the Prepayment Amount is $1,000,000 or more, the Annual Discount Rate is 17.50% and the Semi-Annually Compounded Discount Rate is 16.79%.

If more than one prepayment is made, subsequent prepayments are entitled to be calculated at the larger discount rate applicable to the cumulative amount of prepayments made.

The applicant represents that the prepayment formula results in a lesser discount the closer the prepayment is to the Note's maturity. Additionally, aside from the prepayment dollar amounts, different discount rates have been assigned to different size prepayments, so that the greater the prepayment, the greater the reduction in principal. Therefore, a prepayment received sooner rather than later will result in a greater discount from principal, and a larger prepayment will also obtain a greater discount than a smaller one. As an example, a $500,000 prepayment made as soon as the Note is issued will result in a reduction of $986,910 from the final principal payment six years later. In contrast, a $500,000 prepayment made in the third year of the six-year Note will only result in a reduction of $702,460 from the final principal payment.

The Note given by AHL Holdings will be secured by: (1) A pledge of all of the AHL Stock, none of which will be released until the Note is paid in full; (2) the Guarantee of AHL, subordinated to AHL's obligations under the MARAD and Avondale Loans; (3) a pledge of the cash in an escrow account to be established for all wage increases under the collective bargaining agreement beginning March 1, 2003, none of which will be released until the Note is paid in full; and (4) if practicable, a third mortgage on AHL's assets, subordinated to the MARAD and Avondale Loans. AHL will periodically provide the Plans with certain confidential financial information. Effective as of the date of the closing of the transaction, AHL's Board of Directors (the AHL Board) will consist of seven members, one of whom will be designated by HAI (acting as investment manager for the Plans), two of whom will be selected by the ESOP Committee and the Union (the Employee Directors), and one of whom will be designated by AHL (the Management Director). There will be three independent directors who will be jointly selected by the Employee Directors and the Management Director. On the date the Plans receive their first cash payment under the terms of the Note (*i.e.*, $893,000), HAI's power to designate a member of the AHL Board will end. HAI will have the power to designate (on behalf of the Plans) one director of AHL Holdings until the Note is fully repaid. The ESOP, as 100% shareholder of AHL Holdings, will elect the rest of AHL Holdings' Board. The applicant represents that by requiring at least one director to be elected by the Plans, and further precluding (1) the

[3] In this regard, the applicant states that the acquisition of the Holdings Stock by the ESOP will be covered by the statutory exemption available under section 408(e) of the Act, because the Holdings Stock is considered "qualifying employer securities" pursuant to section 407(d)(5) of the Act. The Department is providing no opinion in this proposed exemption as to whether the acquisition and holding by the ESOP of Holdings Stock would be covered by section 408(e) of the Act and the regulations thereunder. In addition, the Department is not providing any relief herein for any transactions by the ESOP involving the Holdings Stock.

[4] The Department wishes to note that ERISA's general standards of fiduciary conduct would apply to the proposed acquisition and holding of the Note by the Plans and the proposed acquisition and holding of the Stock by the ESOP, and that satisfaction of the conditions of this proposal should not be viewed as an endorsement of the investments by the Department. Section 404(a) of the Act requires, among other things, that a plan fiduciary discharge his duties with respect to a plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion. Accordingly, the plan fiduciary must act prudently with respect to the decision to enter into an investment transaction. The Department further emphasizes that it expects the plan fiduciary to fully understand the benefits and risks associated with engaging in a specific type of investment, following disclosure to such fiduciary of all relevant information. In addition, such plan fiduciary must be capable, either directly or indirectly through the use of hired professional experts, of monitoring the investment, including any changes in the value of the investment. Thus, in considering an investment, a fiduciary should take into account its ability to provide adequate oversight of the particular investment.

The Department also wishes to note that it reserves the right to investigate and take any other action with respect to the transaction which is the subject of the proposed exemption.

incurrence of any debt, (2) any bankruptcy filing, or (3) any amendment to its Articles without the unanimous consent of the AHL Holdings Board (and therefore of the Plans' director), the ESOP cannot abrogate AHL Holdings' requirement to repay the Note to the Plans in full, or return ownership of 100% of AHL to the Plans upon any default under the Note.

Certain extraordinary actions cannot be taken by AHL without the affirmative vote of at least 6 of the 7 directors of AHL, including: A merger, consolidation or combination of AHL with another person or entity; any aggregate investment of $1 million in another person or entity in the maritime shipping business; a sale or issuance of stock or other equity securities which would give another person or entity more than 35% of AHL's common stock on a fully diluted basis, except for issuances necessary to permit AHL to avoid bankruptcy or repossession of AHL vessels; a sale, lease, transfer or disposition of more than 32% of AHL's assets, subject to certain exceptions; the appointment of a new CEO; or certain other changes relating to the composition, removal, replacement, committee structure, or consensus provisions of the AHL Board.

The AHL Holdings Articles of Incorporation will provide that AHL Holdings may not: (1) Incur any new debt; (2) declare voluntary bankruptcy; or (3) amend its Articles, without the unanimous consent of the AHL Holdings Board.

12. The applicants represent that AHL Holdings and AHL will be motivated to make payments on the Note in a full and timely fashion. The Note will default if AHL Holdings fails to make a required cash interest payment for any single payment period. In the event of default, AHL Holdings will have 45 days to cure the default. If AHL Holdings does not cure the default within 45 days, the holders of the Note will enjoy standard public debt provisions with respect to events of default. In addition, the Notes will contain cross-default provisions with respect to the covenants of AHL contained in the Guarantee.[5] These public debt provisions include approximately 25 affirmative and negative covenants made by AHL which, if violated, would trigger a default on the Note. The affirmative covenants include covenants to: Make timely payments of principal and interest on the Note; to maintain a principal office in New Orleans; to keep proper books and records in accordance with GAAP (*i.e.*, generally accepted accounting principles); to properly pay all taxes; to keep AHL's properties and assets in good condition, repair and working order; to comply with all applicable laws and government rules and regulations; to maintain sufficient insurance; to render periodic financial statements; and to notify the Plans of any material adverse changes in the business, affairs or financial condition of AHL. The negative covenants include prohibitions on: The acquisition of significant assets in the ordinary course of business; the redemption of outstanding stock; the incurrence of indebtedness except for tax liabilities; the incurrence of any liens except permitted liens and obligations included in the ordinary course of business; the declaration of dividends in cash or in stock; the guaranty of any third party obligations; the dissolution, sale, consolidation or merger of AHL; transactions with affiliated persons on terms less favorable than comparable transactions with non-affiliates; investments or loans to any other company; and the sale and leaseback of assets in excess of $250,000.

In the event of default, the Plans will be in a position to foreclose on the pledged AHL Stock[6] and to demand payment from AHL under its Guarantee. Events of default include the falsity of any representation or warranty in any material respect given; a payment default; failure to observe or perform any affirmative or negative covenant which continues unremedied for more than 30 days after written notice thereof; a default under the MARAD Loan (see rep. 5, above) documents (*i.e.*, cross-default with MARAD) unless such default is waived by MARAD; the suspension or discontinuance of business by AHL or the commencement of any bankruptcy or similar proceeding by or against AHL; the entry of an order, judgment or decree of dissolution of AHL; the entry of a money judgment against AHL in excess of $500,000 that has not been stayed pending appeal; if any of the operative documents should be declared unenforceable; and finally, if the Internal Revenue Service determines that the ESOP does not qualify under section 4975(e)(7) of the Code. If AHL was forced into bankruptcy for nonperformance, the Plans' unsecured claim (as a creditor) against the estate would be superior to the claims of all other equity holders. AHL will provide the Plans with the Guarantee, which will contain covenants and events of default identical in form to the covenants and events of default contained in subordinated public debt, because the Note will be subordinated to all of AHL's funded indebtedness.

13. HAI has reviewed the proposed transactions and made a determination that they are appropriate for the Plans and in the best interests of their participants and beneficiaries. HAI represents that, under the CBA in effect prior to September 1, 1997, the labor costs of AHL were too high for AHL to be profitable or even survive. As a part of the collective bargaining process, the Union recognized that cost concessions were necessary and agreed to put them into effect in return for the proposed ESOP transaction. In connection with the CBA signed on September 1, 1997 (see rep. 10, above), certain of the new labor contract cost savings were implemented as of that date, resulting in escrowed cash savings of $2,148,400 as of October 31, 1999. If the subject proposed transaction were not to take effect, AHL would be required to return these amounts, which it would not be financially capable of doing. Therefore, failure to approve the proposed ESOP transaction could render AHL insolvent.

HAI further represents that because of its belief that AHL could not be profitable and service its debt when due without these CBA Concessions, and because the Union refused to make such cost concessions to any third party, it was not possible to attempt to sell AHL as a going concern to anyone other than the ESOP.

14. HAI completed a financial evaluation of AHL as of December 31, 1997, and represents that, as of December 31, 1999, there has been no material change in the financial condition of AHL. HAI represents that AHL could be liquidated, but given the extremely large debt load incurred to convert AHL's four ships to double-hull (*i.e.*, the MARAD Loan and the Avondale Loan; see Rep. 5, above), and because of the provision in the CBA that obligates AHL to make a payment to the Union of $2.5 million if it sells its four ships and Union members are not employed thereon, it is extremely unlikely that, if AHL were liquidated, there would be any net value remaining to the AHL Stock owned by the Plans. HAI has calculated that a one-year

[5] If AHL Holdings defaults on its obligations on the Note, AHL must meet its obligations under the Guarantee. AHL Holdings may not incur any additional debt (see rep. 11, above). If AHL defaults on any of its obligations, then AHL Holding's Note will also be in default (by virtue of the cross-default provision).

[6] If the Plans were to foreclose on the pledged Stock, the Plans' subsequent holding of that Stock could create the same prohibited transactions for which PTEs 94–85 and 96–73 were granted. Thus, the applicants have requested that should this scenario arise, the exemption proposed herein would permit the Plans to hold such Stock for a period of two years after the foreclosure.

bankruptcy and liquidation process, including shut-down, marketing and legal expenses estimated at $3 million, would likely produce a negative $3.1 million equity value for the Plans if the MARAD Loan were to be paid off at face, with no accrued interest. If the MARAD Loan had to be repurchased at the 106% premium called for in its indenture, the equity value for the Plans would be a negative $12 million. HAI's analysis assumed that a third party would pay as much for the AHL ships, with their old engine rooms, as for a completely new ship. HAI represents that the likelihood is that the actual recoveries would be substantially lower than those described above, and would certainly leave no value for the AHL Stock. Thus, HAI believes there would be no value remaining to the Plans' ownership of the Stock in the event of a liquidation of AHL. HAI has concluded, accordingly, that if the subject transaction does not take place, the likely value of the AHL Stock is zero. If the transaction were to take place, HAI has concluded that the net present value of the AHL Stock is equal to the net present value of the Note to be received. Using 10% to 15% as the appropriate discount rates, HAI has estimated the present value of the Note to be in the range of $5.2 to $6.1 million.

15. IFS represents that, based upon its own analysis of the situation and continuing close evaluation of HAI's activities as investment manager, it believes that the Plans' equity investment in AHL is in dire circumstances. Although IFS recognizes that the proposed sale of the Stock is not ideal (largely because of the seller financing), IFS strongly believes that it is preferable to the only other alternative, which is bankruptcy. IFS represents that absent completion of the proposed transaction, the Plans' equity interest is likely to be worth little or nothing. By contrast, with the transaction, (a) AHL's cost structure (and thus, its only chance for survival) will improve dramatically, and (b) the Plans will exchange an equity security for a fixed income instrument, thus gaining a priority position in the event of AHL's bankruptcy. In short, IFS represents that without the transaction, the Plans' equity investment in AHL is in severe jeopardy, but with the improved protections including the Guarantee and the escrow, the Plans will be in a superior position as a debtholder in a more viable company.

16. Arthur Anderson LLP (AA), an independent accounting firm, has reviewed the balance sheets and income statements of AHL as of June 30, 1999. AA, in a report dated September 2, 1999, has opined that "if the cost savings and the resulting funds [from the ESOP transaction] are not realized in the full amount and on the schedule contemplated, [AHL] may not be able to meet its obligations timely", and that "[t]he uncertainties related to these matters raise substantial doubt about [AHL]'s ability to continue as a going concern."

17. The ESOP Committee also represents that it believes the subject transactions are necessary to prevent the insolvency of AHL. The ESOP Committee reached this conclusion after extremely extensive negotiations with the Plans, in which it exerted every effort to achieve the best deal it could. In acquiring AHL Holdings, the ESOP is in essence acquiring the possibility that AHL will become profitable again. There is risk in this transaction, particularly given AHL's recent financial performance. However, there is also the possibility that the investment in AHL Stock by AHL Holdings will be profitable, which in turn will make the value of Holdings Stock pay off for the ESOP participants.

18. In summary, the applicant represents that the proposed transactions satisfy the criteria contained in section 408(a) of the Act because: (a) The Plans' independent investment manager, HAI, has determined that the transactions are appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; (b) HAI has made this determination based upon its finding that if AHL were to be liquidated, it is unlikely that there would be any value remaining to the Plans' ownership of the Stock; (c) AA, the independent accountant for AHL, concurs in the opinion that if the proposed transactions are not consummated, there is substantial doubt about AHL's ability to meet its obligations and to continue as a going concern; (d) IFS, the Plans' independent fiduciary, has also determined that the transactions are appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; (e) HAI, the Plans' independent investment manager, will continue to monitor the Plans' holding of the Note, determine at all times that such transaction remains in the best interests of the Plans and take whatever actions are necessary to enforce the Plans' rights under the Note; and (f) the ESOP Committee has determined that the transaction is in the best interests of the AHL employees who will become ESOP participants.

Notice To Interested Persons

The applicant represents that the notice to interested persons required by 29 CFR 2570.43 will be effected by publication of a copy of this notice of proposed exemption and the required supplemental statement in *The Master, Mate and Pilot*. This publication is a newspaper published by the Union and is received by participants and beneficiaries of the Plans, including retirees. The notice will be published within 30 days of the publication of this notice of proposed exemption in the **Federal Register**. Comments and requests for a public hearing are due within 60 days of the publication of this notice of proposed exemption in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

John L. Rust Co. Profit Sharing Plan (the Plan), Located in Albuquerque, New Mexico

[Application No. D–10877]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed purchases by the Plan of certain leases of equipment (the Leases) from John L. Rust Co. (Rust), the Plan sponsor and a party in interest with respect to the Plan, and (2) the agreement by Rust to indemnify the Plan against any loss relating to the Leases and also to repurchase any Leases that are in default in accordance with paragraph (E) below, provided that the following conditions are met:

A. Any sale of Leases to the Plan is on terms at least as favorable to the Plan as an arm's length transaction with an unrelated third party.

B. Subsequent to the date of publication of the proposed exemption, the acquisition of a Lease from Rust shall not cause the Plan to hold immediately following the acquisition (1) more than 25% of the current value (as that term is defined in section 3(26)

of the Act)[7] of Plan assets in customer notes (Notes) and Leases sold by Rust or (2) more than 10% of Plan assets in the aggregate of Leases with and Notes of any one entity.

C. Prior to the purchase of each Lease, an independent, qualified fiduciary determines that the purchase is appropriate and suitable for the Plan and that any Lease purchase is a fair market value transaction.

D. The independent fiduciary, on behalf of the Plan, monitors the terms of the Leases and the exemption and take whatever action is necessary to enforce the rights of the Plan.

E. Upon default by the lessee on any payment due under a Lease, Rust repurchases the Lease from the Plan at the payout value[8] as of the date of the default, without discount, and indemnifies the Plan for any loss suffered. The occurrence of any of the following events shall be considered events of default for purposes of this section: (1) The lessee's failure to pay any amounts due hereunder within five days after receipt of written notice from the Plan's independent fiduciary, or the lessee's failure to pay any amounts due hereunder within 30 days after payment becomes past due, if earlier; (2) the lessee's failure to perform any other obligation under this agreement within ten days of receipt of written notice from the Plan's independent fiduciary; (3) abandonment of the equipment by the lessee; (4) the lessee's cessation of business; (5) the commencement of any proceeding in bankruptcy, receivership or insolvency or assignment for the benefit of creditors by the lessee; (6) false representation by the lessee as to its credit or financial standing; (7) attachment or execution levied on lessee's property; or (8) use of the equipment by third parties without lessor's prior written consent.

F. The Plan receives adequate security for the Lease. For purposes of this exemption, the term adequate security means that the Lease is secured by a perfected security interest in the leased property which will name the Plan as the secured party.

G. Insurance against loss or damage to the leased property from fire or other hazards is procured and maintained by the lessee and the proceeds from such insurance is assigned to the Plan.

H. The Plan maintains for the duration of any Lease which is sold to the Plan pursuant to this exemption, records necessary to determine whether the conditions of this exemption have been met. The Plan continues to maintain the records for a period of six years following the expiration of the Lease or the disposition by the Plan of the Lease. The records referred to above must be unconditionally available at their customary location for examination, for purposes reasonably related to protecting rights under the Plan, during normal business hours by the Internal Revenue Service, the Department, Plan participants, any employee organization any of whose members are covered by the Plan, or any duly authorized employee or representative of the above described persons.

Temporary Nature of Exemption

Effective Dates: The proposed exemption, if granted, will be temporary and will be effective from September 21, 2000 through September 21, 2005 with respect to the Plan's future purchases of Leases. The Plan may hold the Leases acquired pursuant to the terms of the exemption subsequent to the end of the five year period.

Summary of Facts And Representations

1. The Plan is a profit sharing plan which currently has 502 participants and assets with an approximate aggregate fair market value of $34,303,504. Rust, which does business as "Rust Tractor Co." in Albuquerque, New Mexico, is in the business of selling heavy construction equipment. The Plan's trustee is Wells Fargo Bank New Mexico, N.A. (the Bank).

2. On April 3, 1985, the Department published Prohibited Transaction Class Exemption 85–68 (PTE 85–68, 50 FR 13293) which permits, under certain conditions, a plan to purchase and hold customer notes from an employer of employees covered by the plan. The applicant represents that the Plan has acquired and held many such customer notes (*i.e.*, the Notes) from Rust since 1985 in compliance with the terms and conditions of PTE 85–68.[9]

3. In addition to the Notes, the Plan also acquired from Rust, from December 30, 1985 through September 21, 1995, approximately 76 Leases. These Leases are secured leases which were accepted by Rust in the normal course of its primary business activity as the seller of heavy construction equipment. The Leases involve equipment which is leased to third parties. The applicant represents that the Plan acquired the Leases from Rust in the belief that such transactions were also covered by PTE 85–68. When the applicant realized that the Leases might not be exempt under PTE 85–68, it requested retroactive relief from the Department with respect to the Plan's past acquisition of such Leases, and also requested an exemption to permit the Plan to purchase additional Leases from Rust over a five year period. The Department granted the requested relief in PTE 95–87 (60 FR 49010, September 21, 1995).

4. The applicant represents that, since the issuance of PTE 95–87, the Plan has acquired from Rust approximately 50 Leases. The applicant now requests prospective relief for an additional five (5) years, upon the expiration of PTE 95–87 on September 21, 2000.

5. The applicant represents that each of the transactions involving the Plan's acquisition of the Leases would have satisfied the conditions of PTE 85–68 (*i.e.*, the class exemption for customer notes), but for the fact that these were Leases and not Notes. The applicant further represents that the conditions of PTE 95–87 (*i.e.*, the current individual exemption for Leases) have been satisfied and will continue to be satisfied with respect to future purchases by the Plan of Leases. The applicant specifies that the conditions of PTE 95–87 have been satisfied in the following manner:

(a) Prior to the purchase of any Lease, the transaction has been reviewed by Mr. Charles R. Seward, C.P.A., an independent certified public accountant who is the Plan's independent fiduciary with respect to this series of transactions. Mr. Seward performs no other services for either Rust or the Plan. On-going review of the performance of the customer-obligor is performed by the Bank, the Plan's independent trustee. In the event that a default in payment occurs, Rust is notified by the Bank and an immediate repurchase is effected for cash;

(b) The transactions have been on terms at least as favorable to the Plan as an arm's-length transaction with an unrelated party. The Plan's independent fiduciary, Mr. Seward, has represented that each transaction that he has approved for the Plan involving a Note or Lease has been in the best interests of the Plan and its participants. Mr. Seward further represents that each such transaction has been for a price and on terms and conditions no less favorable to the Plan, and in many

[7] According to section 3(26) of the Act, the term "current Value" means fair market value where available and otherwise the fair market value as determined in good faith by a trustee or a named fiduciary pursuant to the terms of the plan and in accordance with regulations of the Secretary [of Labor], assuming an orderly liquidation at the time of such determination.

[8] "Payout value" of a Lease is defined as the price that the lessee would pay at any point in time to obtain title to the leased property.

[9] In this proposed exemption, the Department expresses no opinion with respect to the applicability of PTE 85–68 to the Plan's acquisition and holding of such Notes.

respects more favorable, than such transactions have in the past been engaged in between Rust and third party financial institutions. Mr. Seward represents that due to the high rate of return on these Notes/Leases, they are excellent investments which bear no risk of loss since Rust has guaranteed the repurchase of any Note/Lease which might default;

(c) At no time has the value of the Notes/Leases held by the Plan approached 50% of the Plan's assets. In accordance with PTE 95–87, less than 25% of the Plan assets has been and will be involved in these transactions. As of December 31, 1999, the Notes/Leases comprised only 4.1% of the Plan's assets. At no time have the Notes/Leases of any one customer exceeded 10% of the Plan's assets. With respect to Notes and Leases acquired by the Plan subsequent to the publication of this proposed exemption, the applicant represents that the value of such Notes and Leases in the aggregate will constitute no more than 25% of the total value of Plan assets. At no time will the Notes/Leases of any one customer exceed 10% of the Plan's assets.

(d) Rust will continue to guarantee immediate repayment of any defaulted obligation. The applicant represents that there have been zero defaults of the Leases since the issuance of PTE 95–87;

(e) The Plan will continue to receive a perfected security interest in the tangible personal property purchased from Rust in return for the Note/Lease;

(f) The obligor is required to insure the collateral against fire and other hazards; and

(g) None of the terms of the Notes/Leases will extend beyond the 60 month period applicable to Notes secured by heavy equipment.

6. The applicant represents that the Leases create essentially the same risk and obligations on the parties as a sale transaction, and thus pose no greater risk of loss to the Plan than in the case of the acquisition of a Note which is subject to PTE 85–68. To date, the Plan has suffered no loss on any of the subject Lease transactions. Before entering into either a Note or Lease, Rust performs the same type of due diligence and requests the same type of financial information from the prospective purchaser/lessee. The agreements governing the transactions are very similar in that:

(a) Both transactions provide for monthly installments to pay for the use and possession of the equipment;

(b) Financing statements are filed by Rust in connection with both transactions;

(c) Upon default, Rust may accelerate the lessee/purchaser's obligations and immediately regain possession of the subject equipment;

(d) In the event of default under either transaction, Rust is entitled to its enforcement costs, including reasonable attorneys' fees;

(e) Both types of transactions contain warranty disclaimers and sell/lease the subject equipment "AS IS WHERE IS" with no express or implied warranties except the pass-through of the manufacturer's warranties;

(f) When either a Note or a Lease is sold to the Plan, an identical form of guarantee is executed by Rust in favor of the Plan as required by PTE 85–68. In the few transactions involving Notes sold to the Plan which have gone into default (prior to the issuance by the Department of PTE 95–87), Rust has performed under its guarantees and the Plan has suffered no loss;

(g) Under New Mexico law, there is no practical difference in the rights and obligations of Rust between the subject Lease transactions and sales transactions involving Notes. The essential terms and conditions of the two types of transactions are identical.

7. In summary, the applicant represents that the proposed sales of the Leases by the Employer to the Plan will meet the requirements of section 408(a) of the Act, because: (a) The sales will be limited to a five year period and will be limited to 25% of Plan assets, with the additional condition that no more than 10% of Plan assets can be invested in the Leases or Notes of any one customer; (b) the decision to purchase a Lease will be made by Mr. Seward acting as independent fiduciary for the Plan, and the customer/obligor's performance under the Lease will be monitored by Mr. Seward and the Bank on behalf of the Plan; (c) perfected security interests will be filed on the equipment related to each Lease; and (d) Rust will agree to indemnify the Plan against any loss related to the Leases and to repurchase any Leases that are in default.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Richard E. Lobenherz Profit Sharing Plan (the Plan), Located in Charlevoix, Michigan

[Application No. D–10895]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of certain unimproved real property (the Land) by the Plan to Richard E. Lobenherz (Mr. Lobenherz), a disqualified person with respect to the Plan,[10] provided that the following conditions are satisfied:

(a) The proposed sale will be a one-time transaction for cash;

(b) The Plan will receive the current fair market value for the Land established at the time of the sale by a qualified, independent appraiser;

(c) The Plan will pay no real estate expenses or commissions associated with the sale; and

(d) The sale will provide the Plan with greater liquidity and further diversification of the Plan's assets.

Summary of Facts and Representations

1. The Plan, which was originally known as the "Richard E. Lobenherz Keogh Plan" (the Keogh Plan), was established on April 5, 1986 by Mr. Lobenherz, who was the sole sponsor, trustee and participant. In 1991, the Keogh Plan was converted and restated as the current Plan. At the time of conversion, Mr. Lobenherz flied an application with the Internal Revenue Service (the Service) and subsequently obtained a Favorable Determination Letter from the Service with respect to the qualifications of the current Plan.

2. As of December 31, 1999, the Plan had $786,209 in net assets available for benefits. Mr. Lobenherz is the sponsor, trustee, and the only participant in the Plan. He is also a sole proprietor, who is an independent contractor and real estate broker licensed in the State of Michigan. Recently, Mr. Lobenherz retained an independent party, Citizens Bank and Trust (CBT) of Saginaw, Michigan, to serve as the Plan's custodian, trustee and investment manager.

3. In May of 1998, the Plan purchased the Land from the Bruce K. Shanahan Trust, an unrelated third party, for $60,000 in cash. The Land was acquired by the Plan for capital appreciation purposes and it was considered by Mr. Lobenherz to be a good long-term investment. The Land consists of approximately 80 acres of vacant

[10] Because Mr. Lobenherz is the sole owner of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

agricultural land that is located in Hayes Township, Charlevoix County, Michigan. The Land is legally described as:

"That portion of the west ½ of the northwest ¼ of Section 17, Town 34 North, Range 7 West, lying North of U.S.-31, and also; that part of the Northwest ¼ of the Southwest ¼ of Section 17, Town 34 North, Range 7 West, lying north of Highway U.S.-31."

The Land is adjacent to Big Rock Nuclear Power Plant, which is presently in the second year of a five year decommissions program, and the Charlevoix Country Club (the Club), of which Mr. Lobenherz is a 15% shareholder.[11] At the time of purchase, the Land represented approximately 15% of the Plan's total assets. As of December 31, 1999, the Land represented approximately 8.9% of the total value of the Plan's assets.

4. The applicant represents that the Land has not produced any income since it was acquired by the Plan. In addition, the applicant states that the Land has not been used by or leased to anyone, including disqualified persons. Furthermore, the Plan has paid aggregate real estate taxes for the Land in the total amount of $3,112.45. The Plan also paid $300 for one appraisal, which was dated February 8, 2000 (the Appraisal), as discussed below. Therefore, the Plan's total acquisition and holding costs in connection with its ownership of the Land is $63,412.45.

5. The Land was appraised as of February 8, 2000 (*i.e.*, the Appraisal), by A. Kenneth Smith (Mr. Smith), GRI, who is an independent state certified real estate appraiser in the State of Michigan. Mr. Smith is employed with Mid-Michigan Engineering & Survey Co., a real estate appraisal and consultation business located in Big Rapids, Michigan.

In determining the fair market value of the Land, Mr. Smith relied primarily on the Sales Comparison Approach. On the basis of the Appraisal, Mr. Smith placed the fair market value of the Land at $70,000, as of February 8, 2000. The applicant represents that Mr. Smith maintains that the Land's adjacency to the Club does not merit a premium above fair market value. In this regard, Mr. Smith considered, among other things, that the Club passed on the opportunity to acquire the Land at an earlier time, and also the Club is not in the financial position to expand. Thus, even though Mr. Lobenherz is a 15% shareholder of the Club, no premium above the fair market value of the Land is merited for purposes of a sale of the Land to Mr. Lobenherz.

By letter dated June 28, 2000, Mr. Smith stated that he was aware that the Appraisal was being submitted by the applicant to the Department as part of the exemption request described herein. In that letter, Mr. Smith also indicated that the value of the Land had not changed since his original valuation.

6. CBT, as the Plan's newly appointed custodian, trustee and investment manager, has requested that the Plan divest itself of the Land because it is non-income producing. Therefore, the applicant requests an administrative exemption from the Department which will allow Mr. Lobenherz to purchase the Land from the Plan in a one-time cash transaction. The applicant represents that the proposed transaction will be in the best interest and protective of the Plan because the Plan will pay no real estate commissions or expenses (including transfer taxes) associated with the sale. In addition, Mr. Lobenherz will pay the Plan the current fair market value of the Land, as determined by Mr. Smith in an updated appraisal at the time of the sale. Further, the sale of the Land will increase the liquidity of the Plan's portfolio, provide the Plan with the opportunity to reinvest the proceeds of the sale in investments that will yield greater returns, and permit greater diversification of the Plan's assets.

7. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria for an administrative exemption under section 4975(c)(2) of the Code because:

(a) The proposed sale will be a one-time transaction for cash;

(b) The Plan will receive the current fair market value for the Land established at the time of the sale by a qualified, independent appraiser;

(c) The Plan will pay no real estate expenses or commissions associated with the sale; and

(d) The sale will provide the Plan with greater liquidity, an opportunity to achieve greater investment returns, and will permit further diversification of the Plan's assets.

Notice to Interested Persons

Because Mr. Lobenherz is the sole participant in the Plan, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due thirty (30) days from the date of publication of the notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883. (This is not a toll-free number.)

I.B.E.W. LU 567 Electrical Joint Apprenticeship and Training Trust Fund (the Training Plan) and Money Purchase Retirement Plan of Local 567, I.B.E.W (the M/P Plan) (collectively, the Plans), Located in Falmouth, MA

[Application Nos. L–10906 and D–10907, respectively.]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990.) If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective August 31, 2000, to the leases (the Leases) of certain office space and supplemental facilities (the Leased Space) to the Plans by Local 567 I.B.E.W. Building Corporation (the Building Corporation), an entity which is wholly owned by Local 567 of the International Brotherhood of Electrical Workers (the Union), a party in interest with respect to the Plans, provided that the following conditions are satisfied:

(1) The terms of the Leases are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party;

(2) A qualified, independent appraiser determines annually the fair market rental value of the Leased Space;

(3) The Lease payments are adjusted annually by an independent fiduciary to assure that such Lease payments are not greater than the fair market rental of the Leased Space. The Lease payments are reduced, if the fair market rental value, as determined by the independent fiduciary, decreases;

(4) An independent fiduciary determines that the transactions are appropriate for the Plans and in the best interest of the Plans' participants and beneficiaries;

(5) The independent fiduciary monitors the terms of the transactions and conditions of this exemption, if granted, at all times, and takes whatever actions are necessary and proper to enforce the Plans' rights under the Leases and protect the participants and beneficiaries of the Plans. (Such independent fiduciary duties also include, but are not limited to, negotiating any required amendments to

[11] It is represented that the Club has nine other shareholders aside from Mr. Lobenherz. These shareholders are not related to Mr. Lobenherz or the Plan.

the Leases on behalf of the Plans to make certain the terms of the Leases are commercially reasonable.); and

(6) The annual fair market rental amount for the Leased Space will not exceed 5% of each of the Plan's total assets.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of August 31, 2000.

Summary of Facts and Representations

1. The Training Plan, which operates under a formal Trust Agreement dated January 1, 1994, is a collectively-bargained multi-employer joint apprenticeship training plan. The Training Plan is sponsored by the members of the Electrical Contractors Association of Greater Boston Inc.—Portland, Maine Division of the Boston Chapter, N.E.C.A. (the Employers), which have negotiated the collective employment contract with the Union. The Training Plan provides training and educational benefits to electrical apprentices and journeymen. Such benefits are funded by contributions made by the Employers to the Training Plan, pursuant to certain collective bargaining agreements between the Union and the Employers. As of August 31, 1999, the Training Plan had 87 participants and $178,149 in net assets available for benefits.

2. The M/P Plan, which was established on June 1, 1981, is a defined contribution, participant-directed plan that is sponsored by the Employers. The M/P Plan provides retirement benefits that are funded by contributions made by the Employers pursuant to certain collective bargaining agreements between the Union and the Employers. As of August 31, 1999, the M/P Plan had 564 participants, all of whom are members of the Union. As of March 31, 1999, the M/P Plan had $14,570,601 in net assets available for benefits.

3. The Training Plan is administered by six trustees (the Trustees), three of whom are appointed by the Union (Union Trustees) and three of whom are appointed by the Employers (the Employer Trustees). The Union Trustees with respect to the Training Plan are Milton McBreairty (Mr. McBreairty), John Stevens and Kevin Murphy. The Employer Trustees for the Training Plan are Thomas Driscoll (Mr. Driscoll), Mario Gowell and Steve Stewart. The Employer Trustees are not affiliated with either the Union or the Building Corporation.

The M/P Plan is also administered by three Union Trustees and three Employer Trustees. The Union Trustees for the M/P Plan are Mr. McBreairty, Donald Berry and Gene Ellis. The Employer Trustees for the M/P Plan are Mr. Driscoll, David Bradbury and John Penney. The Employer Trustees are not affiliated either with the Union or the Building Corporation.

4. The applicants represent that the Training Plan required space for its administrative offices and training facilities. Similarly, the M/P Plan also required office space for its administrative personnel. Therefore, on August 31, 2000, the Building Corporation acquired a 10 year old two-unit warehouse building (Building I) from Atlantis Development Building Corporation (Atlantis), an unrelated party, for $425,000. Building I is located at 238 Goddard Road, Lewiston, Maine. It was purchased by the Building Corporation as a replacement for another building located at 240 Gray Road, Falmouth, Maine (Building II), which the Building Corporation intends to sell to an unrelated party by September 30, 2000.

5. The applicants state that both Plans currently occupy space in Building II, which also houses administrative offices of the Union and serves as the Union meeting hall. The applicants note that the M/P Plan's use of Building II is the subject of a prior administrative exemption granted by the Department which is known as Prohibited Transaction Exemption (PTE) 94–16, (59 FR 8027, February 17, 1994). PTE 94–16 permits, in relevant part, the leasing of 360 square feet of office space in Building II by the Building Corporation to the M/P Plan. The applicants state that although the Lease would constitute the payment by the M/P Plan for office space to a party in interest within the meaning of section 408(b)(2) of the Act and the lease would otherwise meet the requirements of 29 CFR 2550.408b–2, and be statutorily exempt from section 406(a) of the Act, further exemptive relief was required because the Union Trustees of the M/P Plan participated in the decision to have the M/P Plan engage in the Lease in violation of section 406(b)(2) of the Act. The applicants represent that the M/P Plan has complied with all of the terms and conditions of PTE 94–16 since the exemption was granted.

6. In addition, the applicants explain that the Training Plan leased office space in Building II from the Building Corporation and state that the Training Plan used certain other space for training-related purposes. The applicants represent that the Training Plan's leasing of office space in Building II satisfies the requirements for statutory exemptive relief under section 408(b)(2) of the Act and the regulations that have been promulgated thereunder (see 29 CFR 2550.408b–2).

Moreover, the applicants believe that the other space in Building II, which has been used by the Training Plan for training-related purposes, is covered by Prohibited Transaction Class Exemption (PTCE) 78–6 (43 FR 23024, May 30, 1978). PTCE 78–6 permits certain lease transactions involving collectively bargained multiple employer apprenticeship and training plans, provided the conditions therein are met.[12]

7. The applicants state that the Training Plan wished to relocate and consolidate its office space and training facilities in one location. Previously, training and educational classes were held in rented facilities over the entire State of Maine, and such programs were constrained by the time and space limitations of such facilities. Therefore, the applicants believed that Building I, rather than Building II, would provide a central geographic location for the Training Plan's administrative offices and training facilities.

Similarly, the applicants note that the M/P Plan required additional administrative office space. Thus, Building I's central geographic location and proximity to other Union facilities and services used by participants in the M/P Plan were thought by the applicants to make it an ideal location for office space for such Plan.

Therefore, the applicants request an administrative exemption from the Department to permit, effective August 31, 2000, the Leases, by the Building Corporation to the Plans, of certain office space and supplemental facilities space (*i.e.*, the Leased Space) in Building I. The applicants represent that the participation by the Union Trustees for both plans in the decision to have the respective Plans engage in the Leases does not permit that portion of the Leased Space between the Plans and the Building Corporation pertaining to office space from otherwise meeting the requirements of section 408(b)(2) of the Act and the Department's regulations relating thereto. The applicants explain that the Trust documents for the Plans require that a majority of the Plans' Trustees, which includes at least one Union Trustee from each Plan, vote to cause the Plans to enter into any transaction, such as the subject Leases. However, if the Union Trustees for both

[12] The Department expresses no opinion herein on whether the Training Plan's leasing or use of space in Building II has complied with the conditions required under PTCE 78–6 or provisions of section 408(b)(2) of the Act. The Department notes that the appropriate Training Plan fiduciaries must make such determinations.

Plans exercise their fiduciary authority to cause the Plans to enter into the Leases, the applicants state that the transactions may violate section 406(b)(2) of the Act because of the adverse interests of the Plans and the Building Corporation.

Again, the Department expresses no opinion herein on whether each Lease constitutes the payment by a plan for office space to a party in interest under circumstances which would be statutorily exempt from the prohibitions of section 406(a) of the Act by reason of section 408(b)(2) of the Act.

8. The Training Plan is initially leasing 1,949 square feet of space in Building I from the Building Corporation. However, it is anticipated that upon the termination of an unrelated third party's lease in Building I on June 30, 2001, the Training Plan will expand and reconfigure part of Building I so that the Training Plan will have 8,600 square feet for office space and training facilities.

The M/P Plan is initially leasing 400 square feet of space in Building I for its administrative offices. It is also anticipated that this Plan will lease an additional 800 square feet in Building I for its administrative offices once certain unrelated third parties terminate their respective leases in Building I.

9. Both the Training Plan Trustees and the M/P Plan Trustees negotiated with the Building Corporation the respective leasing agreements for their Plans. In this regard, each Lease is a triple-net lease having an initial term of a five years which commenced on August 31, 2000, and two consecutive five year renewal terms. Rent is being paid monthly in advance under the Leases, and will equal the fair market rental value of the Leased Space as determined by a qualified, independent appraiser. Currently, the Leases specify that the Training Plan will pay $730.09 per month ($8,761 per year) in rent and the M/P Plan will pay $150 per month ($1,800 per year) in rent. These monthly rentals reflect the values prior to the reconfiguration. The rental amounts will be increased following the reconfiguration.

The applicants represent that the annual fair market rental amount under the Leases will involve approximately one percent (1%) of the M/P Plan's total assets and less than five percent (5%) of the Training Plan's total assets. However, in no event will the annual fair market rental amount for the Leased Space exceed five percent (5%) of each Plan's total assets.

Other terms of the Leases will be at least as favorable to the Plans as the terms obtainable in an arm's length transaction with an unrelated party. Further, the Leases may be terminated by the Plans without penalty, on sixty days prior written notice to the Building Corporation, should any provision of such Leases become disadvantageous to the Plans.

In addition, the Leases contain specific provisions designed to be beneficial to the Plans, such as the tenant's right to a ten-day written notice of payment default, and the tenant's right to take action on behalf of the defaulting landlord and set off such costs against the rent. The applicants note that these conditions cannot be obtained in the open market without having to pay a higher rental to reflect the increased costs and risks to the landlord.

10. On October 12, 1999, Brian D. Diskin (Mr. Diskin), a Certified General Appraiser, who is employed by Maineland Appraisal Consultants of Portland, Maine (Maineland) as an independent commercial real estate appraiser, completed a competitive rental market study of Building I (the Study). As stated above, Building I was constructed at its present location (*i.e.*, 238 Goddard Road, Lewiston, Maine) in 1990, and it consists of a manufacturing warehouse containing two units.

Mr. Diskin relied on the Market Comparison Approach to determine the fair market rental value of Building I. Mr. Diskin considered rental amounts being charged for other warehouse/industrial properties in the same geographic area as Building I, and he determined that the market rents for such properties there ranged from $4 to $6 per square foot, depending upon such factors as location, size and utility of the particular facility.

In the Study, Mr. Diskin noted that there were two tenants in Building I: RF Technologies (RF) [13] and the Building Corporation, both of which leased space from Atlantis, the former owner, until the August 31, 2000 sale of Building I to the Building Corporation. Mr. Diskin explained that RF's original lease, which commenced on April 4, 1994, was in its fourth renewal period, which is set to expire on June 30, 2001. Mr. Diskin indicated that RF's lease provides for a rental payment of $4.25 per square foot. In addition, he explained that this lease is triple net and requires RF to pay its *pro rata* share of common area expenses.

Mr. Diskin also noted that the Building Corporation had entered into a lease with Atlantis on September 1, 1999 for a five year term. This lease, which was terminated when the Building Corporation purchased Building I from Atlantis on August 31, 2000, required the Building Corporation to pay Atlantis $4.50 per square foot in rent and it contained a 3% escalator provision for increasing the rental amount each year. The Building Corporation was also responsible for paying its *pro rata* share of the common area expenses.

In the Study, Mr. Diskin concluded that as of October 6, 1999, the current fair market rent for space in Building I under a triple net lease would range between $4.25 and $4.50 per square foot.

11. The Trustees of each Plan have also retained Maineland to serve as the independent fiduciary for the Plans in connection with the subject Leases. On October 25, 1999, the Plans' Trustees signed a Fiduciary Engagement Agreement (the Agreement) with Maineland whereby Maineland agreed to: (a) Evaluate the fair market rental value of Building I; (b) review, on behalf of the Plans, the provisions of each Lease (and any proposed amendments thereto), and make a determination and recommendation to the Trustees whether such Leases would be in the best interest and protective of the Plans; and (c) monitor the Lease transactions at least annually (or more frequently, upon written request by a Trustee) to ensure that the rental amounts for the Leased Space remain at fair market rental for Building I, and the Leases continue to be protective and in the best interest of the Plans.

In the Agreement, Maineland states that it has been advised by legal counsel regarding its fiduciary obligations under ERISA, and it understands and accepts its duties as an ERISA fiduciary on behalf of the Plans with respect to the Leases.

12. In a letter dated December 16, 1999, Frank R. Montello, the president of Maineland (Mr. Montello), has made specific representations regarding Maineland's functions as the Plans' independent fiduciary for the Leases. Mr. Montello states that Maineland is completely independent of the Plans, the Union, the Employers and other entities affiliated with the Plans. Mr. Montello also states that the fees received by Maineland will not exceed one percent (1%) of Maineland's annual gross income (including all appraisal fees) for each fiscal year that Maineland acts as the Plans' independent fiduciary for the Leases.

Based on the Study completed by Mr. Diskin (described in paragraph 10

[13] The applicants state that RF, a manufacturing business that currently occupies approximately one-half of Building I, is not a party in interest with respect to either Plan, and is otherwise unrelated to the Plans, the Employers and the Union.

above), Mr. Montello has deemed the Leases to be administratively feasible, protective of the Plans and in the best interest of the Plans. In this regard, under the terms of the Leases, the Plans have the right to terminate the Leases upon sixty (60) days advance written notice to the Building Corporation. Such termination will be without penalty.

Mr. Montello states that the Agreement requires Maineland to reevaluate the terms of the Leases upon a written request from the Plans' Trustees. After reconfiguration of the spaces in Building I, Maineland will evaluate the fairness of the rental amounts and the commercial reasonableness of the Leases to ensure that the Plans' interests continue to be protected under the terms of the Leases. The applicants maintain that the reconfiguration cost for the space is anticipated to be nominal (*i.e.,* no more than a few thousand dollars).

13. The Agreement requires Maineland to reevaluate any proposed amendment to a Lease. In a second letter to the Department dated June 13, 2000, Mr. Montello has confirmed that the Agreement gives Maineland, as the independent fiduciary, authority to take any actions which may be necessary to protect the interest of the Plans and the Plans' participants and beneficiaries with respect to the Lease transactions. This authority includes directing the amendment or termination of either Lease, if Maineland, as the independent fiduciary, determines that the terms of such Leases cease being commercially reasonable for the Plans. Mr. Montello states that these provisions in the Agreement will protect each Plan's interests in the event that the Building Corporation wishes to amend the Lease or adjust the amount of rent charged after the necessary space in Building I is reconfigured.

However, the applicants represent, and Maineland will ensure, that the rents paid by the Plans for the Leased Space will remain at an amount equal to the fair market value of the Leased Space. In addition, the annual fair market rental amount paid by the Plans for the Leased Space will, at no time, exceed 5% of each Plan's total assets, and will not adversely affect either Plan's ability to make necessary payments for benefits or expenses required under the terms of the Plans.

Maineland represents that it will direct the Trustees whether the Plans should either terminate or renew the Leases for each five year extension period. In this regard, the applicants make a request regarding a successor independent fiduciary (the Successor). Specifically, if it becomes necessary in the future to appoint the Successor to replace Maineland, the applicants will notify the Department sixty (60) days in advance of the appointment of the Successor. Any Successor will have the responsibilities, experience and independence similar to those of Maineland.

14. In summary, the applicants represent that the transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The terms of the Leases are at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated party;

(b) Maineland, as the Plans' independent fiduciary, has determined and will make subsequent determinations, whenever appropriate, that the terms and conditions of the Leases are in the best interest and protective of the Plans;

(c) The fair market rental amount of Building I and the Leased Space has been determined and will be determined by a qualified, independent appraiser;

(d) The annual fair market rental amount for the Leased Space does not exceed and will not exceed 5% of each of the Plan's total assets; and

(e) Maineland, as the independent fiduciary, has monitored and will continue to monitor the terms and conditions of the Leases, at all times, and will take whatever actions are necessary and proper to enforce the Plans' rights thereunder.

Notice To Interested Persons

The applicants represent that they will distribute, by first class mail, a copy of the notice of pendency of this proposed exemption (the Notice) within seven (7) days of the date such Notice is published in the **Federal Register**. Such Notice will be given to all interested persons, including all participants in the Plans, all employees in the Plans, and all Union members. The distribution to interested persons shall include a copy of the Notice, as published in the **Federal Register,** and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption.

Comments and requests for a public hearing with respect to the proposed exemption are due within thirty-seven (37) days following the publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 219–8883. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of September, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 00–24387 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–45; Exemption Application Nos. D–10809 and D–10865]

Grant of Individual Exemption to Amend and Replace Prohibited Transaction Exemption (PTE) 99–15, Involving Salomon Smith Barney Inc. (Salomon Smith Barney), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor (the Department).

ACTION: Notice of Technical Correction.

On September 7, 2000, the Department published in the **Federal Register** (65 FR 54315) a final exemption which amends and replaces PTE 99–15 (64 FR 1648, April 5, 1999), an exemption granted to Salomon Smith Barney. PTE 99–15 relates to the operation of the TRAK Personalized Investment Advisory Service product (the TRAK Program) and the Trust for Consulting Group Capital Markets Funds (the Consulting Group).

On page 54316 of the grant notice, the last sentence of the third paragraph of the **SUPPLEMENTARY INFORMATION**, erroneously refers to an effective date of July 10, 2000 with respect to Section III(d) of the grant notice. Thus, the sentence should be revised to read as follows:

The Final Exemption is effective as of April 1, 2000 with respect to the amendments to Sections II(i) and III(b) of the grant notice and the inclusion of new Section III(d) of the grant notice.

Also on page 54316 of the grant notice, clause (c) of Footnote 1, should be revised as follows to describe more accurately the purpose of the automated reallocation option:

(c) adopted an automated reallocation option under the TRAK Program which would afford an Independent Plan Fiduciary the option of having his or her asset allocation adjusted automatically whenever the Consulting Group changes an allocation model;

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 18th day of September, 2000.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–24388 Filed 9–21–00; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–116]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee.

DATES: Thursday, October 19, 2000, 10 a.m. to 5 p.m.; and Friday, October 20, 2000, 8 a.m. to 12 Noon.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW., MIC–3, Room 3H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen C. Davison, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0647.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Action Status
- OLMSA Performance Against FY 2000 Targets
- Space Studies Board Update
- Status of ISS Program
- Update on Alpha Magnetic Spectrometer
- Radiation Health and Safety
- ISS Non-Governmental Organization Status
- Overview of the Proposed New Organization for Code U
- Code U Research Plans
- Subcommittee Reports
- Future LMSAAC Schedule
- Discussion of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 18, 2000.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–24402 Filed 9–21–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–114]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Astronomical Search for Origins and Planetary Systems (ORIGINS); Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee ORIGINS Subcommittee.

DATES: Monday, October 16, 2000, 8:30 a.m. to 5 p.m.; Tuesday, October 17, 2000, 8:30 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Conference Room 7H46, Washington, DC, 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Anne L. Kinney, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2150.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- Progress with Space Interferometry Mission
- Planet Finder Program
- Nexus
- Origins Technology
- Large Binocular Telescope

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 18, 2000.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–24400 Filed 9–21–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 00–115]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Astrobiology Task Force.

DATES: Monday, October 30, 2000, 8:15 a.m. to 5:30 p.m.; and Tuesday, October 31, 2000, 8:15 a.m. to 5:30 p.m.

ADDRESSES: Ames Research Center, Building 3 Conference Center, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Dr. Anne Kinney, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2150.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

- Astrobiology at NASA Status
- NAI Status and Science
- Astrobiology at Ames
- NARL and the Ames Research Park
- Technology NRA and ASTEP
- Technology Plan for Mars and Beyond
- The New Mars Architecture
- Senior Review Process and Astrobiology
- New Initiatives in AB.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–24401 Filed 9–21–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following closed meetings of the Special Emphasis Panel in Civil and Mechanical Systems (1205):

Date/Time: October 27, 2000; 8:00 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530, Arlington, Virginia 22230.

Contact Person: Dr. Alison Flatau, Program Director, Dynamic Systems and Control, Sensor Technologies for Civil and Mechanical Systems, Room 545, (703) 292–8360.

Purpose of Meeting: To provide advice and recommendations concerning Career proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'01 Sensor Technologies for Civil and Mechanical Systems Review Panel Career proposals as part of the selection process for awards.

Date/Time: November 2–3, 2000; 8:00 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Room 530, Arlington, Virginia 22230.

Contact Person: Dr. Alison Flatau, Program Director, Dynamic Systems and Control, Sensor Technologies for Civil and Mechanical Systems, Room 545, (703) 292–8360.

Purpose of Meeting: To provide advice and recommendations concerning Career proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'01 Dynamic Systems and Control Review Panel Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–24407 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Earth Sciences Proposal Review Panel; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Earth Sciences Proposal Review Panel (1569).

Date/Time: October 18–20, 2000; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 380, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 292–4749.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Manager Officer.

[FR Doc. 00–24404 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date/Time: February 15-17, 2001, 8 am—4:30 pm.

Place: National Science Foundation, 4201 Wilson Blvd, Rooms 1020 and 1060, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Harry Warchall, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (701) 292–4861.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for finally support.

Agenda: To review an evaluate proposals concerning the Applied Partial Differential Equations Panel as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–24408 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date/Time: March 8–10, 2001, 8:00 a.m.–4:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Rooms 1020 and 1060, Arlington, VA.

Contact Person: Thomas Fogwell, Program Director: (703) 292–4878. David Kopriva, Program Director: (703) 292–4879. National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Fluid Dynamics Panel as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–24409 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences (1204).

Date/Time: March 1–3, 2001, 8 am—4:30 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Rooms 1020 and 1060, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Harry Warchall, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–4861.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for finanacial support.

Agenda: To review and evaluate proposals concerning the Materials & Mechanics Panel as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–24410 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: November 13–15, 2000; 8 a.m. to 5 p.m.

Place: Room 630, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Carol Van Haresveldt, Program Director, Behavioral Neuroscience; Dr. Christopher Platt, Program Director, Computational Neuroscience; Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: November 15, 2000; 10 a.m. to 11 a.m., to discuss goals and assessment procedures. Closed Session: November 13–14; 8 a.m. to 5 p.m.; November 15, 8 a.m. to 10 a.m., and 11 a.m. to 5 p.m. To review and evaluate Behavioral & Computational Neuroscience proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Meeting Officer.

[FR Doc. 00–24403 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: October 16, 17 and 18, 2000, 8:30 a.m.–6 p.m.

Place: NSF, Room 320, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Sharman O'Neill, Program Director, Integrative Plant Biology , Division of Integrative Biology and Neuroscience, Room 685N, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–7888.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 17, 2000, 4 p.m. to 5 p.m.—discussion on research trends, opportunities and assessment procedures in Integrative Plant Biology.

Closed Session: October 16, 2000, 8:30 a.m.–6 p.m.; October 17, 2000, 8:30 a.m. to 4 p.m. and 5 p.m. to 6 p.m.; and October 18, 2000, 8:30 a.m. to 6 p.m. To review and evaluate Integrative Plant Biology proposals as part of the selection process for wards.

Reason for Closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These mattes are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Meeting Officer.

[FR Doc. 00–24406 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463; as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: October 23–25, 2000; 8:30 a.m.–6:00 p.m.

Place: NSF, Room 390, 4201 Wilson Blvd., Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. William E. Zamer, Program Director, Integrative Animal Biology, Division of Integrative Biology and Neuroscience, Room 685N, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 25, 2000. 10 a.m. to 11:00 a.m.—discussion on research

trends, opportunities and assessment procedures in Integrative Animal Biology.

Closed Session: October 23, 2000, 8:30 a.m. to 6:00 p.m., October 24, 2000, 8:30 a.m. to 6:00 p.m.; and October 25, 2000, 8:30 a.m. to 10:00 a.m. and from 11:00 a.m. to 6:00 p.m. to review and evaluate Integrative Animal Biology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information, of a proprietary or confidential nature, including technical information financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Meeting Officer.

[FR Doc. 00–24411 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Small Business Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Small Business Industrial Innovation (61).

Date/Time: October 6 and 20, 2000; 8:30 a.m.–5 p.m.

Place: NSF, 4201 Wilson Blvd., Rooms 130, 360 and 370, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Joseph Hennessey, Acting Director, Small Business Innovation Research and Small Business Technology Transfer Programs, Room 590, Division of Design, Manufacturing, and Industrial Innovation, National Science Foundation, 4201 Wilson Boulevard, VA 22230. Telephone (703) 292–7069.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 19, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–24405 Filed 9–21–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

AmerGen Energy Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16 issued to AmerGen Energy Company, LLC (the licensee) for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed amendment would delete the reporting requirement for the core spray sparger inspection.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

This change does not add components or make any other physical change to the plant. The change involves inspection methodology. In the SER supporting Amendment 70 to the Oyster Creek Technical Specifications, dated January 26, 1984, the staff required that future inspections of all accessible surfaces and welds of both core spray spargers and repair assemblies be performed at each refueling outage. In order to ensure that meaningful comparisons with previous inspections could be made, the staff required such inspections be performed in accordance with a method acceptable to them. To comply with that requirement, prior to each refueling outage, Oyster Creek submitted a detailed inspection plan. On December 2, 1999, the NRC staff issued an SER which approved the methodology contained in "BWR [Boiling-Water Reactor] Vessel and Internals Project BWR Core Spray Internals Inspection and Flaw Evaluation Guidelines" (BWRVIP–18). Oyster Creek was an active participant in the development of the guidelines and has committed to use them as a License condition. In addition, the inspection results will be submitted to the NRC as part of the ASME [American Society of Mechanical Engineers] Section XI ISI [Inservice Inspection] Summary as required by the BWRVIP–18 Guidelines. The probability of an accident is not increased by this change of inspection methodology.

With no physical changes to the plant or any operating parameter and the use of a formally approved inspection methodology, the consequences of any postulated accident are not increased.

2. Will operation of the facility in accordance with the proposed amendment create the possibility of a new or different [kind of] accident from any accident previously evaluated?

The core spray spargers and the other components of the Core Spray System will not be modified by this change. The function of the Core Spray System is to provide an alternate supply of cooling water, that is independent of the Feedwater System, in the event of an accident. This change will incorporate into the Oyster Creek License a commitment to inspect the core spray spargers and other reactor internals during each refueling outage in accordance with a methodology approved for all BWRs by the NRC. The function and operation of the Core Spray System are not affected by this change in inspection methodology. Therefore, the possibility of a new or different [kind of] accident not previously analyzed is not created.

3. Will operation of the facility in accordance with the proposed amendment involve a significant reduction in a margin of safety?

In the SER supporting Amendment 47 to the Oyster Creek Technical Specifications, dated May 15, 1980, the staff found the licensee's design and installation of the repair bracket assemblies were in accordance with currently accepted engineering practices. Further, the analyses of the structural loads imposed by static, seismic and thermal loadings demonstrated the bracket assembly's ability to limit the crack opening to within an acceptable range should an existing crack propagate around the pipe circumference. The inspection requirement was imposed to ensure that any new cracks or propagation of existing cracks would be discovered as soon as possible so corrective action could be taken. This change does not affect the interval between inspections but imposes a standardized, comprehensive methodology approved by the NRC. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 23, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Kevin P. Gallen, Esquire, Morgan, Lewis & Bockius LLP, 1800 M Street NW., Washington, DC 20036–5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a

balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 21, 2000, as supplemented on June 14, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 18th day of September 2000.

For the Nuclear Regulatory Commission.

Helen N. Pastis,

Senior Project Monoger, Section 1, Project Directorate I Division of Licensing Project Monogement, Office of Nucleor Reoctor Regulotion.

[FR Doc. 00–24440 Filed 9–21–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

AmerGen Energy Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16 issued to AmerGen Energy Company, LLC (the licensee) for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed amendment would revise the Technical Specifications (TSs) to establish that the existing Safety Limit Minimum Critical Power Ratio (SLMCPR) contained in TS 2.1.A is applicable for the next operating cycle (Cycle 18).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed TS chonge does not involve o significant increase in the probobility or consequences of on accident previously evoluoted.*

The derivation of the Cycle 18 SLMCPR for Oyster Creek for incorporation into the TS, and its use to determine cycle-specific thermal limits, has been performed using NRC-approved methods. Additionally, interim implementing procedures, which incorporate cycle-specific parameters, have been used. Based on the use of these calculations, the Cycle 18 SLMCPR of 1.09 will not increase the probability or consequences of an accident.

The basis of the MCPR Safety Limit calculation is to ensure that greater than 99.9% of all fuel rods in the core avoid transition boiling if the limit is not violated. A SLMCPR of 1.09 preserves adequate margin to transition boiling and fuel damage in the event of a postulated accident. The probability of fuel damage is not increased.

Therefore, the proposed TS change does not involve an increase in the probability or consequences of an accident previously evaluated.

2. *The proposed TS change does not create the possibility of o new or different kind of accident from any accident previously evoluoted.*

The MCPR Safety Limit is a Technical Specification numerical value designed to ensure that fuel damage from transition boiling does not occur as a result of the limiting postulated accident. The limit cannot create the possibility of any new type of accident. The Cycle 18 SLMCPR has been calculated using NRC-approved methods. Additionally, interim procedures, which incorporate cycle-specific parameters, have been used. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident, from any accident previously evaluated.

3. *The proposed TS change does not involve o significant reduction in o morgin of sofety.*

The margin of safety as defined in the TS Bases will remain the same. The Cycle 18 SLMCPR is calculated using NRC-approved methods, which are in accordance with the current fuel design and licensing criteria. Additionally, interim implementing procedures, which incorporate cycle-specific parameters, have been used. The MCPR Safety Limit remains high enough to ensure that greater that 99.9% of all fuel rods in the core will avoid transition boiling if the limit is not violated, thereby preserving fuel cladding integrity. Therefore, the proposed TS change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 23, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10

CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Kevin P. Gallen, Esquire, Morgan, Lewis & Bockius LLP, 1800 M Street, NW., Washington, DC 20036–5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 30, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 18th day of September 2000.

For the Nuclear Regulatory Commission.

Helen N. Pastis,

Senior Project Manager, Section 1, Project Directorate 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–24441 Filed 9–21–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–2]

Virginia Electric and Power Company Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Proposed Amendment to Revise Technical Specifications of License No. SNM–2501

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an amendment, pursuant to 10 CFR 72.56, to Special Nuclear Material License No. 2501 (SNM–2501) held by Virginia Electric and Power Company (Virginia Power) for the Surry independent spent fuel storage installation (ISFSI). The requested amendment would revise the Technical Specifications (TS) of SNM–2501 to specifically permit the use of the TN–32 storage cask to store spent fuel with a higher initial enrichment and burnup than currently specified in the TS for the Surry ISFSI.

Environmental Assessment (EA)

Identification of Proposed Action: By letter dated November 15, 1999, as supplemented, Virginia Power requested an amendment to revise the TS of SNM–2501 for the Surry ISFSI. The changes would specifically permit the use of the TN–32 storage cask to store spent fuel with a higher initial enrichment and burnup than currently specified in the TS. Currently the TS for the Surry ISFSI limit the fuel to be stored in the TN–32 to the following: initial enrichment of ≤ 3.85 % (wt U-235), assembly average burnup of ≤

40,000 MWD/MTU, and heat generation of ≤ 0.847 Kw/assembly. This amendment requests the limits be amended to match those approved for the TN–32 storage cask per the Certificate of Compliance (CoC) and Safety Evaluation Report (SER) issued in March 2000. Those approved limits are as follows: initial enrichment of ≤ 4.05% (wt U–235), assembly average burnup ≤ 45,000 MWD/MTU, and heat generation of ≤ 1.02 Kw/assembly.

Need for the Proposed Action: The proposed action is necessary to allow continued storage of spent fuel in dry casks. Without this amendment Surry will be unable to load spent fuel in TN–32 casks because their remaining fuel has the higher enrichment and burnup. If unable to store spent fuel in TN–32's, Surry will not be able to retain full core offload capability. Surry would eventually have to find an alternate means to store fuel, or shut down.

Environmental Impacts of the Proposed Action: The NRC has completed its evaluation of the proposed action and concludes that granting the request for amendment to allow the storage of spent fuel assemblies with burnup and initial enrichment of up to 45,000 MWD/MTU and 4.05% (wt U–235), respectively, in TN–32 casks used at the Surry ISFSI, will not increase the probability or consequence of accidents beyond that bounded by previous analysis. In March 2000, the NRC issued a CoC and SER for the TN–32 allowing storage of spent fuel in the TN–32 under a general license, with the higher enrichment and burnup, resulting in no significant environmental impact. No changes are being made in the types of any effluents that may be released offsite. With regard to radiological impacts, the addition of higher burnup and initial enrichment spent fuel assemblies was calculated to yield an average surface dose rate of 224 mrem/hour at the TN–32 cask side surface. A reevaluation of occupational doses based on actual operating experience from loading 39 casks, indicates that the overall exposure to workers during cask loading, transport, and emplacement will decrease from the original estimate of 21.2 person-rem to 11.9 person-rem. The dose to the closest real receptor due to Surry ISFSI operations was calculated to be 6×10^{-1} mrem/year. This dose is several orders-of-magnitude below natural background radiation levels and is an insignificant amount when compared to the 10 CFR Part 72.104 whole-body dose limit of 25 mrem/year. The annual whole-body dose to the closest real receptor from all Surry operations is 16 mrem, which is below the 10 CFR Part 72.104 limit. Based on the occupational and public dose analysis results, there are no significant radiological environmental impacts associated with the proposed action.

The amendment only affects the requirements associated with the content of the casks and does not affect non-radiological plant effluents or any other aspects of the environment. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternative to the Proposed Action: The alternative to the proposed action would be to deny the request for amendment (*i.e.*, the "no-action" alternative). Denial of the proposed action would result in Surry storing spent fuel in the spent fuel pool. Without dry cask storage, Surry would lose the capability to maintain full core offload and eventually would have to shut down due to lack of storage space.

Increased storage in the spent fuel pool could potentially lead to greater occupational exposure than dry cask storage due to the proximity of workers to the fuel. The environmental impacts of the alternative action could be greater than the proposed action.

Given that the alternative action of denying the approval for amendment has no lesser environmental impacts associated with it, and considering that the proposed action would result in storage of fuel in the TN–32 casks at Surry ISFSI as already approved for storage under a general license, the Commission concludes that the preferred alternative is to grant this amendment.

Agencies and Persons Consulted: On August 18, 2000, Mr. Les Foldese of the Virginia Department of Health, Radiological Health Programs, was contacted regarding the proposed action and had no concerns.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR Part 51. Based upon the foregoing Environmental Assessment, the Commission finds that the proposed action of granting an amendment to permit the use of the TN–32 dry storage cask to store spent fuel with a higher initial enrichment (≤ 4.05% wt U–235) and burnup (≤ 45,000 MWD/MTU) at the Surry ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the amendment application dated November 15, 1999, as supplemented. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of the application, as supplemented, will be available electronically for public inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC, or from the Publically Available Records (PARS) components of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 8th day of September 2000.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–24363 Filed 9–21–00; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: Daily, or as needed, starting after 9:30 a.m., from September 25, 2000, through November 8, 2000.

PLACE: Commission conference room, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Recommendations in Docket No. R2000–1.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, 202–789–6820.

Dated: September 19, 2000.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 00–24548 Filed 9–20–00; 12:39 pm]

BILLING CODE 7710–FN–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 9 a.m., Monday, October 2, 2000; 8:30 a.m., Tuesday, October 3, 2000.

PLACE: San Diego, California, at the San Diego Marriott Hotel, 333 West Harbor Drive, in the Marina Ballroom D.

STATUS: October 2 (Closed); October 3 (Open).

MATTERS TO BE CONSIDERED: Monday, October 2—9 a.m. (Closed)

1. Finance Performance.
2. Fiscal Year 2001 Integrated Financial Plan.
3. Establish/Deploy Process.
4. Fiscal Year 2001 Economic Value Added (EVA) Variable Pay Program.
5. EEO Settlement Authority.
6. Personnel Matters.
7. Compensation Issues.

Tuesday, October 3—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, August 28–29, 2000.
2. Remarks of the Postmaster General and CEO.
3. Board of Governors Calendar Year 2001 Meeting Schedule.
4. Office of the Governors FY 2001 Budget.
5. Preliminary FY 2002 Appropriation Request.
6. Capital Investments.
   a. Champaign, Illinois, Processing and Distribution Facility Expansion.
   b. Stamford, Connecticut–New Springdale Station Additional Funding.
7. Report on the San Diego District.
8. Tentative Agenda for the November 13–14, 2000, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

Tentative Agenda

Monday Session, October 2—9 a.m.

(Closed)—San Diego Marriott in Marina Ballroom D

1. Financial Performance. (Mr. Richard Strasser)
2. Fiscal Year 2001 Integrated Financial Plan. (Mr. Richard Strasser)
3. Establish/Deploy Process. (Mr. Patrick Donahoe)
4. Fiscal Year 2001 EVA Variable Pay Program. (Ms. Yvonne Maguire)
5. Overview of the Sales Organization. (Ms. Gail Sonnenberg)
6. Briefing on Advertising. (Mr. Allen Kane)
7. EEO Settlement Authority. (Ms. Mary Anne Gibbons)
8. Personnel Matters.
9. Compensation Issues.

Tuesday Session, October 3—8:30 a.m.

(Open)—San Diego Marriott in Marina Ballroom D

1. Minutes of the Previous Meeting, August 28–29, 2000.
2. Remarks of the Postmaster General and CEO. (Mr. William Henderson)
3. Board of Governors Calendar Year 2001 Budget. (Chairman Dyhrkopp)
4. Office of the Governors FY 2001 Budget. (Chairman Dyhrkopp)
5. Preliminary FY 2002 Appropriation Request. (Mr. Richard Strasser)
6. Capital Investments.
   a. Champaign, Illinois, Processing and Distribution Facility Expansion. (Mr. Danny Jackson)
   b. Stamford, Connecticut—New Springdale Station Additional Funding. (Ms. Diane Van Loozen)
7. Report on the San Diego District.
8. Tentative Agenda for the November 13–14, 2000, meeting in Washington, DC

[FR Doc. 00–24589 Filed 9–20–00; 3:07 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27230]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

September 15, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 10, 2000, 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 October 10, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Alliant Energy Corporation, et al. (70–9317)

Alliant Energy Corporation ("Alliant Energy") (formerly, Interstate Energy Corporation), a registered holding company, and its service company subsidiary, Alliant Energy Corporate Services, Inc. ("Services"), both located at 222 West Washington Avenue, Madison, Wisconsin 53703; and two of its public utility subsidiary companies, IES Utilities, Inc. ("IES"), Alliant Energy Tower, Cedar Rapids, Iowa 52401 and Interstate Power Company ("IPC"), 1000 Main Street S.E., P.O. Box 769, Dubuque, Iowa 52004 (together, "Applicants"), have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 43, 45, and 53 under the Act to their application-declaration previously filed under the Act.

By order dated December 18, 1998 (HCAR No. 26956) ("Financing Order"), the Commission authorized, among other things, Alliant Energy to issue and sell from time to time through December 31, 2000, commercial paper and/or notes at market based rates ("Short-Term Debt") in an aggregate principal amount at any time outstanding of up to $750 million. The Financing Order authorized Alliant Energy to use $450 million of the proceeds of the Short-Term Debt to fund its utility subsidiary money pool ("Utility Money Pool"), and to use up to $300 million of the remaining Short-Term Debt to fund investments in "exempt wholesale generators" ("EWGs") and "foreign utility companies" ("FUCOs"), as those terms are defined in sections 32 and 33 of the Act. In addition, the Financing Order authorized Alliant Energy's operating company subsidiaries, IES and IPC, to make borrowings under and invest surplus funds in the Utility Money Pool.[1] Finally, the Financing Order authorized Alliant Energy to enter into guarantees, obtain letters of credit, enter into expense agreements or otherwise provide credit support ("Guarantees") for its nonutility subsidiaries in an aggregate amount not to exceed $600 million outstanding at any one time.[2]

The Applicants now request that the Commission modify certain aspects of the Financing Order and extend the authorization period from December 31, 2000 to June 30, 2004 ("Authorization Period"). Specifically, Alliant Energy

[1] The Financing Order limited Utility Money Pool borrowing to annual outstanding amounts of $150 million for IES and $72 million for IPC.

[2] Alliant Energy Resources, Inc. ("AER"), a subsidiary nonutility holding company of Alliant Energy, maintains a separate commercial paper program and bank credit facilities totaling $600 million to fund a separate nonutility money pool ("Nonutility Money Pool") maintained for the benefit of Alliant Energy's direct and indirect nonutility subsidiaries other than Services. As noted in the Financing Order, AER's financing arrangements are exempt from Commission review under rule 52(b). Similarly, borrowings by members of the Nonutility Money Pool also are exempt under rule 52(b).

proposes to increase from $750 million to $1 billion the aggregate amount of this type of Short-Term Debt it may have outstanding at any one time. Further, Alliant Energy requests the Commission to authorize the use of proceeds from the Short-Term Debt to fund the Utility Money Pool in an aggregate principal amount outstanding at any one time that will not exceed $475 million in 2001 and $525 million for the remainder of the Authorization Period. Alliant Energy also requests that the Commission eliminate the separate $300 million limitation on the use of Short-Term Debt proceeds to make interim investments in EWGs and FUCOs.[3] Finally, IES and IPC propose, through the Authorization Period, to borrow from Alliant Energy and each other, and to lend to each other, all under the Utility Money Pool, in outstanding principal amounts of up to $150 million for IES and $100 million for IPC.[4]

The Applicants state that all other terms, conditions, limitations and reporting obligations contained in the Financing Order will apply to the proposed transactions. Services will continue to administer the Utility and Nonutility Money Pools under the existing terms of the money pool agreements, as previously approved by the Commission.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24349 Filed 9–21–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 25, 2000.

Closed meetings will be held on Wednesday, September 27, 2000 at 11:00 a.m. and Thursday, September 28, 2000 at 3:00 p.m. An open meeting will be held on Thursday, September 28, 2000 at 2:00 p.m. in Room 1C30.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff member who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled Wednesday, September 27, 2000 will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings and enforcement nature.

The subject matter of the open meeting scheduled for Thursday, September 28, 2000 will be:

The Commission will hear oral argument on an appeal by the Division of Enforcement and the Office of the Chief Accountant from an initial decision of an administrative law judge in the matter of KPMG Peat Marwick LLP ("Peat Marwick").

This case involves allegations that certain circumstances impaired Peat Marwick's independence from an audit client, Porta Systems Corp. ("PORTA"). The law judge found that only one of these circumstances—Peat Marwick's loan to PORTA's president—impaired Peat Marwick's independence. Because generally accepted auditing standards (GAAS) require that auditors be independent from audit clients, the law judge concluded that Peat Marwick violated the requirement in Rule 2–02 of Regulation S–X that an accountant's report accurately "state whether the audit was made in accordance" with GAAS. The law judge also concluded that, because Peat Marwick was not independent at the time it certified financial statements filed by PORTA as part of its 1995 annual report, Peat Marwick caused PORTA to violate Section 13(a) of the Securities Exchange Act of 1934 and Rule 13a–1 thereunder. The law judge did not conclude, however, that Peat Marwick had engaged in improper professional conduct within the meaning of Rule 102(e) of the Commission's Rules of Practice. The law judge dismissed the proceeding insofar as it alleged that Peat Marwick engaged in improper professional conduct under Rule 102(e) and denied the Division's request for entry of a cease and desist order against Peat Marwick under Section 21C of the Exchange Act.

Among the issues likely to be argued are the following:

1. Whether Peat Marwick's loan to PORTA's president was the only independence impairing circumstance involved in this case;

2. Whether Peat Marwick acted recklessly with respect to any independence impairing circumstances involved in this case; and

3. Whether, and what, sanctions are appropriate remedies in this case.

For further information, contact Rada L. Potts at (202) 942–0961.

The subject matter of the closed meeting scheduled for Thursday, September 28, 2000 will be:

Post argument discussion

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 20, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–24590 Filed 9–20–00; 3:48 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43284; File No. SR–Amex–00–07]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange LLC Relating to the Amendment of Rule 126 on a Pilot Program Basis

September 12, 2000.

I. Introduction

On February 3, 2000, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] a proposed rule change to implement a six month pilot program for processing electronically transmitted orders for equities traded on the Exchange ("eQPriority[sm]"). The proposed rule change was published for comment in the **Federal Register** on June 7, 2000.[3] No comments were received on the

[3] Alliant Energy represents that all EWG and FUCO investments will comply with rule 53(a) under the Act.

[4] Alliant Energy's other utility subsidiary, Wisconsin Power & Light Company and Services are members of the Utility Money Pool, but their borrowings are exempt from Commission review under rules 52 (a) and (b), respectively.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42834 (May 26, 2000), 65 FR 36183 (June 7, 2000).

proposal. This order approves the proposed rule change.

II. Description of the Proposal

The proposed rule change would add a new Commentary .03 to Amex Rule 126, which governs the precedence of bids and offers. The Exchange states that proposed Commentary .03 is intended to assure investors who send electronic orders to the Exchange that their orders will be filled at either: the Amex Published Quote ("APQ")[4] at the time the specialist announces the order, up to the depth of the quote; or at an improved price. The Exchange believes that this will encourage investors and order flow providers to send orders to the Amex.

Proposed Commentary .03 specifically applies to the handling of round lot, regular way orders for common stock sent to the Exchange electronically, at all times other than openings, reopenings, or instances where a block is sold at a "clean up" price. The commentary specifies that when a specialist's order book receives the electronic order, the specialist shall announce the order to the crowd, and the order will establish priority with respect to all other bids and offers. Upon that announcement, members whose bids or offers are incorporated into the APQ may not withdraw or modify those bids and offers except to provide price improvement to the electronic order. Once the specialist announces the order, the specialist and members of the crowd will have a brief opportunity to provide price improvement. If the electronic order is filled in part at an improved price, that sale would not remove bids and offers, and the incoming order retains priority over other bids and offers up to the full size APO (less any interest that provided price improvement). If the incoming order is larger than the size displayed in the APQ, the unfilled portion will be handled according to the customary auction market procedures.

The Exchange states that it believes eQPriority[sm] will provide investors with the optimal combination of price improvement possibilities with speed and certainty of execution. The Exchange also notes that the proposed eQPriority[sm] program is not limited to institutional size orders. The program will only apply to the common stock of business corporations admitted to dealings, because the Exchange believes that it would be inappropriate to apply the program to options and equity derivatives as the Amex is not the price discovery market for those securities and the value of the underlying instruments may change very-rapidly.

The Exchange also states that the program should not apply to openings and reopenings because openings involve a balancing of supply and demand to reach a consensus price that, by definition, is the best execution. Moreover, the program will not apply to "clean-up" sales of blocks because the Exchange believes that the current procedure for affecting a clean-up sale at a single price outside the APQ is fairest to all parties.

The Exchange's current auction market rules do not guarantee that an incoming electronic order will interact against the APQ. For example, when an electronic order arrives on the Exchange, the specialist in the security will announce a crossing market in an attempt to provide price improvement to the order. Although that procedure gives floor brokers an opportunity to execute the electronic order at an improved price, the procedure may also permit a floor broker to trade against the APQ despite the presence of the electronic order. Moreover, if an electronic order is filled in part at an improved price, current practice potentially allows floor brokers to interact with the APQ on parity with the unfilled remainder of the electronic order. The Amex believes that Commentary .03 addresses the perception that trading may occur in that manner when an electronic order arrives on the floor of the Exchange.[5]

III. Discussion

The Commission finds that proposed rule change is consistent with section 6(b)(5) of the Act.[6] Section 6(b)(5) requires, among other things, 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 the 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 Commission specifically finds that the proposed rule change would modify the Exchange's existing auction market rules in a way that should help assure that electronic orders sent to the Exchange from off the Amex floor will have an improved opportunity to interact with the published Amex quote. In particular, the Commission finds that the proposed rule change will help prevent two scenarios under which the Exchange's existing auction market rules may not always permit electronic orders an ideal opportunity to interact with the Amex quote: a scenario in which on-floor traders could trade against the Amex quote while the specialist is attempting to obtain price improvement for the electronic order, and a scenario in which the execution of part of an electronic order could put floor interest on parity with the remainder of the electronic order. The Commission finds that the proposed rule change should provide greater assurance that electronic orders sent to the Amex floor will have the opportunity to interact with the Amex quote, without having to make any findings about whether either of those practices currently occurs on the Amex floor.

The Commission further finds that the proposed rule change contains reasonable exceptions for openings and reopenings and for blocks sold at cleanup price, because the proposed priority rules are not needed in those circumstances. Moreover, the Commission also finds that it is reasonable for Amex to continue to apply its existing auction market procedures to those portions of an electronic order that are larger than the Amex quote.

Finally, the Commission finds that it is reasonable for the Exchange to implement this proposal for a six month pilot period, to permit the Exchange to assess the costs and the benefits of the program. Continuation of this program beyond that six month period would require the Exchange to file another proposed rule change.[7]

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[4] The Amex states that the APQ is the best bid or offer that Amex conveys to the Consolidated Quotation System. Conversation between Bill Floyd-Jones, Assistant General Counsel, Arne Michelson, Senior Vice President, Laurence McDonald, Managing Director, Lauren Brophy, Vice President, Amex, and Joshua Kans, Special Counsel, Madge Hamilton, Special Counsel, Division of Market Regulation ("Division"), Commission, April 5, 2000.

[5] Conversations between Bill Floyd-Jones, Assistant General Counsel, Arne Michelson, Senior Vice President, Laurence McDonald, Managing Director, Lauren Brophy, Vice President, Amex, and Joshua Kans, Special counsel, Madge Hamilton, Special Counsel, Division, Commission, March 31, 2000 and April 5, 2000.

[6] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[7] The Commission expects that the Exchange will monitor the effect of the proposed rule change on trading behavior on Amex, paying particular attention to its effect on stocks that are traded in a decimal environment, and convey those results to the Commission before the pilot period ends. Among other things, the Exchange should examine whether the rule change affects the ability of electronic orders to interact with the APQ, and whether the rule change affects limit order execution on Amex.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–Amex–00–07) is hereby approved until March 12, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24350 Filed 9–21–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43298; File No. SR–ISE–00–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange LLC, Relating to Equipment Rental Fees and Annual Access Fee

September 15, 2000.

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 August 3, 2000, the International Securities Exchange LLC ("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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to adopt monthly rental fees for computer equipment that ISE supplies to its members. The ISE also is clarifying that it applies its existing annual access fee for competitive and primary market makers on a per membership basis.

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 ISE 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 ISE 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 purpose of the rule change is to adopt a monthly rental fee for computer equipment ISE supplies to members that enables members to communicate with the Exchange. The Exchange is adopting a monthly fee of $1,400 for members that receive a cabinet (consisting of various components) and $200 for members that only receive a router from the Exchange. These fees will be used to cover the costs of the equipment to the Exchange.

The ISE also is clarifying that the annual access fee for primary and competitive market makers currently contained in its fee schedule is applied on a per-membership basis. In the case where a single member firm has multiple ISE memberships, the annual access fee is charged for each membership. For example, if a single member firm is both an electronic access member and a competitive market maker, the firm is subject to the annual access fee for both memberships. Also, if a firm owns multiple market maker memberships, it is subject to an annual access fee for each of those memberships.

2. Statutory Basis

The ISE believes that the proposed rule change is consistent with section 6(b) of the Act,[3] in general, and furthers the objectives of section 6(b)(4) of the Act,[4] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among ISE members and other persons using its facilities.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[5] and subparagraph (f)(2) of Rule 19b–4 thereunder.[6] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the pubic interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–ISE–00–06 and should be submitted by October 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24351 Filed 9–21–00; 8:45 am]

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[8] 15 U.S.C. 78s(b)(2).

[9] 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. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2). At the Exchange's request, the inadvertent citation to paragraph (e) of Rule 19b–4 in the filing originally received by the Commission on August 3, 2000, has been changed to the correct citation—paragraph (f)(2). Telephone conversation between Katherine Simmons, Vice President and Associate General Counsel, ISE, and Geoffrey Pemble, Attorney, Division of Market Regulation, Commission, on September 15, 2000.

[7] 240 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43291; File No. SR–NASD–00–34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Authority of the Director of Arbitration to Remove Arbitrators for Cause

September 14, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Dispute Resolution, Inc. ("NASD Dispute Resolution"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. On July 28, 2000, NASD Dispute Resolution submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice of the rule change, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Dispute Resolution proposes to amend NASD Rules 10308 and 10312 to provide authority for the Director of Arbitration ("Director") to remove arbitrators for cause after hearings have begun. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

10000. CODE OF ARBITRATION PROCEDURE

* * * * *

10308. Selection of Arbitrators

(a)–(c) Unchanged.

(d) Disqualification and Removal of Arbitrator Due to Conflict of Interest or Bias.

(1) Disqualification by Director

After the appointment of an arbitrator and prior to the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, if the Director or a party objects to the continued service of the arbitrator, the Director shall determine if the arbitrator should be disqualified. If the Director sends a notice to the parties that the arbitrator shall be disqualified, the arbitrator will be disqualified unless the parties unanimously agree otherwise in writing and notify the Director not later than 15 days after the Director sent the notice.

(2) [Authority of Director to Disqualify Ceases] *Removal by Director*

After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director[']s authority to] *may* remove an arbitrator from an arbitration panel [ceases] *based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.*

(3) Unchanged.

(e) Unchanged.

* * * * *

10312. Disclosures Required of Arbitrators and Director's Authority to Disqualify

(a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator form rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) Any existing or past financial, business, professional, family, [or] social, *or other* relationships *or circumstances* that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships *or circumstances* that they [personally] have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship *or circumstances* involving members of their families or their current employers, partners, or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interest, [or] relationships *or circumstances* described in paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator form rendering an objective and impartial determination described in paragraph (a) is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

(d) *Removal by Director*

[Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the]

(1) The Director may remove an arbitrator based on information that is required to be disclosed pursuant to this Rule.

(2) After the commencement of the earlier of (A) the first pre-hearing conference or (B) the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. The Director's authority under this subparagraph (2) may be exercised only by the Director or the President of NASD Dispute Resolution.

(e) [Prior to the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, t]*The* Director shall inform the parties to an arbitration proceeding of any information disclosed to the Director under this Rule unless either the arbitrator who disclosed the information withdraws voluntarily as soon as the arbitrator learns of any interest, [or] relationship, *or circumstances* described in paragraph (a) that might preclude the arbitrator from rendering an objective and impartial determination in the proceeding, or the Director removes the arbitrator.

[(f) After the commencement of the earlier of (1) the first pre-hearing conference or (2) the first hearing, the Director's authority to remove an arbitrator from an arbitration panel ceases. During this period, the Director shall inform the parties of any information disclosed by an arbitrator under this Rule.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Dispute Resolution 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. NASD Dispute Resolution has prepared summaries, set forth in Sections A, B,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jean I. Feeney, Special Advisor to the President, NASD Dispute Resolution, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated July 27, 2000. In Amendment No. 1, NASD Regulation clarifies certain portions of the description of the proposed rule change and makes technical amendments to the text of the proposed rule language.

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 Code of Arbitration Procedure ("Code") presently providezs that the authority of the Director of Arbitration to remove an arbitrator for cause ceases after the earlier of the first pre-hearing conference or the first hearing. The proposed rule change would amend the Code to eliminate this restriction, and to allow the Director to remove an arbitrator for sufficient cause shown at any juncture, where there is a challenge based on information not known to the parties at the time of the arbitrator's appointment.

2. Background and Discussion

In order to protect the integrity of the process and to ensure the impartiality of arbitrators, Rule 10312(a) requires that arbitrators make full disclosure of certain enumerated interests, relationships, and circumstances, as well as "any circumstances which might preclude such arbitrator from rendering an objective and impartial determination." Prior to implementation of the Neutral List Selection System ("list selection") in November 1998, the Code required the Director to inform the parties of information disclosed by the arbitrator at least 15 days before the first hearing. Parties were allowed one peremptory challenge and unlimited challenges for cause under Rule 10311.[4]

Under the list selection method, Rule 10311 no longer applies. Rather, Rule 10308(b)(6) requires the Director to send the parties the employment history and other background information about the arbitrators on their lists. The parties may request additional information. Then, as provided in Rule 10308(c), they may strike arbitrators from the list for any reason, and rank those who remain. The Director (or his staff)[5] consolidates the parties' lists in ranking order and, if the number of arbitrators available to serve from the consolidated list is not sufficient to fill a panel, the Director uses NLSS to extend the list and appoints one or more additional arbitrators to complete the panel. Parties receive information about any arbitrators appointed by extending the list, and have the right to object as provided in Rule 10308(d)(1), which is similar to the former challenge for cause procedure under Rule 10311.

Rule 10308(c)(4)(A) provides that the Director appoints arbitrators "subject to availability and disqualification." "Availability" refers to the arbitrator's ability to serve on the case in the desired location during the relevant time period. "Disqualification" could occur either when a disqualifying fact is revealed to the Director after the parties have completed the striking and ranking process, or when the Director consults with a ranked candidate just prior to appointment and the candidate, upon hearing more case-specific information, reveals information that the Director's staff determines is a basis for disqualification. In the latter case, the Director would either drop the arbitrator or disclose the information to the parties.

Under Rule 10312(c), an arbitrator's disclosure obligation continues throughout the arbitration. If a disqualifying fact comes to light after a panel has been appointed, Rules 10308(d) and 10312(d) permit the Director to remove an arbitrator based on such information before the earlier of the first pre-hearing conference or the first hearing.[6] Once one of these events occurs, Rules 10308(d)(2) and 10312(f) specifically state that the Director's authority to remove an arbitrator ceases.

Nevertheless, Rule 10312(f) requires the Director to inform the parties of any potentially disqualifying information disclosed after the first pre-hearing or hearing session. At that point, however, a party can no longer use a challenge for cause to remove the arbitrator. Rather, the parties can only attempt to resolve the matter themselves, which can be difficult in the adversarial setting of an ongoing arbitration. The parties may agree that the arbitrator be removed, in which case the arbitration may continue with the two remaining arbitrators or a replacement may be appointed under Rule 10313. If all the parties do not agree, a party objecting to the continued service of the arbitrator may make a formal request for the arbitrator to recuse himself or herself; however, the arbitrator may decline the request. The Director may suggest that the arbitrator withdraw voluntarily, but may not remove the arbitrator.

In summary, when a for-cause objection is raised after the first pre-hearing or hearing session, the arbitrator can only be removed where (1) he or she agrees to step down, or (2) all the parties agree that the arbitrator should be removed. Failing that, an aggrieved party's only recourse is to seek judicial intervention, which increases the party's legal expenses, and which could reduce confidence in the fairness and efficiency of the arbitration process.[7]

NASD Dispute Resolution believes that an alternative dispute resolution forum should be able to resolve all issues relating to an arbitration without forcing the parties to go to court. As presently written, the Code does not permit the Director to remove an arbitrator for cause after the first pre-hearing or hearing session has commenced, no matter how egregious the circumstances. Accordingly, NASD Dispute Resolution proposes that the Code be amended to permit the Director to remove an arbitrator for cause at any time, if there is a challenge to the arbitrator based on information not known to the parties when the arbitrator was appointed. In addition, NASD Dispute Resolution proposes certain minor language changes to clarify that both relationships and circumstances must be disclosed if they fit within the criteria of Rule 10312, and that the Rule is not limited to personal relationships and circumstances of the arbitrator, as described in more detail below.

NASD Dispute Resolution believes there are four major reasons for the proposed rule change:

[4] The standard for circumstances that would be considered "for cause" would be the same as the general disclosure standard contained in Rule 10312: "any circumstances which might preclude such arbitrator from rendering an objective and impartial determination."

[5] Rule 10103 provides that the duties and functions of the director may be delegated, as appropriate.

[6] Rule 10308(d) states that either the Director or a party may object to the continued service of the arbitrator, whereas Rule 10312(d) does not indicate that a specific objection is required.

[7] In *Commonwealth Coatings Corp.* v. *Continental Casualty Co.*, 393 U.S. 145, 151 (footnote omitted) (1968), which vacated an award because of an arbitrator's failure to disclose a business relationship with one of the parties, Justices White and Marshall noted in their concurring opinion:

> The arbitration process functions best when an amicable and trusting atmosphere is preserved and there is voluntary compliance with the decree, without need for judicial enforcement. This end is best served by establishing an atmosphere of frankness at the outset, through disclosure by the arbitrator of any financial transactions which he has had or is negotiating with either of the parties. In many cases the arbitrator might believe the business relationship to be so insubstantial that to make a point of revealing it would suggest he is indeed easily swayed, and perhaps a partisan of that party. But if the law requires the disclosure, no such imputation can arise. And it is far better that the relationship be disclosed at the outset, when the parties are free to reject the arbitrator or accept him with knowledge of the relationship and continuing faith in his objectivity, than to have the relationship come to light after the arbitration, when a suspicious or disgruntled party can seize on it as a pretext for invalidating the award. The judiciary should minimize its role in arbitration as judge of the arbitrator's impartiality. That role is best consigned to the parties, who are the architects of their own arbitration process, and are far better informed of the prevailing ethical standards and reputations within their business.

The present rule is no longer necessary. The present rule language reflects a long-standing policy of the NASD and all other SROs that administer securities arbitration, that the Director may not remove an arbitrator after the hearings have commenced. In addition, the Securities Industry Conference on Arbitration (SICA) adopted an amendment to the Uniform Code of Arbitration at its meeting on March 14, 2000, which is analogous to this proposed rule change.[8] That policy was designed, in part, to eliminate any perception that member firms could influence the composition of the panel after hearings have commenced. The proposed amendment reflects the greater acceptance that arbitration now enjoys. In addition, the corporate separation of the market and regulation functions, and the spin-off of the NASD Regulation Office of Dispute Resolution as a separate company[9] increase the independence of the Director and diminish the need for the present rule.

The present rule is inconsistent with the concept of administered arbitration. NASD Dispute Resolution offers an "administered" arbitration system, in that the parties submit their dispute to NASD Dispute Resolution for complete administration of the dispute, from filing a claim to issuance of an award. One of the key benefits of administered arbitration is the ability to have all ancillary issues relating to the arbitration—such as removal of arbitrators for cause—resolved without recourse to the courts. Moreover, the present rule is inconsistent with the approaches of other major dispute resolution forums, such as the American Arbitration Association ("AAA")[10] and JAMS,[11] whose rules permit the administering organization to remove an arbitrator for cause at any time in the arbitration process.

The present rule invites delay and administrative disruption. The present rule invites delays in the process, while parties wrestle with the issue of for-cause challenges to sitting arbitrators, and perhaps seek judicial intervention. In the NASD Dispute Resolution forum, there have been situations in which viable for-cause challenges were raised after the Director's authority to remove arbitrators ceased. Under current rules, the Director would be unable to rule on the merits of such challenges, despite clear substantive grounds supporting removal, and the prevailing party would be subject to the risk of having the award vacated on grounds of evident partiality.[12]

The arbitrator should not be the only source of information. Rule 10312 of the Code can be interpreted to limit the Director's authority to challenges based on information disclosed by the arbitrator under that rule. This could prevent the Director from entertaining a challenge based on information, obtained from some other source, that should have been disclosed by the arbitrator. Consistent with the rules of other dispute resolution forums, NASD Dispute Resolution proposes to amend the Code to permit the Director to entertain for-cause challenges based on sources in addition to the arbitrator. Therefore, the proposed changes would allow the Director to remove an arbitrator based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.

Some users of the arbitration forum may be concerned about giving more power to NASD Dispute Resolution staff to remove arbitrators who were selected by the parties. To address that concern, the proposed rule change provides that the only persons who can remove arbitrators under the proposed amendments will be the Director and the President (following the spin-off), to whom he reports. This authority cannot be delegated. In addition, as discussed above, removal can only be based on information that was required to be disclosed pursuant to Rule 10312 and that was not known to the parties at the time the arbitrator was appointed.

b. Description of Proposed Amendments

NASD Dispute Resolution proposes to amend Rule 10308, the list selection rule, to provide that the authority of the Director to disqualify or remove arbitrator does not end when the first pre-hearing or hearing session begins. Rather, proposed Rule 10308(b)(2) provides that, after that first session, the Director may remove an arbitrator from an arbitration panel based on information that is required to be disclosed pursuant to Rule 10312 and that was not previously disclosed.

NASD Dispute Resolution proposes to amend Rule 10312, the arbitrator disclosure rule, in several places. NASD Dispute Resolution proposes to amend Rule 10312(a)(2) to include any existing or past financial, business, professional, family, social, or other relationships or circumstances that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. NASD Dispute Resolution proposes to delete the word "personally" from Rule 10312(a)(2), as it might be read too narrowly, and to add the phrase "or circumstances" to paragraphs (b) and (e) of Rule 10312. This will clarify that the arbitrator is required to disclose *any* relationships or circumstances that might fit under Rule 10312.[13]

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[8] Section 11 of the Uniform Code of Arbitration, Disclosures Required by Arbitrations, was revised to read as follows:

(e) Once the hearings have commenced, the Director may remove an arbitrator based only on information required to be disclosed under subsection (a), not known to the parties when the arbitrator was selected. The Director's authority under this subsection (e) may not be delegated.

[9] *See* Exchange Act Release No. 41971 (Sept. 30, 1999) (File No. SR–NASD–99–21), 64 FR 55793 (Oct. 14, 1999), which approved creation of a new dispute resolution subsidiary, NASD Dispute Resolution, Inc. That subsidiary began operations on July 9, 2000.

[10] The *Commercial Dispute Resolution Procedures* of the AAA (January 1, 1999), provides as follows:

R–19. Disclosure and Challenge Procedure

(a) Any person appointed as a neutral arbitrator shall disclose to the AAA any circumstance likely to affect impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Upon receipt of such information from the arbitrator or another source, the AAA shall communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others.

(b) Upon objection of a party to the continued service of a neutral arbitrator, the AAA shall determine whether the arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive.

[11] The *Procedures for Securities Arbitrations Administered by JAMS Under the Securities Industry Conference on Arbitration Non-SRO Pilot Program* (Website visited June 1, 2000) http://www.jamsadr.com/arbitrationrules/securitiesarab.htm#13. Disclosure, provide:

Section 13. Disclosure and Challenge Procedure

Any person appointed as an arbitrator must disclose to JAMS any circumstance likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Upon receipt of such information from the arbitrator or other source, JAMS will communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others. Upon objection of a party to the continued service of an arbitrator, JAMS will determine whether the arbitrator should be disqualified and will inform the parties of its decision, which will be conclusive.

[12] Under the Federal Arbitration Act, courts may vacate arbitration awards for, among other reasons, "evident partiality or corruption in the arbitrators." 9 U.S.C. Sec. 10(a)(2). *See e.g., Wages* v. *Smith Barney Harris Upham & Co.*, 937 P.2d 715 (Ariz. Ct. App. 1997), in which the court vacated an award to investors of $950,000 plus costs and fees, where the chair of an arbitration panel declined to rescue himself after it was learned that he had represented claimants in a similar matter against a predecessor of the respondent firm; the court found that the arbitrator's later harsh rulings against respondent showed evident partiality. *See also Schmitz* v. *Zilveti et al.*, 20 F.3d 1043, 1049 (9th Cir. 1994) ("A finding of evident partiality in one arbitrator generally requires vacatur of the arbitration award.").

[13] The deletion of the word "personally" was also made to the Uniform Code of Arbitration at SICA's

Continued

NASD Dispute Resolution also proposes to amend Rule 10312 to provide, as in Rule 10308, that the Director's authority to remove arbitrators does not cease with the first pre-hearing or hearing session. There are two restrictions on the exercise of this authority, however, once such sessions have begun. Proposed Rule 10312(d)(2) provides that, after the earlier of the first pre-hearing conference or the first hearing, the Director may remove an arbitrator based only on information not known to the parties when the arbitrator was selected. This provision is intended to prevent parties from raising challenges late in the process which could have been raised at the outset. Rule 10312(d)(2) also will provide that the Director's authority under this subparagraph may only be exercised by the Director or by the President of NASD Dispute Resolution. [14]

Finally, NASD Dispute Resolution proposes to amend Rule 10312(e) consistently with the above changes, to delete language limiting the time within which the Director may remove arbitrators for cause; and Rule 10312(f) is deleted as no longer necessary in light of the proceeding changes.

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[15] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change will protect the public interest by providing a procedure to remove an arbitrator for sufficient cause shown at any time in an arbitration, where the challenge is based on information not known to the parties at the time of the arbitrator's appointment.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Dispute Resolution does not believe that the proposed rule change will result in any burden on competition that it not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASA. All submissions should refer to File No. SR–NASD–00–34 and should be submitted by October 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24389 Filed 9–21–00; 8:45 am]

BILLING CODE 8010–01–M

March 14, 2000 meeting. *See supra* note 8. The word "addition" was removed from this sentence and replaced with the word "deletion." Telephone conversation between Jean I. Feeney, Special Advisor to the President, NASD Dispute Resolution, and Joseph Corcoran, Attorney, Division, Commission, on September 14, 2000.

[14] Id.

[15] 15 U.S.C. 78o–3(b)(6).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43293; File No. SR–PCX–99–36]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to Options Trading Rules

September 14, 2000.

I. Introduction

On October 1, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commissiion"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify its options trading rules. Amendment No. 1 was filed with the Commission on March 28, 2000.[3] The proposed rule change was published for comment in the **Federal Register** on April 4, 2000.[4] No comments were received on the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

The proposed rule change would make the following changes to the text of the PCX rules on options trading.

A. Definition of Term "Option Issue"

The proposal would adopt new Rule 6.1(b)(12) to define the term "option issue" as "the option contract overlying a particular underlying security." The Exchange notes that the commonly-used term "issue" appears in several locations in the PCX Rulels.[5] The Exchange believes that the term "issue" means the same as "option" or "option contract" when used, for example, as in PCX Rule 6.65(a), which states: "Trading on the Exchange in any *option contract* shall be halted or suspended

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange withdrew the proposed changes to PCX Rule 6.6 because the changes were previously made and approved in Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999). *See* letter from Michael D. Pierson, Director-Regulatory Policy, PCX, to Heather Traeger, Attorney, Division of Market Regulation, SEC, on March 27, 2000 ("Amendment No. 1").

[4] Securities Exchange Act Release No. 42590 (March 29, 2000), 65 FR 17690.

[5] *See, e.g.*, PCX Rule 6.8 Com. .08(a) ("If a firm desires to facilitate customer orders in the XYZ option *issue* * * *."); PCX Rule 6.28(a)(9) ("the permissible size of orders that may be automaticallay executed" may be increased "in a particular *issue*, or for all option *issues*.* * *"); PCX Rule 6.82(e) ("[t]he allocation of option *issues* to LMMs shall be effected by the Options Allocation Committee.* * *").

whenever * * *." However, the Exchange believes that the use of the terms "option" and "option contract" would often result in ambiguities that the use of "issue" would not create. While the term "class of options" is used in many PCX Rules to refer generally to options overlying a particular underlying security,[6] the Exchanges believes that the use of the term "class" can be ambiguous because it may refer either to a "put class" or a "call class."[7] Accordingly, the proposed rule change would formally adopt the definition of the term "option issue."

B. General Rules Applicable to Options Trading

PCX Rule 6.1 sets forth a list of general PCX trading rules that are applicable, by cross-reference, to Exchange transactions in option contracts. Most of these rules relate primarily to the trading of equity securities on the Exchange. The proposed rule change would remove PCX Rules 5.2(a), 5.6(a)–(c), 5.8(d), 5.8(h), 5.12(a) and 5.13(a)–(b) from that list. Each of the cross-references to be removed is discussed below:

• PCX Rule 5.2(a)—"Types of Orders."[8] The Exchange believes that the first part of this rule—the part stating that all orders on the Exchange must be "day," "immediate or cancel" or "good 'til canceled"—applies to options trading, and accordingly, the proposed rule change would adopt PCX Rule 6.62, Commentary .01, to incorporate this part of the rule into the rules on options trading. However, the Exchange believes that the remainder of PCX Rule 5.2(a) either does not apply to options trading[9] or is superfluous.[10]

• PCX Rule 5.6(a)—"Bids—Offers—Quotations."[11] The Exchange believes that PCX Rule 6.74[12] adequately covers the meaning of bids and offers as applied to options trading. Further the Exchange believes that the part of PCX Rule 5.6 covering the display of bids and offers on other market centers is superfluous in light of PCX Rule 6.73, which provides the requirements for bids and offers to have standing on the Options Floor.[13] Moreover, bids and offers are not displayed on the Options Floor for Intermarket Trading System ("ITS") purposes.

• PCX Rule 5.6(b)—"Regular Way."[14] The Exchange believes that the current cross-reference to this equity trading rule is also superfluous because, unlike settlement of equity securities, settlement of option contracts is not based on a distinction between "regular way" and "non-regular way."

• PCX Rule 5.6(c)—"All or None."[15] The Exchange believes that the cross-reference to this equity trading rule is erroneous and inconsistent with current practices. For example, assume that a floor broker who is holding an order to sell twenty option contracts enters a trading crowd and calls for a market. Next, assume that there are two responses: (1) A floor broker holding an "all or none" order for twenty contracts for a customer bids $3, and (2) a market maker bids $3. Under current practices and consistent with PCX Rule 6.75(a), if the broker were first to vocalize a bid, the broker would have first priority to execute the order.[16] However, if PCX Rule 5.6(c) were applied, the market maker's bid would have priority, even if it were made second in sequence. The Exchange believes that PCX Rule 6.75 should prevail over PCX Rule 5.6(c), in accordance with current practices.

• PCX Rule 5.8(d)—"Simultaneous Bids and Offers."[17] The Exchange notes that simultaneous bids and offers are not recognized in the general rules on priority of bids and offers for options contracts. The Exchange believes that PCX Rules 6.75 and 6.76 are exhaustive and that the cross-reference to Rule 5.8(d) is erroneous.

• PCX Rule 5.8(h)—"Marking Stop Loss Orders."[18] This rule covers the manual handling of stop loss orders. The Exchange believes that the procedure covered by this rule is unnecessary and that the responsibility of floor brokers to use due diligence in their handling of orders, as codified in the rules on option trading, is sufficient.[19]

• PCX Rule 5.12(A)—"Seller Responsible for Recording."[20] The Exchange believes that the specific procedures currently set forth for reporting options transactions—codified in PCX Rule 6.69 and OFPA G–12—adequately address this procedure and that the cross-reference to PCX Rule 5.12 is unhelpful and unnecessary.

• PCX Rule 5.13(a)–(b)—"Comparisons."[21] The Exchange

[6] *See, e.g.*, PCX Rule 6.4(a) ("After a particular *class* of option * * * has been opened for trading * * *."); PCX Rule 6.37(c) ("Whenever a Market Maker enters the trading crowd for a *class* of options in which he does not hold a Primary Appointment * * *"); PCX Rule 6.64, Com. .02 ("For those opotion *classes* and within such time periods as the Options Floor Trading Committee may designate * * *.").

[7] PCX Rule 6.1(a)(10) states that "[t]he term 'class of options' means all option contracts of the same *type* of option covering the same underlying stock" (emphasis added), while the term "type of option" is defined in PCX Rule 6.1(a)(7) to mean "the classification of an option contract *as either a put or call* (emphasis added)." Therefore, the term "class" may refer to either a put class or a call class of option contracts.

[8] PCX Rule 5.2(a) states: "All orders on the Exchange must either be 'day,' 'immediate or cancel,' 'good 'til canceled' ('GTC'), or 'good 'til canceled that are eligible for execution in the post—1:00 p.m. auction market trading and closing price protection sessions' ('GTX'). Each class of orders must be recorded on the proper ticket provided therefore."

[9] "GTX" orders are not recognized on the Options Floor. *See* PCX Rule 5.25(f) ("GTX Orders Under P/COAST").

[10] The Exchange believes that the order ticket requirement of PCX Rule 5.2(a) is superfluous because current PCX Rules 6.67–6.69 expressly cover the use of order tickets for option orders.

[11] PCX Rule 5.6(a) states: "Bids and offers shall be for one trading unit or multiples thereof to constitute an Exchange quotation. Bids and offers in other market centers which may be displayed on the Floor for the purpose of ITS or other purposes shall have no standing in the trading crowd on the Floor."

[12] PCX Rule 6.74 states: "Unless otherwise specified, all bids or offers made on the floor shall be deemed to be for one option contract unless a specific number is expressed in the bid or offer. A bid or offer for more than one option contract shall be deemed to be for that amount or any lesser number of option contracts, unless specified otherwise."

[13] PCX Rule 6.73 states: "Bids and offers to be effective must be made at the post by public outcry, except that bids and offers made by the Order Book Official shall be effective if displayed in a visible manner in accordance with PCX Rule 6.55. All bids and offers shall be general ones and shall not be specified for acceptance by particular members."

[14] PCX Rule 5.6(b) states: "Bids and offers made without stated conditions shall be considered to be 'regular way.' 'Regular way' bids or offers have priority over conditional bids or offers."

[15] PCX Rule 5.6(c) states: "A bid or offer may be made 'all or none'; however, regular bids or offers at equal or better prices shall have priority. No 'all or none' transaction in round lots may be effected unless all regular bids or offers at equal or better prices are executed thereby or simultaneously or unless the holders of such regular bids or offers consent thereto. All bids and offers, unless specifically made 'all or none,' shall be subject to split-up without objection except that in no case may a division of stock be made of less than round lots except by mutual consent."

[16] PCX Rule 6.75(a) provides in part that "If two or more bids represent the highest price * * * priority shall be afforded to such bids in the sequence in which they are made."

[17] PCX Rule 5.8(d) states: "When bids or offers are made simultaneously, or when it is impossible to determine clearly the order of time in which they were made, all such bids or offers shall be on parity, except as noted in Rule 5.8(e)."

[18] PCX Rule 5.8(h) states: "All stop loss orders must clearly indicate in writing that they are such and, in addition, the amount and the price of the stock appearing at the top of the buy and sell ticket must be circled."

[19] *See* PCX Rule 6.46 ("Responsibilities of Floor Brokers").

[20] PCX Rule 5.12(a) states: "The seller shall be responsible for transactions being properly recorded by the floor reporters."

[21] PCX Rule 5.13(a) states: "Every transaction on the Exchange must be compared as provided herein unless the same shall have been officially removed from the record in accordance with Exchange rules." PCX Rule 5.13(b), Comparison Ticket, states

Continued

believes that PCX Options Rule 6.16 adequately covers the Exchange procedures for comparison of trade information and that the cross-reference to PCX Rules 5.13(a)–(b) is superfluous.

C. Trading Floor Badges

The proposed rule change would eliminate provisions currently set forth in OFPA F–1 and F–6 relating to trading floor badges on the Options Floor that the Exchange believes are superfluous and unnecessary.[22] The proposal also would redesignate the remaining text of those as paragraphs (d)(1) and (d)(2) of PCX Rule 6.2.

D. Visitors to the Options Floor

The proposal would redesignate OFPA F–2 as PCX Rule 6.2(e) ("Visitors on the Options Floor"). The proposal also would eliminate subsection 6 of OFPA F–2, which limits the number of visitors and lengths of time during which visitors are permitted on the Options Floor.[23] In addition, the proposal would make technical changes to OFPA F–2 and eliminate superfluous provisions, including a summary of the provisions of current PCX Rule 6.2(a).[24] Finally, the proposal would add a new provision to PCX Rule 6.2(e), stating that a group of visitors comprising more than fifteen persons may not enter the Trading Floor without prior approval of the Chair or Vice Chair of the Options Floor Trading Committee.

E. Complaints From Floor Members

The proposal would eliminate OFPA E–5[25] and OFPA E–6[26] and replace it with new PCX Rule 6.2(f), which advises options floor members as to where they may direct complaints concerning situations arising on or relating to the Options Trading Floor. Specifically, the proposed rule would state that Floor Members may direct complaints concerning situations arising on or relating to the Options Trading Floor to the Options Surveillance Department or to the Enforcement Department so that appropriate follow-up action may be taken.

F. Series of Options Open for Trading

The proposal would update PCX Rule 6.4(a)[27] so that it will conform with current Exchange practices by changing from three to four the number of different expiration months that will normally be opened at the commencement of trading a particular option issue.[28] The proposed rule change also would remove provisions the Exchange believes are erroneous on the specific expiration month that may be added at the commencement of trading of a particular issue and at the time a previous month's series expires. The rule currently states that three months will normally be opened, with the first expiration month being within approximately three months thereafter, the second month being approximately three months after the first and the third being approximately three months after the second. In addition, the rule states that additional series of the same class may be opened for trading on the Exchange at or about the time a prior series expires, and the expiration month of each such series shall normally be approximately nine months following the expiration of such series. However, the current industry practice is normally to add four expiration months, the first two being the two nearest months, and the third and fourth being the next two months of the quarterly cycle previously designated by the Exchange for that specific issue.[29] When a previous expiration month's series expires, a new expiration month is added to assure that there are always four expiration months.

G. Verification of Compared Trades

The proposal would reduce the amount of time during which members or their representatives are required to remain available on the trading floor after the Trade Processing Department closes. The reduction would be based on the number of transactions processed per trading day. Specifically, the proposed rule change would require that members or their representatives be available after Trade Processing closes for 30 to 60 minutes, depending on the number of transactions involved. Currently, members or their representatives are required by PCX Rule 6.17, Commentary .01 to remain available after the close as follows: when fewer than 8,000 transactions on the Exchange have occurred, 45 minutes; but when more than 8,000 trades have occurred, one hour and 15 minutes. Under the proposal, these times would be modified as follows: 0–8,000 transactions, 30 minutes; 8,000–12,000 transactions, 45 minutes; and over 12,000 transactions, 60 minutes. The Exchange believes that the new requirements are more reasonable and better reflect the Exchange's needs.

H. Resolution of Uncompared Trades

The proposal would modify PCX Rule 6.21 by changing the basis for establishing a loss as the result of an

"The comparison ticket shall contain and constitute a record of the name, quantity and price of the securities traded and the names of the buying and selling members from which daily transaction sheets will be prepared for member firms."

[22] The provisions being eliminated include the following:

"Rule 6.45 requires that each Floor Broker shall have in effect a Letter of Authorization that has been issued for such Floor Broker by a clearing member, and Section 77 of Rule VI requires that each Market Maker shall have in effect a Letter of Guarantee which has been issued for such market maker by a clearing firm." (OFPA F–6)

[23] Subsection of OFPA F–2 currently provides: "The inviting member or member organization floor manager may not sign in more than four guests at any given time. Visitors may remain on the Options Trading Floor a maximum of two hours during the trading session and one-half hour after it. Visitors, except those referred to in paragraph #4 above, may not be allowed on the Options Trading Floor more than five times in a calendar month, regardless of the duration of each visit."

[24] This part of OFPA F–2 states: "Rule 6.2(a) limits admission to the Floor to members, employees of the Exchange, clerks or messengers employed by members, and such other persons as may be provided for in the Rules. Pursuant to this Rule, the Exchange encourages the presence of appropriate visitors on the Options Trading Floor, but it is deemed necessary to strictly enforce certain procedures governing the admission to the Floor of such visitors."

[25] OFPA E–5 states:

"A Member of the Options Floor with a complaint concerning a situation arising on or relating to the Floor, should: (1) Notify the Surveillance Department of the circumstances involved, and (2) subsequent to such notification, submit the complaint in writing to the Surveillance Director. If the concerned Member believes it necessary for the Surveillance Department to personally review or rectify the situation, a member of the Department will immediately come to the Floor. A study will be conducted on all matters referred to the Surveillance Department pursuant to this floor Procedure Advice. Upon completion of such study, the Member(s) filing the complaint will be informed of the conclusion (i.e., filed closed or referred to the Compliance Department for further review or action). A written report of each study will be submitted to the Options Floor Trading Committee. General Information regarding such study may be given to concerned Members; however, the specific details shall remain confidential."

[26] OFPA E–6 states:

"Upon receipt of a written complaint from a member of the Options Floor, the Compliance Department shall commence an investigation into the allegations contained in such complaint. The Compliance Department may, among other things, interview the Complainant, and any witnesses and parties to the action which gave rise to the complaint. The Compliance Department may request a written response from the parties involved and any witnesses. Upon the Compliance Department obtaining the facts pertinent to the issue, a written recommendation will be drafted and presented to the Options Floor Trading Committee. After the Options Floor Trading Committee has received the written recommendation of the Compliance Department, the item should be placed on the Committee's agenda for discussion, and final action, insofar as the Options Floor Trading Committee is concerned. The Compliance Department may, in addition, commence Disciplinary Proceedings based upon any violation of the Pacific Exchange Constitution, Rules, Commentaries or procedures uncovered during the investigation of the complaint."

[27] The proposal would also fix a typographical error in PCX Rule 6.4(e).

[28] *Cf.* CBOE Rule 5.5, Interp. & Policy .03.

[29] *Id.*

uncompared trade so that it will be the opening price on the business day following the trade date. Currently, the basis is the lesser of either the opening price on the business day following the trade date or the price at which the uncompared trade was closed. After careful consideration and review of this proposal by Exchange members and member firms, the Exchange proposes this change in an effort to simplify and make uniform the administration of pricing uncompared trades.[30] The proposal also would require that notice of uncompared trades must be provided no later than the scheduled commencement of trading (unless a floor official directs otherwise). The Exchange believes that the current time requirement—15 minutes from the scheduled commencement of trading—is overly flexible.

I. Reports of Open Exercise Positions

The proposal would clarify and simplify PCX Rule 6.27, which currently requires member organizations to file certain reports on open positions with the Exchange. The proposed rule change would include the last sentence of PCX Rule 6.27, the text of commentary .01 to that rule, and eliminate commentaries .01, .02 and .03.[31] As amended, PCX Rule 6.27 would provide that the Exchange may require each member organization to file with the Exchange a report, as of the 15th of each month, of all open positions resulting from the exercise of options contracts in accounts carried by a member organization. It would then incorporate current Commentary .01 into the rule by adding that such reports, when required, must be filed no later than the second business day following the day as of which the report is made.

J. Fast Markets

The proposal would change PCX Rule 6.28 by redesignating OFPA G–9 as paragraph (b) of PCX Rule 6.28. Currently, OFPA G–9 lists procedures that become effective in a fast market situation. The Exchange proposes this change to simplify and consolidate rules relating to fast market and unusual market conditions. In addition, the proposal adds as paragraph (b)(5) a cross-reference to the current requirement that market makers have under Rule 6.37(f) to trade a minimum of one contract based on quoted markets during fast markets. The proposal would specify in new paragraph (b)(6) that regular trading procedures will be resumed when two floor officials determine that the conditions supporting the fast market no longer exist. Finally, it would remove, as unnecessary, the current provision allowing floor officials to assign brokerage responsibilities for particular series to specific floor brokers in the trading crowd during fast markets.

[30] *Cf.* CBOE Rule 6.61, Interp. & Policy .01.

[31] Commentary .02 provides: "An open exercise position shall include any position with respect to which the Options Clearing Corporation has assigned an exercise notice to the member organization and the member organization has not delivered the shares of the underlying stock in accordance with the Rules of the Options Clearing Corporation and these Rules." Commentary .03 provides: "All such reports shall be delivered to the Department of Member Organizations of the Exchange." The Exchange does not believe that a specific department needs to be identified in this rule and, in any event, member firms are currently on notice that such reports must be filed with the Department of Options Surveillance.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b).[32] The proposal would modify certain rules relating to options trading on the PCX by clarifying existing provisions, eliminating unnecessary provisions, and codifying current policies and procedures. By clarifying and updating its rules and obligations for market participants, the Commission believes the proposal is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and protect investors and the public interest.[33]

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[34] that the proposed rule change (SR–PCX–99–36), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

Margaret H. McFarland,

Deputy Secretary

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[32] 15 U.S.C. 78f(b).

[33] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[34] 15 U.S.C. 78s(b)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43292; File No. SR–Phlx–00–74]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Exchange's Liability In Connection With the Administration of Its Proprietary Indices

September 14, 2000.

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 August 4, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 1102A, Limitation of Exchange Liability, to add to the limitation of the Exchange's liability, in connection with its administration of Phlx proprietary indexes, negligent acts or omissions. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

Rule 1102A Limitation of Exchange Liability

Neither the Exchange, the Reporting Authority nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current index value or the closing index value resulting from *any negligent act or omission by the Exchange or* any [an] act, condition or cause beyond the reasonable control of the Exchange, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission or delay in the reports of transactions in one or more underlying securities; or any error, omission or delay in the reports of the current index value or the closing index value by the Exchange or the Reporting Authority.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand the limitation of the Exchange's liability in connection with its administration of Phlx proprietary indices. The Exchange currently lists and trades options on a number of proprietary indices, and new indices continue to be developed from time to time.[3] There is a great deal of work involved in the daily calculation and dissemination of these indices. While much of such work is automated, manual input is still required. Thus, the potential for human error exists which exposes the Exchange to a risk of liability. Potential human errors include inputting a symbol or index value incorrectly or missing a corporate action that has an effect on the index.

Currently Phlx Rule 1102A disclaims Exchange liability for damages caused by errors, omissions or delays in the calculation or dissemination of any index value resulting from any conduct beyond the reasonable control of the Exchange. This includes an act of God, a power failure, or any error, omission or delay in the reported price of the underlying security. However, these disclaimer provisions are arguably ambiguous with respect to whether the Exchange remains potentially liable for damages caused by any human error or omission by an Exchange employee in connection with the performance of the Exchange's index responsibilities. The proposed amendment to Phlx Rule 1102A would make clear that the Exchange disclaims liability for negligent conduct, in addition to conduct beyond the Exchange's reasonable control, currently covered by Phlx Rule 1102A. Other exchanges, including the American Stock Exchange ("Amex"),[4] disclaim liability for negligent conduct in connection with their index operations. Further, the Exchange acknowledges that Phlx Rule 1102A cannot be relied upon by the Exchange to limit its liability to non-members or for any intentional or negligent violation of federal securities laws.

2. Statutory Basis

For these reasons, the proposed rule change is consistent with Section 8 of the Act in general, and with section 6(b)(5)[5] of the Act specifically, in that it is designed to perfect the mechanisms of a free and open market and a national market system, to promote just and equitable principles of trade, and to protect investors and the public interest, by defining the scope of the Exchange's liability, thereby, putting investors on notice that the Exchange is not liable for negligent conduct in connection with its administration of Phlx proprietary indices, in addition to conduct beyond the Exchange's reasonable control, currently covered by Rule 1102A.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any 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 with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consists, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

The Commission invites interested persons to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–00–74 and should be submitted by October 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–24352 Filed 9–21–00; 8:45 am]

BILLING CODE 8010–01–M

[3] The Exchange's proprietary indices currently include: Computer Box Maker Index (BMX), Phlx Oil Service Index (OSX), Gold-Silver Index (XAU), National Over-the-Counter Index (XOC), Phlx Forest and Paper Products Sector Index (FPP), Over-the-Counter Prime Index (OTC), Utility Index (UTY), Semiconductor Index (SOX), TheStreet.com Internet Sector Index (DOT) and Wireless Telecom Sector Index (YLS).

[4] *See* Amex Rule 902C.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting cancellation.

DATES: September 26–27, 9 a.m.–5 p.m.

ADDRESSES: Embassy Suites Hotel, 1900 Diagonal Road, Alexandria VA 22314, 703–684–5900.

SUPPLEMENTARY INFORMATION: *Meeting Cancelled:* In accordance with section 10(a)(2) of the Federal Advisory Committee Act, SSA announced a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel).

The Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public Law 106–170, establishes the Panel to advise the Commissioner of Social Security, the President and the Congress on issues related to work incentives programs, planning and assistance for individuals

with disabilities as provided under section 101(f)(2)(A) of TWWIIA.

The meeting of the Panel scheduled for September 26–27, 2000 in Alexandria, Virginia is cancelled. Please disregard the notice and agenda published in the **Federal Register** on September 12, 2000.

The Panel will reschedule a public meeting pending the publication of the Notice of Proposed Rulemaking (NPRM) to implement TWWIIA. Public comment will be taken on the NPRM at a future meeting that will be announced in the **Federal Register**. For updates on these and other related meetings, check the web site of SSA's Office of Employment Support Programs at *http://www.ssa.gov/work/ResourcesToolkit/resourcestoolkit.html* for future scheduling of the Panel's public meetings.

Dated: September 19, 2000.

Susan M. Daniels,

Deputy Commissioner for Disability and Income Security Programs.

[FR Doc. 00–24536 Filed 9–21–00; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7933]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers 2115–0571, 2115–0552, 2115–0565, 2115–0589, and 2115–0613

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of five Information Collection Requests (ICRs). They comprise: (1) Alternative Provisions for Reinspection of Offshore Supply Vessels in Foreign Ports, (2) Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas, (3) Working Freeboard of Hopper Dredges—Load Lines and Stability, (4) Plan Approval and Records for Subdivision and Stability, and (5) Discharge of Refuse from Ships. Before submitting the ICRs to OMB, the Coast Guard is requesting comments on the collections, described below.

DATES: Comments must reach the Coast Guard on or before November 21, 2000.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG 2000–7933], U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The DMS maintains the public docket for this request. Comments will become part of this docket and will be available for inspection or copying in room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

Copies of the complete ICRs are available through this docket on the Internet at http://dms.dot.gov and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2000–7933], and give the reason for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Information Collection Request

1. *Title:* Alternative Provisions for Reinspection of Offshore Supply Vessels in Foreign Ports.

OMB Control Number: 2115–0571.

Summary: This collection of information provides a mechanism for owners and operators of offshore supply vessels (OSVs) based overseas to submit certified examination reports and statements to the Coast Guard as alternatives to reinspection by the Coast Guard.

Need: 46 U.S.C. 3307 and 3308 require vessels subject to inspection to be examined on a periodic basis. The requirements for inspections of OSVs appear in 46 CFR Part 126.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden: The estimated burden is 143 hours a year.

2. *Title:* Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas.

OMB Control Number: 2115–0552.

Summary: Liquefied Natural Gas (LNG) and other Liquefied Hazardous Gases (LHGs) present a risk to the public when handled at waterfront facilities. These rules should either prevent accidental releases at waterfront facilities or mitigate their results. They are necessary to promote and verify compliance with safety standards.

Need: 33 CFR Part 127 prescribes safety standards for design, construction, equipment, operations, maintenance, personnel training, and fire protection at waterfront facilities handling LNG or LHG.

Respondents: Owners and operators of waterfront facilities that transfer LNG or LHG.

Frequency: On occasion.

Burden: The estimated burden is 3,272 hours a year.

3. *Title:* Working Freeboard of Hopper Dredges—Load Lines and Stability.

OMB Control Number: 2115–0565.

Summary: This collection of information provides a mechanism for owners and operators of self-propelled hopper dredges to request working freeboards.

Need: 46 U.S.C. 3306 authorizes the U.S. Coast Guard to prescribe rules for the safety of navigation and vessels. These rules ensure that self-propelled hopper dredges meet certain standards for structure and stability.

Respondents: Owners and operators of self-propelled hopper dredges.

Frequency: On occasion.

Burden: The estimated burden is 46 hours a year.

4. *Title:* Plan Approval and Records for Subdivision and Stability.

OMB Control Number: 2115–0589.

Summary: This collection of information requires owners, operators, or masters of certain inspected vessels to obtain or post various documents as part of the program of the Coast Guard for the safety of commercial vessels.

Need: 46 U.S.C. 3306 authorizes the Coast Guard to prescribe rules for the safety of certain vessels. 46 CFR Subchapter S contains the rules regarding subdivision and stability.

Respondents: Owners, operators, and masters, of vessels.

Frequency: On occasion.

Burden: The estimated burden is 10,003 hours a year.

5. *Title:* Discharge of Refuse from Ships.

OMB Control Number: 2115–0613.

Summary: The Marine Plastic Pollution Research and Control Act of 1987 requires the keeping of records on the discharge of refuse by oceangoing commercial vessels that are 40 feet in length or more. The rules appear in 33 CFR 151.55.

Need: This collection of information is needed as part of the Coast Guard's program for compliance with rules on pollution prevention.

Respondents: Owners, operators, masters, and persons-in-charge of vessels.

Frequency: On occasion.

Burden: The estimated burden is 523,302 hours a year.

Dated: September 15, 2000.

S.A. Richardson,

Acting Director of Information and Technology.

[FR Doc. 00–24384 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2000–7951]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD) intentions to request approval for three years of an existing information collection entitled "Automated Mutual-Assistance Vessel Rescue System (AMVER)."

DATES: Comments should be submitted on or before November 21, 2000.

FOR FURTHER INFORMATION CONTACT: Walter Lockland, Chief, Division of Operations Support, Office of Ship Operations, 400 Seventh Street, SW, Room 2123, Washington, D.C. 20590, telephone number—202–366–5735. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Automated Mutual-Assistance Vessel Rescue System (AMVER).

Type of Request: Three-year approval of an existing information collection.

OMB Control Number: 2133–0025.

Form Number: CG–4796 (MA) (Rev. 8–88).

Expiration Date of Approval: Three years from the date of approval.

Summary of Collection of Information: This collection of information is used to gather information regarding the location of U.S.-flag vessels and certain other U.S. citizen-owned vessels for the purpose of Search and Rescue in the saving of lives at sea and for the marshalling of ships for National Defense and safety purposes. This collection consists of vessels that transmit their positions through the following means: (1) Electronic mail via the internet sent by satelite or HF radio; (2) AMVER/SEAS "compressed message" sent via INMARSAT–C; (3) HF telex via U.S. Coast Guard communications stations; (4) HF radio via U.S. contractual agreement with Mobile Marine Radio; (5) telex via either satelite or HF radio; and (6) telefacsimile directly to U.S. Coast Guard AMVER Operations Center. This location data is then read into a database and is accessed only by the U.S. Coast Guard and MARAD to determine the location of a particular ship.

Need and Use of the Information: This information collection is necessary for maintaining a current plot of U.S.-flag and U.S.-owned vessels in order to facilitate immediate marshalling of ships for National Defense purposes and for the purpose of maintaining a current plot for Search and Rescue purposes for safety of life at sea.

Description of Respondents: U.S.-flag and U.S. citizen-owned vessels which are required to respond under current statute and regulation.

Annual Responses: 32,480 responses.

Annual Burden: 2,598 hours.

Comments: Signed written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW, Washington, D.C. 20590. Specifically, address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., et. Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http://dms.dot.gov.

By Order of the Maritime Administrator.

Dated: September 19, 2000.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 00–24428 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7935]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Aboriginal.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 23, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7935. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Gordon Angell, U.S. Department of Transportation, Maritime

Administration, MAR–832 Room 7201, 400 Seventh Street, S.W., Washington, DC 20590. Telephone 202–366–5129.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: *Aboriginal.* Owner: Richard J. Connelly.

(2) Size, capacity and tonnage of vessel. According to the applicant: "It is 42 foot in length, capacity up to 12 people, weighs 38 net ton, pursuant to 46 u.s.c.14502 State of RI."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "My intent is to use this vessel for sport fishing charters, 6 people or less out of Newport, RI. I will be fishing Newport and Block Island Sound and up to 100 miles offshore. I also intend to fish stickle rod and reel."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1987. Place of construction: Taiwan, R.O.C.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "Currently there are approximately six other sportfishing operators in the Newport, RI area. Due to the large area I intend to fish, and the demand for charter boats in Newport; my waiver should have no adverse impact."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "Also, the U.S. shipyards would do any and all work or repairs on my vessel; therefore, having no adverse effect on U.S. shipyards."

Dated: September 19, 2000.

By Order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. 00–24426 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7936]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Lucky Dog.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before October 23, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7936. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Gordon Angell, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, S.W., Washington, DC 20590. Telephone 202–366–5129.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement:

(1) Name of vessel and owner for which waiver is requested. Name of vessel: *Lucky Dog.* Owner: Relentless Charters Inc.

(2) Size, capacity and tonnage of vessel. According to the applicant: "The vessel is 34 feet in length and 13 feet 7 inches in breadth. Gross tonnage as determined by 46 CFR 69 subpart E is 21.65."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "The intended use for the vessel is operating as an uninspected passenger vessel pursuant to 46 CFR 10.205. This regulation calls for a maximum of 6 passengers and a range of no more than 100 miles from shore. Charter services will be offered for the purpose of scuba diving and sport fishing. The geographic region of operation will be the Gulf of Mexico from Sarasota Florida to Bayonet Point Florida, extending 100 miles into the gulf."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1973. Place of construction: Omastrand Norway.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "I believe that granting this waiver will not unduly adversely affect other commercial passenger vessel

operators. The area where I will be operating attracts numerous tourists from around the world, many of whom are interested in fishing or diving local waters. It has been my observation that the demand for charter services far exceeds the supply in this area. I currently do not advertise and in spite of my low profile, I am solicited to charter nearly every week. Obviously, I decline since I lack the appropriate documentation."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "I believe that the impact to U.S. shipyards is positive. I do not think that a vessel that is 27 years old carries any impact on shipyards that produce new vessels. On the other hand, using this vessel for commercial use will necessitate refurbishment and repowering that will benefit U.S. shipyards that perform this type of work."

Dated: September 19, 2000.

By Order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary, Maritime Administration.

[FR Doc. 00–24427 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

RSPA–00–7795

Pipeline Safety: Meeting of the Integrity Management Communication Team

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of Integrity Management Communication Team meeting.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) hereby gives notice that the Integrity Management Communication Team will meet to discuss the content and delivery of pipeline information to be conveyed to local officials and members of the public in or near high consequence areas.

DATES: The meeting will be held on October 10, 2000, from 8:30 a.m. until 5:00 p.m.

ADDRESSES: Members of the public may attend the meeting at the Department of Transportation, Nassif Building, 400 Seventh Street, SW., Room 3200, Washington, DC 20590. After team members have discussed each topic, an opportunity will be provided for the public to make short statements. Anyone wishing to make an oral statement or to participate by conference call should notify Mary Jo Cooney, (202) 366–4774, no later than October 5, 2000. Those wishing to make an oral statement must notify OPS of the topic of the statement and the time requested for the presentation. Those wishing to participate by conference call will be notified of the call-in number prior to the meeting.

Information on Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance during the telephone conference calls, contact Mary-Jo Cooney at (202) 366–4774.

FOR FURTHER INFORMATION CONTACT: Mary Jo Cooney, OPS, (202) 366–4774.

SUPPLEMENTARY INFORMATION:

Background Information

In connection with the proposed rule on Pipeline Integrity Management in High Consequence Areas, OPS plans to propose related rules governing operator communications with local public officials and agencies. To assist in this effort, the OPS Technical Advisory Committees created an Integrity Management Communications Subcommittee to focus on communications issues and to report back to the full Advisory Committee. OPS expanded this Subcommittee to form a team with equal representation from the public, government agencies, and the pipeline industry, and to consolidate several related efforts.

The Team will provide feedback, insight, and information to the Advisory Committee on the content and delivery of information conveyed to local officials and the public about pipeline operations, systems, and the risks they pose in or near high consequence areas. The Advisory Committee will provide pipeline communication recommendations to OPS for consideration in drafting the Integrity Management Communications rulemaking. The Team will also assist OPS in finalizing a primer to educate local officials on pipelines and their operations.

The topics for discussion for this meeting include discussions of the following: Information that is needed by various groups: landowners/tenants along pipeline rights-of-way; local and regional emergency response officials; excavators and the general public; review of existing materials used by pipeline operators for public education; results from a public awareness survey conducted by the American Petroleum Institute and focus groups sponsored by the Interstate Natural Gas Association of America; Office of Pipeline Safety website materials; information currently available under the Freedom of Information Act; and pending pipeline legislative proposals for community right-to-know.

Documents relating to this initiative may be viewed on the OPS website, ops.dot.gov. Click on Integrity Management and then click on Communications Rule. Scroll down to view background documents.

Issued in Washington, DC on September 18, 2000.

Jeffrey D. Wiese,

Manager, Program Development, Office of Pipeline Safety.

[FR Doc. 00–24383 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33925]

Buffalo Ridge Regional Railroad Authority—Operation Exemption—Rail Line Between Manley and Worthington, MN

Buffalo Ridge Regional Railroad Authority (BRRRA),[1] a noncarrier, has filed a verified notice of exemption (notice) under 49 CFR 1150.31 to operate over its own rail line between milepost 0.0, at or near Agate, MN, and milepost 41.44, at or near Manley, MN, a distance of approximately 41.44 miles (line).[2] In addition, BRRRA will operate, pursuant to incidental trackage rights, over a 3.4-mile rail line owned by Union Pacific Railroad Company between Agate and Worthington, MN, for a total of 44.84 miles.[3]

[1] BRRRA is a political subdivision of the State of Minnesota.

[2] BRRRA's line is a segment of a 65.6-mile rail line previously owned and abandoned by the Chicago and North Western Transportation Company. *See Chicago and North Western Transportation Company—Abandonment in Nobles and Rock Counties, MN, and Minnehaha County, SD,* Docket No. AB–1 (Sub-No. 202) (ICC served June 16, 1988). According to BRRRA, it acquired the line after consummation of the abandonment in Docket No. AB–1 (Sub-No. 202) but never operated the line itself.

As noted in page 2 of the notice, BRRRA alternatively requested that, should the Board determine that BRRRA is an existing rail carrier, the notice of exemption for operation of the line should be deemed to be filed under 49 CFR 1150.41. Based on the representations made by BRRRA, use of the exemption at 49 CFR 1150.31 from the requirements of 49 U.S.C. 10901 is appropriate.

[3] Nobles Rock Railroad Co. (NRRC) currently provides common carrier rail service over the line pursuant to *Nobles Rock Railroad Co.—Lease and Operation Exemption—Buffalo Ridge Regional Railroad Authority,* Finance Docket No. 32368 (ICC

The transaction is expected to be consummated no earlier than the September 15, 2000 effective date of the exemption.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33925, must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Jr., Esq., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606–2902.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: September 14, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–24165 Filed 9–21–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33927]

SMS Rail Service, Inc.—Acquisition and Operation Exemption—Valero Refining Company—New Jersey

SMS Rail Service, Inc. (SMS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire, maintain and operate railroad track within the 970-acre Paulsboro, NJ, refinery of Valero Refining Company—New Jersey (Valero), formerly the refinery of Mobil Oil Corporation, pursuant to an agreement with Valero dated August 31, 2000. The trackage extends northward from a connection 950 feet to the west of milepost 14 on the Paulsboro Industrial Track of Consolidated Rail Corporation (Conrail), a distance of approximately 5.8 miles in Gloucester County, NJ. SMS states that its projected revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not expected to exceed $5 million.[1]

The transaction was expected to be consummated on or after September 12, 2000.

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. 33927, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, NW., 8th Floor, Washington, DC 20036–1601.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: September 14, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–24166 Filed 9–21–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Airline Service Quality Performance

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of DOT collecting data on the timeliness of scheduled domestic passenger flights and the incidence of lost and damaged baggage. The 10 largest domestic passenger carriers report the data on a monthly basis.

Commenters should address whether BTS accurately estimated the reporting burden and if there are other ways to enhance the quality, utility and clarity of the information collected.

DATES: Written comments should be submitted by November 21, 2000.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, FAX NO. 366–3383 or EMAIL *bernard.stankus@bts.gov*.

COMMENTS: Comments should identify the OMB # 2138–0041. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0041. The postcard will be date/time stamped and returned.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0041.

Title: Airline Service Quality Performance.

Type Of Review: Extension of a currently approved collection.

Respondents: Large air carriers that account for at least one percent of domestic scheduled passenger revenues.

Number of Respondents: 10.

Number of Responses: 120.

Total Annual Burden: 2,280 hours.

Needs and Uses: Since September 1987, carriers' quality of service has been measured by BTS, resulting in the overall improvement of service. The Department discloses the air carriers' on-time performances and mishandled-baggage rates to the public. Airline passengers are able to make more informed carrier selection decisions based on the quality of service provided by individual air carriers.

While overall air carrier delays have increased in the year 2000, the majority of the increase is associated with an increase in the number of aircraft departures at congested airports. Because air carriers report gate-departure time, wheels-off time, wheels-on time and gate-arrival time, the FAA can use the data to identify bottle necks in the national air transport system. Since the FAA can identify aircraft types from the tail number reported by the air carriers, the FAA can also calculate the system capacity impacted by air traffic congestion and track the ripple effects of delays at hub airports. The data can be used for airport design change analysis, new equipment purchases, and the planning of new runways or airports based on current or

served Nov. 1, 1993). BRRRA states that NRRC appears to have become insolvent or close to insolvency and that termination of its lease to NRRC appears to be imminent. BRRRA further states that it now intends to operate the line itself.

[1] SMS indicates that Conrail currently operates the rail line.

projected airport delays and traffic levels.

Donald W. Bright,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 00–24385 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Report of Passengers Denied Confirmed Space—BTS Form 251

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of DOT requiring U.S. and foreign air carriers that operate scheduled passenger service with large aircraft to submit reports on their oversales practices. Large aircraft are aircraft designed to carry over 60-seats. Carriers submit the quarterly Form 251 "Report of Passengers Denied Confirmed Space." Carriers do not report oversales of inbound international flights because the protection provisions of 14 CFR part 250 do not apply to these flights. The Department uses Form 251 to monitor the compliance by U.S. and foreign air carriers to the oversales provisions of Part 250.

DATES: Written comments should be submitted by November 21, 2000.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, FAX NO. 366–3383 or EMAIL *bernard.stankus@bts.gov.*

Comments

Comments should identify the OMB # 2138–0018. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138- 0018. The postcard will be date/time stamped and returned.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366–4387.

SUPPLEMENTAL INFORMATION:

OMB Approval No.: 2138–0018.

Title: Report of Passengers Denied Confirmed Space.

Form No.: BTS Form 251.

Type Of Review: Extension of a currently approved collection.

Respondents: Large U.S. and foreign air carriers.

Number of Respondents: 120.

Number of Responses: 480.

Total Annual Burden: 2,220 hours.

Needs and Uses: BTS Form 251 is a one page report on the number of passengers holding confirmed space that were voluntarily or involuntarily denied boarding. Carriers must report whether the bumped passengers were provided alternate transportation and/or compensation, and the amount of the payment. The report allows the Department to monitor the effectiveness of its oversales rule and take enforcement action when necessary. The involuntary denied-boarding rate has steadily decreased over the years from 4.38 per 10,000 enplanements in 1980 to 1.08 for the first six months of the year 2000. This decrease occurred at a time when air carrier load factors have increased. These statistics demonstrate the effectiveness of the Avolunteer* provision, which has reduced the need for more intrusive regulation.

The rate of denied boarding can be examined as an air carrier continuing fitness factor. This rate provides an insight into a carrier's policy on treating overbooked passengers and its compliance disposition. A rapid increase in the rate of denied boardings often is an indicator of operational difficulty.

Because the rate of denied boarding is published in the *Air Travel Consumer Report*, travelers and travel agents can select carriers with low bumping incidents when booking a trip.

Donald W. Bright,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 00–24386 Filed 9–21–00; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Domestic Cargo Transportation—Part 291

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of DOT requiring domestic all-cargo carriers, that do not submit Form 41 reports, to file Form 291–A AStatement of Operations and Statistics Summary for Section 41103 Operations* pursuant to 14 CFR 291.42. Form 291–A is used to monitor air-cargo activity on all-cargo flights.

DATES: Written comments should be submitted by November 21, 2000.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, FAX NO. 366–3383 or E-MAIL *bernard.stankus@bts.gov.*

Comments

Comments should identify the OMB # 2138–0023. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0023. The postcard will be date/time stamped and returned.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0023.

Title: Domestic Cargo Transportation Part 291.

Form No.: BTS Form 291–A.

Type Of Review: Extension of a currently approved collection.

Respondents: Certificated all-cargo air carriers.

Number of Respondents: 1.

Number of Responses: 1.

Total Annual Burden: 12 hours.

Needs and Uses: BTS Form 291–A financial data are reviewed in connection with an air carrier's operations when concerns arise as to a carrier's financial condition as evidenced by reported losses. Data comparisons are made between current and past periods in order to assess the current financial position. Financial trend lines are extended into the future to evaluate the continued viability of the air carrier.

Commercial all-cargo activity data are used by the FAA in estimating the excise tax paid by shippers and held by

the all-cargo air carriers. Although a precise amount cannot be computed because of the limitations of the report, an estimation is possible for revenue budgeting purposes.

Donald W. Bright,
Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 00–24429 Filed 9–21–00; 8:45 am]
BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 00–18]

Notice of Request for Preemption Determination

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

ACTION: Notice and request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for the OCC's opinion about whether Federal law preempts certain provisions of the Financial Institutions Insurance Sales Act (FIISA), enacted by the State of Rhode Island in 1996. The purpose of this notice and request for comment is to provide interested persons with an opportunity to submit comments prior to the OCC's issuance of a written opinion in this matter.

DATES: Comments must be received on or before October 23, 2000.

ADDRESSES: Comments should be sent to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Third Floor, Attention: Docket No. 00–18, Washington, DC 20219. You may submit comments electronically to regs.comments@occ.treas.gov or by facsimile transmission to (202) 874–5274. You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Jean Campbell, Attorney, or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

In 1996, the Financial Institutions Insurance Association (Requester) filed with the OCC a request for the OCC's opinion on whether Federal law preempts certain provisions of a Rhode Island statute pertaining to insurance sales by financial institutions. The OCC published a notice and request for comment on January 14, 1997.[1] On March 18, 1997, the OCC extended the comment period until May 15, 1997,[2] so that interested persons could consider, and comment on, the effect of a regulation implementing the Rhode Island statute that was then under consideration by the Rhode Island Department of Business Regulation. Throughout this time period, the Congress was actively considering various financial modernization bills containing provisions relevant to the issues raised by the Requester. Congress passed such legislation—the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338)—in November 1999 (GLBA). On July 26, 2000, the Requester renewed its request that the OCC issue an opinion on whether or not Federal law, now including the relevant provisions of GLBA, preempts certain provisions of Rhode Island Law.[3]

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328, 108 Stat. 2338) generally requires the OCC to publish in the Federal Register a descriptive notice of certain requests that the OCC receives for preemption opinions. 12 U.S.C. 43. Under section 114, the OCC must publish notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of any State law in four designated areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. Pursuant to section 114, interested persons have at least 30 days to submit written comments. Without making a determination as to whether section 114 applies to this request, the OCC has decided that it is appropriate to use notice and comment procedures given the broad interest in the issues presented. The OCC will publish in the **Federal Register** any final opinion letter we issue concluding that Federal law preempts the provisions of the Rhode Island Law that are the subject of the request.

Description of the Request for OCC Preemption Opinion

The OCC has been asked to provide its views on whether section 104 of the GLBA[4] preempts certain specific provisions of the Rhode Island Law.

Section 104(d)(2)(A) of GLBA provides that "[i]n accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A.* v. *Nelson,* 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of a depository institution, or an affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with an affiliate or any other person, in any insurance sales, solicitation, or crossmarketing activity." However, State provisions are not preempted pursuant to section 104 if they are substantially the same as but no more burdensome or restrictive than any of the thirteen specific provisions—or Safe Harbors—described in section 104(d)(2)(B).[5] The Requester asserts that five specific provisions of the FIISA are preempted and that none of the Safe Harbors protects these provisions.

Anti-tying Prohibition

The Requester contends that Federal law should preempt the anti-tying provisions in section 6 of the FIISA and its implementing regulation. Specifically, section 6 provides that:

(a) No financial institution may offer a banking product or service, or fix or vary the conditions of this offer, on a condition or requirement that the customer obtains insurance from the financial institution, or any particular insurance producer.

(b) No person shall require or imply that the purchase of an insurance product from a financial institution by a customer or prospective customer of the institution is required as a condition of, or is in any way related to, the lending of money or extension of credit, the establishment or maintenance of a trust account, the establishment or maintenance of a checking or savings account or other deposit account, or the provision of services related to any of these activities. R.I. Gen. Laws 27–58–6.

The Requester contends that this prohibition is much broader than a prohibition against coercive tying because it prohibits a loan officer from mentioning to a customer that insurance products may be available, at a discount, as part of a package of bank services. The Requester further contends that these prohibitions are more burdensome and restrictive than Safe Harbor (viii) and frustrate, hamper,

[1] 62 FR 1950 (January 14, 1997).

[2] 62 FR 12883 (March 18, 1997).

[3] This notice refers to the statutory provisions and their implementing regulations, where applicable, collectively as the Rhode Island Law.

[4] 113 Stat. 1338, 1352–59 (November 12, 1999) (to be codified at U.S.C. 6701).

[5] The thirteen Safe Harbors are enumerated in clauses (i) through (xiii) of section 104(d)(2)(B). Each Safe Harbor is referred to in this notice by clause. Thus, Safe Harbor (viii) refers to seciton 104(d)(2)(B)(viii).

impair or interfere with a national bank's ability to exercise its insurance powers.

Sales Force Restrictions

Section 8 of the FIISA, and its implementing regulation, prohibits bank employees with lending or deposit taking responsibilities from soliciting and selling insurance. Specifically, section 8 provides that:

> Solicitation for the purchase or sale of insurance by a financial institution shall be conducted only by persons whose responsibilities do not include loan transactions or other transactions involving the extension of credit, or the taking of deposits. For the purposes of this section however, solicitation does not include signage on the premises. (R.I. Gen. Laws 27–58–8.)

The Requester contends that this provision would prohibit a properly state-licensed private banker from both accepting deposits and selling insurance products to a private banking customer. The Requester further contends that this prohibition would destroy "platform programs" and those in which staff members work as dual employees, and could limit the ability of certain financial institutions, particularly smaller ones, to exercise their insurance powers. The Requester asserts that this provision is more burdensome and restrictive than any of the Safe Harbors and would prevent or significantly interfere with the ability of a financial institution to exercise its authority to sell insurance.

Confidential Customer Information

Section 10 of the FIISA, and its implementing regulation, prohibits financial institutions from using or disclosing certain customer information for the purpose of selling or soliciting insurance. Specifically, section 10 provides that:

> (1)(b) "Nonpublic customer information" means information regarding a person that has been derived from a record of a financial institution, including information concerning the terms and conditions of insurance coverage, insurance expirations, insurance claims, or insurance history of an individual. Nonpublic customer information does not include customer names, addresses or telephone numbers.
>
> (2) No financial institution shall use any nonpublic customer information for the purpose of selling or soliciting the purchase of insurance or provide the nonpublic customer information to a third party for the purpose of another's sale or solicitation of the purchase of insurance. (R.I. Gen. Laws 27–58–10.)

The Requester contends that this provision would prevent a bank from using information it has obtained to identify customer needs. The Requester further contends that this provision would hurt third party marketing programs as well as bank-owned agencies with dedicated agents and "platform programs," and damage marketing and sales techniques such as remote or direct marketing and retail-face-to-face programs.

The Requester contends that section 10 of the FIISA is not substantially the same as and is more burdensome and restrictive than Safe Harbor (vi) and would prevent or significantly interfere with a financial institution's ability to exercise its insurance powers.

Insurance in Connection With a Loan

Section 11 of the FIISA generally requires that loan and insurance applications be completed independently and through separate documents. Specifically, section 11 provides that:

> (a) If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents.
>
> (b) A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.
>
> **(R.I. Gen. Laws 27–58–11.)**

The Requester contends that the requirement that loan and insurance transactions be completed "independently" as well as through separate documents will inconvenience both the applicant and the financial institution involved in the two transactions by requiring the applicant to make a separate trip to the bank, complete a separate set of documents, and meet with more than one employee of the bank. The Requester contends that this requirement is particularly burdensome when coupled with other requirements contained in the FIISA, such as the requirements governing physical location of insurance activities and sales force.

The Requester contends that this provision is not protected by any of the Safe Harbors. The Requester asserts that although Safe Harbor (xi) protects State laws requiring that credit and insurance transactions be completed through separate documents, the Safe Harbor does not protect States laws that require that the transactions be completed "independently." Thus, the Requester contends that this provision is not protected by any of the Safe Harbors and would prevent or significantly interfere with the ability of a financial institution to exercise its insurance powers.

Physical Separation of Insurance Activities

Section 12 of the FIISA, and its implementing regulation, generally permits financial institutions to solicit and sell insurance only from an office physically separated from the banking activities of the institution. Specifically, section 12 provides that:

> The place of solicitation or sale of insurance by any financial institution shall be from an office physically separated from the banking activities of the institution. Physical separation shall not be defined as a separate building. The commissioner shall have the authority to promulgate rules to implement this section pursuant to § 27–58–4.
>
> **(R.I. Gen. Laws 27–58–12.)**

The Requester contends that this requirement would prevent a trained and licensed bank employee from soliciting a sale of a life insurance product if the employee (1) was also a loan officer; (2) had an office not physically separated from core banking activities; (3) had just accepted a loan application from the customer; or (4) had learned of the customer's need for the product as a result of reading his loan application. Thus, the Requester contends that none of the Safe Harbors protects this requirement from preemption, and that these limitations would prevent or significantly interfere with the financial institution's ability to exercise its authority to sell insurance. The Requester also contends that this requirement would impact small institutions most severely.

Regulations Implementing the FIISA Provisions

The Requester also asks the OCC to address whether or not Federal law would preempt the regulations implementing the State statutory provisions for the same reasons described above.[6] In addition, the Requester also specifically asks the OCC to opine on whether a regulatory provision that would confer on the Rhode Island Department of Business Regulation authority to examine the insurance activities of the bank for compliance with the Rhode Island implementing regulations conflicts with Federal law.[7] The OCC invites comments on this provisions and all the implementing regulations, including how they interact with the FIISA provisions.

Request for Comments

The OCC requests comments on the issues described above.

Dated: September 14, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

Request for Comments

The OCC requests comments on the issues described above.

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[6] R.I. Code R. 02–030–090 (2000).

[7] R.I. Code R. 02–030–090, § 3 (2000).

Dated: September 14, 2000.
John D. Hawke, Jr.,
Comptroller of the Currency.
[FR Doc. 00–24340 Filed 9–21–00; 8:45 am]
BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8854

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8854, Expatriation Information Statement.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Expatriation Information Statement OMB Number: 1545–1567.

Form Number: Form 8854.

Abstract: Internal Revenue Code Section 6039G requires persons who lose U.S. citizenship to provide information concerning citizenship, income tax liability, net worth, and net assets. Form 8854 is used to report this information.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents—Part I: 10,000.

Estimated Number of Respondents—Parts I and II: 1,000.

Estimated Time Per Respondent—Part I: 1 hr., 46 min.

Estimated Time Per Respondent—Parts I and II: 7 hr., 8 min.

Estimated Total Annual Burden Hours: 23,060.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 2000.
Garrick R. Shear,
IRS Reports Clearance Officer.
[FR Doc. 00–24442 Filed 9–21–00; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8818

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8818, Optional Form To Record Redemption of Series EE and I U.S. Savings Bonds Issued After 1989.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Optional Form To Record Redemption of Series EE and I U.S. Savings Bonds Issued After 1989.

OMB Number: 1545–1151.

Form Number: Form 8818.

Abstract: Under Internal Revenue Code section 135, if an individual redeems U.S. savings bonds issued after 1989 and pays qualified higher education expenses during the year, the interest on the bonds is excludable from income. Form 8818 can be used to keep a record of the bonds cashed so that the taxpayer can claim the proper interest exclusion.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 38 min.

Estimated Total Annual Burden Hours: 32,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24443 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6118.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6118, Claim of Income Tax Return Preparer Penalties.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Claim of Income Tax Return Preparer Penalties.

OMB Number: 1545–0240.

Form Number: Form 6118

Abstract: Form 6118 is used by tax return preparers to file for a refund of penalties incorrectly charged. The information enables the IRS to process the claim and have the refund issued to the tax return preparer.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

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

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 1 hr., 2 min.

Estimated Total Annual Burden Hours: 10,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24444 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2063

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2063, U.S. Departing Alien Income Tax Statement.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Departing Alien Income Tax Statement.

OMB Number: 1545–0138.

Form Number: Form 2063.

Abstract: Form 2063 is used by a departing resident alien against whom a termination assessment has not been made, or a departing nonresident alien who has no taxable income from United States sources, to certify that they have satisfied all U.S. income tax obligations. The data is used by the IRS to certify that departing aliens have complied with U.S. income tax laws.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,540

Estimated Time Per Respondent: 50 min.

Estimated Total Annual Burden Hours: 17,048

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24445 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5306

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5306, Application for Approval of Prototype or Employer Sponsored Individual Retirement Account.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Application for Approval of Prototype or Employer Sponsored Individual Retirement Account.

OMB Number: 1545–0390.

Form Number: 5306.

Abstract: This application is used by employers who want to establish an individual retirement account trust to be used by their employees. The application is also used by banks and insurance companies that want to establish approved prototype individual retirement accounts or annuities. The data collected is used to determine if the individual retirement account trust or annuity contract meets the requirements of Code section 408(a), 408(b), or 408(c) so that the IRS may issue an approval letter.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 600.

Estimated Time Per Respondent: 12 hr., 58 min.

Estimated Total Annual Burden Hours: 7,782.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24446 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8082

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR).

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR).

OMB Number: 1545–0790.

Form Number: 8082.

Abstract: A partner, S corporation shareholder, or the holder of a residual interest in a real estate mortgage investment conduit (REMIC) generally must report items consistent with the way they were reported by the partnership or S corporation on Schedule K–1 or by the REMIC on Schedule Q. Also, an estate or domestic trust beneficiary, or a foreign trust owner or beneficiary, is subject to the consistency reporting requirements for returns filed after August 5, 1997. Form 8082 is used to notify the IRS of any inconsistency between the tax treatment of items reported by the partner, shareholder, etc., and the way the pass-through entity treated and reported the same item on its tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 10,600.

Estimated Time Per Respondent: 5 hr., 48 min.

Estimated Total Annual Burden Hours: 61,480.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24447 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form CT–2

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form CT–2, Employee Representative's Quarterly Railroad Tax Return.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employee Representative's Quarterly Railroad Tax Return.

OMB Number: 1545–0002.

Form Number: Form CT–2.

Abstract: Employee representatives file Form CT–2 quarterly to report compensation on which railroad retirement taxes are due. The IRS uses this information to ensure that employee representatives have paid the correct tax. Form CT–2 also transmits the tax payment.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 112.

Estimated Time Per Response: 1 hr., 28 min.

Estimated Total Annual Burden Hours: 165.

The following paragraph applies to all of the collections of information covered by this notice:

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

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 14, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24448 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 941, 941–PR, 941–SS, Schedule B (Form 941), and Schedule B (Form 941–PR)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 941 (Employer's Quarterly Federal Tax Return), 941–PR (Planilla Para La Declaracion Trimestral Del Patrono-La Contribucion Federal Al Seguro Social Y Al Seguro Medicare), 941–SS (Employer's Quarterly Federal Tax Return—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands), Schedule B (Form 941) (Employer's Record of Federal Tax Liability), and Schedule B (Form 941–PR) (Registro Suplementario De La Obligacion Contributiva Federal Del Patrono).

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of these forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Quarterly Federal Tax Return.

OMB Number: 1545–0029.

Forms Number: 941, 941–PR, 941–SS, Schedule B (Form 941), and Schedule B (Form 941–PR).

Abstract: Form 941 is used by employers to report payments made to employees subject to income and Social Security/Medicare taxes and the amounts of these taxes. Form 941–PR is used by employers in Puerto Rico to report Social Security and Medicare taxes only. Form 941–SS is used by employers in the U.S. possessions to report Social Security and Medicare taxes only. Schedule B is used by employers to record their employment tax liability.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals or households, not-for-profit institutions, Federal government, and state, local or tribal governments.

Estimated Number of Respondents: 5,798,054.

Estimated Time Per Respondent: 54 hours, 29 minutes.

Estimated Total Annual Burden Hours: 315,935,261.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24449 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1138

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback.

DATES: Written comments should be received on or before November 21, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback.

OMB Number: 1545–0135.

Form Number: 1138.

Abstract: Form 1138 is filed by corporations to request an extension of time for the payment of taxes for a prior tax year when the corporation believes that it will have a net operating loss in the current tax year. The IRS uses Form 1138 to determine if the request should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,033

Estimated Time Per Respondent: 4 hr., 50 min.

Estimated Total Annual Burden Hours: 9,819.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 15, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–24450 Filed 9–21–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0176]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA) is announcing an opportunity for public comment on the proposed collection of information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed by VA to monitor a program participant's training to ensure that the participant is progressing and learning the skills necessary to carry out the duties of the occupational goal.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 21, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Please refer to "OMB Control No. 2900–0176" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Monthly Record of Training and Wages, VA Form 28–1905c.

OMB Control Number: 2900–0176.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: A trainer uses the form as an outline for recording veterans' progress toward their rehabilitation goals as well as recording veterans' on-job training monthly wages. Trainers report these wages on the form only at the beginning of the program and at any time the trainee's wage rate changes. Following a veteran's completion of a vocational rehabilitation program, the trainer submits the form to VA for review by the veteran's case manager.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 12,000.

Dated: August 25, 2000.

By direction of the Acting Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–24328 Filed 9–21–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0276]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 23, 2000.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0276."

SUPPLEMENTARY INFORMATION:

Title: Manufactured Home Appraisal Report, VA Form 26–8712.

OMB Control Number: 2900–0276.

Type of Review: Extension of a currently approved collection.

Abstract: This form is used by VA fee and staff appraisers to establish the reasonable value of used manufactured homes. The reasonable value is then used: (1) To establish the maximum loan amount a veteran may obtain for the purchase of a used manufactured home unit; (2) to obtain information on the condition of the unit and its compliance with VA's minimum property requirements; and (3) in the event of foreclosure, to ascertain the value of the unit for resale purposes for use in computation of claims in applicable cases.

An agency may not conduct or sponsor, and a person is not required to

respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 20, 2000, at page 38318.

Affected Public: Individuals or Households and Business or other for-profit.

Estimated Annual Burden: 1 hour.

Estimated Average Burden Per Respondent: 90 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 124.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0276" in any correspondence.

Dated: August 25, 2000.

By direction of the Acting Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–24329 Filed 9–21–00; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 65, No. 185
Friday, September 22, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

THE PRESIDENT

3 CFR

Executive Order 13167 of September 15, 2000

Amendment to Executive Order 13147, Increasing the Membership of the White House Commission on Complementary and Alternative Medicine Policy

Correction

In Executive Order 13167 of September 15, 2000, in the issue of Wednesday, September 20, 2000, page 54079 should read 57079.

[FR Doc. C0–24364 Filed 9–21–00; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Friday,
September 22, 2000

Part II

Securities and Exchange Commission

17 CFR Parts 200, 275, and 279
Electronic Filing by Investment Advisers; Amendments To Form ADV; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 275, and 279

[Release No. IA–1897; 34–43282; File No. S7–10–00]

RIN 3235–AD21

Electronic Filing by Investment Advisers; Amendments To Form ADV

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting new rules and rule amendments under the Investment Advisers Act of 1940 to require that advisers registered with the Commission make filings under the Act with the Commission electronically through the Investment Adviser Registration Depository (IARD). The Commission is also adopting amendments to Forms ADV and ADV–W that prepare those forms for electronic filing. The new rules implement our statutory mandate to create a one-stop electronic filing system for investment advisers and to provide investors with a readily accessible database of information about investment advisers and persons associated with investment advisers.

DATES: Effective October 10, 2000.

The transition to electronic filing, beginning in January 2001, is discussed in Section I.B of the **SUPPLEMENTARY INFORMATION** section of this Release.

FOR FURTHER INFORMATION CONTACT: Contact Jennifer B. McHugh, Special Counsel, or Jennifer L. Sawin, Special Counsel, at (202) 942–0691, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0506. Visit the IARD page on our website at www.sec.gov/iard, or email <IARDlive@sec.gov>. We urge interested persons with access to the Internet to review information about the IARD and the new rules on our website before contacting our staff.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rules 30–5 and 30–11 of the SEC's Organization and Program Management rules [17 CFR 200.30–5 and 200.30–11], new rule 203–3 and Form ADV–H; adopting amendments to rules 0–2, 0–7, 203–1, 203–2, 203A–1, 203A–2, and 204–1 [17 CFR 275.0–2, 275.0–7, 275.203–1, 275.203–2, 275.203A–1, 275.203A–2, and 275.204–1]; and Form ADV, Form ADV–W, and Form 4–R [17 CFR 279.1, 279.2, and 279.4] under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1] (the Advisers Act or the Act). The Commission also is withdrawing rule 204–5 [17 CFR 275.204–5] and Forms 5–R, 6–R, 7–R, and ADV–Y2K [17 CFR 279.5, 279.6, 279.7, and 279.9] under the Advisers Act.

Table of Contents

Executive Summary

The Commission is adopting new rules and rule amendments under the Advisers Act to require registered investment advisers to make filings with us electronically through the Investment Advisers Registration Depository (IARD). The IARD, which will be operated by NASD Regulation, Inc. (NASDR), will permit investment advisers to satisfy their filing obligations under state and federal law with a single electronic filing made over the Internet.

We are also amending Forms ADV and ADV–W to update the forms and prepare them for electronic filing. The amendments to Form ADV primarily affect Part 1 of the form. We are deferring, for later consideration, adoption of amendments to Part 2 of Form ADV and related rules.

An applicant for registration as an adviser after January 1, 2001 must submit its application electronically through the IARD using amended Form ADV. Advisers registered with the Commission must transition to electronic filing by submitting amendments to their Form ADVs through the IARD during the first four months of 2001 in accordance with a transition schedule we are today adopting. After April 2001, the Commission will no longer accept paper filings of Form ADV unless the adviser has been granted a hardship exemption.

I. Discussion

In April, the Commission proposed amendments to the filing rules under the Advisers Act as well as amendments to Forms ADV and ADV–W.[1] We received over 70 comments on the proposed rules.[2] Commenters overwhelmingly supported electronic filing by advisers. Today we are adopting those amendments, but are deferring adoption of amendments to Part 2 of Form ADV for reasons we describe below.[3]

A. The Investment Adviser Registration Depository

The Commission and the state securities authorities have created an electronic filing system, the IARD, through which investment advisers will make filings with us and the states over the Internet. NASDR is building and will operate the IARD under contracts with the Commission and the North American Securities Administrators Association (NASAA).[4] NASDR will be responsible for certain ministerial tasks as operator of the IARD, by will not act as a self-regulatory organization for advisers.[5]

The IARD will be "rolled out" in a series of releases beginning early next year.

- *SEC-Registered Adviser Filings.* Firms registered or applying for registration with us will use the IARD to file Forms ADV and ADV–W

[1] Investment Advisers Act Release No. 1862. (Apr. 5, 2000) [65 FR 20524 (Apr. 17, 2000)] ("Proposing Release")

[2] A summary of comments prepared by our staff is available in our Public Reference Room in File No. S7–10–00, and on our web site at *www.sec.gov/rules/extra/iardsumm.*

[3] We changed the numbering of the parts of Form ADV from Roman (Part I and II) to Arabic (Part 1 and Part 2) numbers. In this Release, however, we use Arabic numbers to refer to the parts fo Form ADV before and after amendment. At some points, we refer separately to old Part II and proposed Part 2 in order to clarify which rules adviseers must follow during an interim period.

[4] NASDR is a wholly-owned subsidiary of the National Association of Securities Dealers (NASD), a self-regulatory organization which supervises broker-dealers that conduct a public business in securities other than on an exchange of which the broker-dealer is a member. NASAA represents the 50 U.S. state securities authorities responsible for the administration of state securities laws, also known as "blue sky laws." Currently, 49 states (all except Wyoming) and the District of Columbia, Guam, and Puerto Rico have investment adviser statutes. *See www.nasaa.org/search/memberslinks.html.*

[5] In July, we formally designated NASDR as operator of the IARD. Investment Advisers Act Release No. 1888 (July 28, 2000) [65 FR 47807 (Aug. 3, 2000)].

beginning in January 2001.[6] We have approved a schedule of filing fees that NASDR will charge to support operation of the system,[7] and are today adopting rules requiring all advisers to transition to electronic filing during the first four months of 2001.[8] These rules and the transition schedule are described in more detail in Section I.B of this Release.

SEC-registered advisers will be able to make notice filings to, and submit filing and other fees to, the states through the IARD after January 1, 2001. The IARD will automatically calculate the amount of the fees due and will remit funds to the states.[9] SEC-registered advisers will need to fund their IARD accounts with NASDR because the IARD will not accept filings if there are insufficient funds on account to pay IARD filing fees and state fees. We discuss setting up an IARD account in Section I.B.4 of this Release.

- *State-Registered Adviser Filings.*[10] In January 2001, the IARD will also be ready to accept filings of state-registered advisers. State-registered advisers will pay IARD filing fees based on the same schedule as SEC-registered advisers. We understand that all states will *accept* filing of Forms ADV and ADV–W through the IARD and that some states may *require* state-registered advisers to use the IARD. State-registered advisers that are unsure of the requirements of a state in which they are registered should contact the state securities authority.
- *Public Access.* The information filed through the IARD will form a database of information on advisers. Investors will be able to search the IARD database using the name of the adviser or an individual and obtain access to current information filed on Form ADV. We expect the public disclosure component of the IARD to begin operating in mid-2001. In later system releases we hope to be able to expand the search capabilities of the public access system so that investors may be able to search for an adviser that meets certain other criteria, *e.g.*, search for all advisers that provide financial planning services and have offices in a particular state.

In the Proposing Release, we explained that we would block Internet access to social security numbers and sole proprietors' home addresses reported on Form ADV.[11] As urged by some commenters, we will also block Internet disclosure of all private residence addresses identified in the form,[12] as well as "contact employee" information reported on the form.[13]

- *Investment Adviser Representative Filings.* Advisers will also be able to use the IARD for investment adviser representative license filings and renewals and to pay fees associated with those filings. This portion of the system will not be operational until later in 2001. Because we do not separately register or license advisers' employees, we have not been involved in development or deployment of this part of the IARD.
- *Part 2 of Form ADV.* The IARD will, in a later system release, accept Part 2 of Form ADV. As noted above, the Commission is not now adopting amendments to Part 2. Until we adopt revisions, advisers must continue to deliver "old" Part II to prospective clients and annually offer them to clients under our brochure rule.[14] As proposed, we will not require advisers to submit Part II of Form ADV to us until the IARD is able to accept advisers' brochures electronically.[15] Under the rules we are adopting, however, Part II will be considered filed with us during this interim period.[16] We discuss Part II and the interim rules in Section I.C.2 of this release.

B. Transition to Electronic Filing

The Commission is adopting, substantially as proposed, amendments to our filing rules to implement electronic filing and create a transition process for advisers currently filing with the Commission on paper. The following sections describe the revised requirements both for applicants for registration under the Advisers Act and for current registrants. Additional guidance may be found in the revised instructions to Form ADV and our web site.

1. Applicants for Registration as an Investment Adviser

Persons applying for registration with the Commission as an investment adviser after January 1, 2001 must file Form ADV, as amended, through the IARD.[17] Paper filings on Form ADV will be accepted only if the person has obtained a hardship exemption, described below.[18]

2. Advisers Currently Registered With the Commission

Each adviser registered with the Commission on January 1, 2001 must re-file its Form ADV with us through the IARD, using amended Form ADV, during one of the first four months of 2001.[19] All subsequent amendments must be made electronically, and if the adviser should withdraw its registration,

[6] The following other forms under the Advisers Act will continue to be submitted to us on paper: Form ADV–E (Certificate of Accounting of Client Securities and Funds in the Possession or Custody of an Investemnt Adviser); ADV–NR (Appointment of Agent for Service of Process by Non-Resident General Partner and Non-Resident Managing Agent of an Investment Adviser); and ADV–H (Application for a Temporary or Continuing Hardship Exemption). In addition, advisers that are institutional investment managers will continue to make Form 13F filings through our EDGAR system. Form 13F filings are made by many firms other than investment advisers, and it would not be feasible to include these filings on the IARD.

[7] In Investment Advisers Act Release No. 1888, *supra* note 5, we approved a schedule of filing fees NASDAR will charge. The fee schedule is available on our web site at *www.sec.gov/iard*.

[8] Rule 204–1(b) [17 CFR 275 204–1(b)]

[9] An SEC-registered adviser must indicate in Item 2.B of Part 1A the states in which it has notice filing obligations. IARD will determine the amount of state fees due from the adviser based on its response.

[10] In this Release, we refer to both applicants for registration as an adviser with a state securities authority and persons registered as an adviser with a state securities authority as "state-registered advisers."

[11] As we explained in the Proposing Release, Form ADV will continue to request social security numbers of persons who have not been assigned a CRD number. NASDR needs this information when assigning a CRD number to distinguish between persons having the same name. Proposing Release, *supra* note 1, at note 77.

[12] We have revised each item and schedule of Form ADV that requires an address to inquire whether the address reported is a private residence. Items 1.F and 1.G of Part 1A and Sections 1.F, 1.K and 10 of Schedule D.

[13] The contact employee information is provided in response to Item 1.J of Form ADV. Commenters expressed concern that the contact employee might be inundated with phone calls that would more appropriately be directed elsewhere in the advisory firm.

[14] Rule 204–3 [17 CFR 204–3].

[15] Rules 203–1(b)(2) and 204–1(c) [17 CFR 275.203–1(b)(2) and .204–1(c)].

[16] Rule 203–1(b)(2). As a result, state securities authorities may continue to require SEC–registered advisers to file with them a paper copy of the adviser's Part II of Form ADV. *See* section 307(a) of The National Securities Markets Improvement Act of 1996 (NSMIA), (Pub. L. No. 104–290, 110 Stat. 3438) (1996). Several commenters objected to this rule, arguing that states have no interest in the brochures of SEC-registered advisers. We believe that states should continue to be able to require Part II during this hiatus in our requirements. Under our rule, a state is free to require Part II from all advisers that meet its jurisdictional requirements, from no advisers, or upon request.

[17] Rule 203–1(b)(1) [17 CFR 275.203–1(b)(1)]. The Advisers Act provides that, within 45 days after a person files an application for registration with us, we must either grant registration under the Act or institute a proceeding to determine whether registration should be denied. Section 203(c)(2) [15 U.S.C. 80b–3(c)(2)]. Under our rules, as today amended, an application for registration under the Act is considered filed with us on the date that the application is accepted by the IARD. Rule 203–1(c) [17 CFR 275.203–1(c)]. The IARD will only accept filings that are complete and for which filing fees are paid. Some affiliated advisers have filed a single Form ADV to register all or some of the affiliates. Our experience is that such joint registrations do not work well since each adviser may have different responses to the same items. We will no longer accept joint registration; each affiliate must file a separate application for registration.

[18] *See infra* Section I.B.3.

[19] Rule 204–1(b).

Form ADV–W must be filed electronically.[20]

To facilitate a smooth transition to electronic filing, we have assigned each adviser registered with us to one of four groups. Members of each group must file amendments to their registration forms by the end of one of the first four months of 2001.[21] They must use revised Form ADV, and must file electronically through the IARD unless they have obtained a hardship exemption. We have assigned each adviser with a fiscal year ending in December to one of the first three months by reference to its SEC filing number,[22] which will permit those advisers to use the transitional filing to also satisfy their annual updating requirement under our rules.[23] We have assigned advisers having fiscal years ending in months other than December to the group that must file no later than the last day of April 2001.[24]

3. Hardship Exemptions

An adviser may request one of two types of hardship exemptions by submitting Form ADV–H (on paper) to NASDR.[25] A *temporary hardship exemption* permits the adviser to extend the deadline for a filing for seven business days if unexpected difficulties, such as a computer malfunction or electrical outage, prevent it from filing.[26] The temporary hardship exemption is available automatically upon filing Form ADV–H. A *continuing hardship exemption* is available only to an adviser that is a "small business" and can demonstrate that filing electronically would create an undue hardship (*e.g.*, the adviser has no computer and is unable to afford a filing service).[27] Although advisers requesting a continuing hardship exemption will submit Form ADV–H to NASDR, the decision whether to grant an exemption will be made by the Commission.[28]

4. Setting Up an IARD Account

In order to file electronically, an adviser must first request and obtain access to the IARD and set up an IARD account with NASDR. This fall, we will mail each SEC-registered adviser the forms and instructions needed to set up an IARD user account with NASDR. Advisers must complete these forms, sign them, and mail them back to NASDR. NASDR will then create the adviser's IARD account for fee payments, assign the adviser a CRD number,[29] and issue passwords for the adviser's authorized personnel. NASDR will also provide the adviser with instructions on funding its IARD billing account; the adviser must fund its IARD billing account by check or wire transfer before it can make an electronic filing through the IARD.[30]

5. Getting Help

We designed the IARD with the assistance of an advisory industry committee whose members represented different types of advisory firms. The committee helped us design the IARD to be easy for advisers to use. Under a pilot program, scheduled to begin next month, a small group of advisers will make filings through the IARD to test the system. Persons completing Form ADV on the IARD will be able to use an on-line help function that our staff will update from time to time with answers to frequently asked questions. We recognize, however, that the IARD and our rule amendments may raise questions for persons filing for the first time. Our staff and the staff of NASDR will provide assistance to advisers during this transition period. We have created a page on our web site to provide information to advisers about electronic filing.[31] We will use the IARD web page to post copies of forms, instructions on gaining IARD access, instructions on how to make an electronic filing, and answers to frequently asked questions about the IARD and electronic filing. We have established a hot line to answer questions,[32] and the NASDR will operate a help desk for advisers.[33] Before calling, we urge advisers and their personnel to consult the instructions to Form ADV and our web site.

C. Amendments to Form ADV

Form ADV consists of two parts. The first part asks for information about the adviser and persons associated with the adviser, which provides us with information we need to make registration decisions and manage our regulatory and examinations program. The second part contains the requirements for a written statement that advisers must provide to prospective clients and annually offer to clients under our rules.[34]

1. Part 1 of Form ADV

We proposed substantial revisions to Part 1 to accommodate electronic filing, and to reflect changes in the advisory industry and the laws regulating investment advisers.[35] We proposed to

[20] Rules 204–1(b)(4) and 203–2(b) [17 CFR 275.204–1(b)(4) and 203–2(b)]. Form ADV–W is in Appendix B to this Release.

[21] Until an adviser makes its first electronic filing it must comply with the updating requirements of our rules by making paper filings of Part 1 of Form ADV with us, using "old" Form ADV, *i.e.*, Form ADV that does not reflect the current amemdments. If an adviser should withdraw its registration before making its first electronic filing on Form ADV, it must file its Form ADV–W with us on paper. It may use either "old" Form ADV–W or Form ADV–W as we are amending it today.

[22] If an adviser's fiscal year (as reported in its current Form ADV) ends in December, the adviser must transition to electronic filing by submitting an amendment to its Form ADV through the IARD no later than:

(i) Janaury 31, 2001, if the adviser's SEC file number is 801–1 through 801–36806;

(ii) February 28, 2001, if the adviser's SEC file number is 801–36807 through 801–54145; and

(iii) March 30, 2001, if the adviser's SEC file number is 801–54146 or higher.

Rule 204–1(b)(1) [17 CFR 275.204–1(b)(1)].

[23] An adviser is required to update its registration forms at least annually within 90 days of the end of its fiscal year. Rule 204–1(a)(1). [17 CFR 204–1(a)(1)].

[24] Rule 204–1(b)(1)(ii) [17 CFR 275.204–1(b)(1)(ii)]. Advisers are free to file as soon as they complete the entitlement process with NASDR as described below. As a result, some advisers may have filing options. An adviser having a fiscal year ending on October 31, for example, could submit an annual updating amendment to us on paper in January 2001 and then make subsequent electronic filing by the end of April 2001, or could transition to electronic filing early, by the end of January.

[25] Form ADV–H is in Appendix C to this Release.

[26] *See* rule 203–3(a) [17 CFR 275.203–3(a)]. Some commenters on the proposed rule argued that seven days was inadequate. We are adopting the rule as proposed. As we noted in the Proposing Release, advisers facing a persistent filing impediment should make alternative filing arrangements, such as hiring a service bureau.

[27] Rule 203–3(b) [17 CFR 275.203–3(b)]. An investment adviser generally is a small business if it (a) manages assets of less than $25 million, (b) has total assets of $5 million or less, and (c) is not in a control relationship with another investment adviser that is not a small business. Rule 0–7 [17 CFR 275.0–7]. Since SEC-registered advisers are primarily larger firms, we expect that few will qualify for a continuing hardship exemption.

[28] We are delegating authority to grant or deny a continuing hardship exemption to our Division of Investment Management. *See* rule 30–5(e)(7) of our Organization and Program Management Rules. [17 CFR 200.30e–5(e)(7)].

[29] Advisers that already have a CRD account with NASDR will use that account. These firms, however, must still complete the entitlement forms and return them to NASDR in order to obtain IARD access.

[30] New applicants for SEC registration can obtain copies of the entitlement forms from NASDR at <www.iard.com>.

[31] The site address is <www.sec.gov/iard>.

[32] Advisers registered with the Commission or applying for registration with the Commission can call the Commission staff at (202) 942–0691 with legal and regulatory questions relating to Forms ADV and ADV–W.

[33] Advisers should call NASDR's help desk at (240) 386–4848 with questions about filling out entitlement forms, setting up an IARD account, and using the IARD system.

[34] Rule 204–3. Form ADV, as amended, is in Appendix A to this Release.

[35] Form ADV will exist in both an electronic and a paper version. We have appended to this release the paper version, which will only be filed by advisers that have received a continuing hardship exemption. The electronic version of the form, which will be available only through the IARD, will elicit the same information but will have minor differences necessary to reflect and, in some cases take advantage of, an electronic environment.

reorganize Part 1 using simpler language, and introduce the items with brief explanations of why we need the information. We proposed substantial revisions to the schedules to Part 1, on which advisers must provide information about control persons and details about disciplinary events. Finally, we proposed to divide Part 1 further into two parts, segregating those items to which all advisers must respond (Part 1A) from those additional items to which only state-registered advisers must respond (Part 1B).[36]

Many of the commenters on Part 1A requested technical changes or suggested that we clarify some of the language. These comments have led us to make several minor changes to the Instructions, Glossary of Terms,[37] and Items[38] that we believe improve the form. The most significant changes we proposed to Part 1A involved Item 11, which requires disclosure of disciplinary information about the adviser and certain of its advisory personnel. We are adopting this item substantially as proposed with one change urged by commenters.

Item 11 requires that each adviser responding affirmatively to a disciplinary question complete a Disclosure Reporting Page (DRP). Part 1A has three DRPs, one each for criminal, civil, and regulatory actions. Advisers must complete a separate DRP for each reported event; the DRPs elicit details regarding the disciplinary events in a structured format and replace current Schedules D and E. Item 11 includes an expanded list of disciplinary events that must be reported on a DRP. Advisers must now report actions of foreign courts and regulatory authorities,[39] cease-and-desist orders issued by the Commission,[40] and military court convictions, misdemeanor perjury convictions, and convictions for conspiracy to commit certain offenses.[41] Advisers must only report disciplinary events occurring within the last ten years,[42] and, by checking a box on the appropriate DRP, advisers can remove from their current Form ADV disciplinary events reported for advisory affiliates no longer associated with the firm.

We proposed to expand the current requirement that advisers report certain pending criminal proceedings to require disclosure of any felony charges, and certain misdemeanor charges, brought against the adviser or an advisory affiliate during the preceding ten years. Many commenters opposed this change, pointing out that it would require disclosure even when the charges were later dropped or the person acquitted. We have decided to require SEC-registered advisers to disclose only pending charges, as currently required by the form.[43]

2. Part 2 of Form ADV

As noted above, we are deferring adoption of amendments to Part 2 of Form ADV. Deferment will allow us time to fully consider the many comments we received on our proposed revisions to Part II. We have left the (old) form, Part II, in place and are also retaining the current rules on delivery of old Part II. As a result, advisers must continue to provide prospective clients with (old) Part II of Form ADV or a brochure containing at least the same required information.[44] Advisers also must maintain an updated copy of their (old) Part II in their files, and must provide it to the Commission staff upon request. However, we are not requiring advisers to submit these documents to us until we have acted on the Part 2 amendments and the IARD is ready to accept (new) Part 2 brochures electronically.[45] We will notify advisers when the IARD is ready and will provide a grace period before advisers are required to file (new) Part 2 brochures.

A consequence of our decision not to require an adviser to submit its old Part II of Form ADV to us during this interim period is that our updating requirements will no longer apply.[46] However, under the Advisers Act's anti-fraud rules, advisers are prohibited from materially misleading their clients, and thus have an obligation not to provide their clients with a materially misleading Part II or brochure.[47] Therefore, even though our updating rules may no longer apply, an adviser continues to have an obligation to update the disclosure it provides to clients to avoid misleading them.[48]

II. Effective Date

The effective date for the rules and rule amendments is October 10, 2000. Under the Administrative Procedure Act, we may establish an effective date less than 30 days after the publication of these rules if we find good cause to do so.[49] Mandatory filing through the IARD system will not begin until January 1, 2001. Until January 1, 2001,

[36] Part 1B was prepared by NASAA on behalf of state securities authorities. Completion of this part of Form ADV is a requirement of state law (and not SEC rules).

[37] We deleted terms that would have been used only in new Part 2 and added a definition of "employee," which is used in Item 5. As noted, *infra* note 38, we omitted the reference to "independent contractors" in Item 5 because the term could be construed to include persons who did not provide advice on the adviser's behalf. Instead, the item relies on the defined term "employee," which inlcudes independent contractors that perform advisory functions on behalf of the adviser. In addition, we modified the definitions of "advisory affiliate" and "related person," which are used in Items 7, 8, 9, and 11. These modifications do not change from current Form ADV the persons and firms that are "advisory affiliates" and "related persons" of advisers; the modifications only clarify the definitions.

[38] We have revised (i) Item 1.I to clarify which web addresses must be provided on Schedule D; (ii) Item 5 to delete references to "independent contractors"; (iii) Item 5.B.(3) to ask only for the number of solicitors that are *not* employees of the adviser; and (iv) Item 7 to ask whether the adviser or a related person is a general partner of a limited partnership or a manager of a limited liability company and to limit the item to *investment-related* limited partnerships and *investment-related* limited liability companies.

[39] Items 11.A, 11.B, and 11.D of Part 1A.

[40] Item 11.C(5) of Part A.

[41] Item 11.A.(1) and 11.B. These changes further conform Form ADV's disciplinary questions to those of Form BD. *See* Form BD Amendments, Securities Exchagne Act Release No. 35224 (Jan. 12, 1995) [60 FR 4040 (Jan. 19, 1995)] (proposing), and Form BD Amendments, Securities Exchange Act Release No. 37431 (July 12, 1996) [61 FR 37357 (July 18, 1996)] (adopting). Advisers need not report a finding by a self-regulatory organization that the adviser violated a "minor" rule if the sanction imposed consists of a fine of $2,500 or less and the sanctioned person does not contest the fine. Item 11.E.(2). *See* Securities Exchange Act Release No. 30958 (July 27, 1992) [57 FR 34028 (July 31, 1992)] (making a similar change to Form BD). The rule must have been designated as "minor" under a plan approved by the Commission.

[42] Each DRP contains a box where the adviser can indicate that the DRP should be removed from the ADV record because the event or proceeding occurred more than ten years ago. Checking this item will remove the DRP from the adviser's current Form ADV. The ten-year limit applies only to disciplinary information required by Item 11 of Part 1A. Under the Advisers Act's anti-fraud rules, advisers may be required to inform clients about disciplinary events that occurred more than ten years ago. *See* rule 206(4)–4(a)(2) [17 CFR 275.206(4)–4(a)(2)]. In addition, state securities authorities will continue to require state-registered advisers to report some events that are more than ten years old.

[43] Each DRP contains a box where the adviser can indicate that the DRP should be removed from the adviser's current Form ADV if the "pending" event is no longer pending because it was resolved in the adviser's or the advisory affiliate's favor. The state securities authorities have decided to require state-registered advisers to report criminal charges.

[44] Rule 204–3. Sponsors of wrap fee programs must also continue to prepare and deliver (and offer) wrap fee brochures in accordance with rule 204–3 and Schedule H of Form ADV.

[45] Rules 203–1(b)(2) and 204–1(c).

[46] Currently, the updating requirements appear in the text of rule 204–1, and specify that an adviser is required to amend its Form ADV if any response to old Part II becomes materially inaccurate. Rule 204–1(b)(1). Today's amendments, however, remove most of those requirements from rule 204–1 to Form ADV itself. Rule 204–1(a)(2), as amended, [17 CFR 275.204–1(a)(2)]. The updating requirements contained in Form ADV, as we are adopting it today, apply to new Part 1A but not old Part II. The Form ADV instructions do not address updating Part 2.

[47] Section 206 [15 U.S.C. 80b–6]

[48] *See* Note to paragraph (b)(2) of rule 203–1 and Note to paragraph (c) of rule 204–1.

[49] 5 U.S.C. 553(d)(3).

the rules will only affect the approximately 100 advisers that have volunteered to participate in the IARD's pilot program and submit their Form ADV through the system before mandatory filing begins. Due to the voluntary nature of use of the new system until January 1, 2001, no investment advisers will be disadvantaged by effectiveness of these rules with less than 30 days' notice.

III. Cost-Benefit Analysis

In the Proposing Release, we carefully analyzed the costs and benefits of our proposals and requested comment and data regarding the costs and benefits of the rule and form amendments on individual advisers and on the industry as a whole. As noted above, most commenters strongly favored electronic filing and several asserted that electronic filing would result in efficiencies and would ease the regulatory burden on advisers. Others, however, disagreed with our cost-benefit analysis in the Proposing Release, and felt that the benefits of electronic filing would not justify the overall costs.[50]

After reviewing the comments, and evaluating information about the potential costs and benefits that has come to our attention since we proposed these rules, we have concluded that the benefits of electronic filing and the related rule amendments justify their costs.

- *Costs.* The amendments implement electronic filing through the IARD. As we discussed in the Proposing Release, electronic filing will impose certain costs on advisers. Advisers will need to become familiar with the IARD and will pay filing fees to NASDR. Since we published our proposals, we have approved NASDR's schedule of filing fees, and the costs our rules will impose on advisers have become clearer. Annual filing fees will range from $100 for advisers with less than $25 million of assets under management to $550 for advisers with more than $100 million of assets under management. We estimate that advisers registered with us will annually pay $2.5 million in filing fees.

The amendments revise Forms ADV and ADV–W. We believe SEC-registered advisers will experience few additional costs in completing revised Part 1. The only additional information that new Part 1A requires is information that should be readily available to an adviser. We do not believe the revisions to Form ADV–W impose additional costs on advisers.

- *Benefits.* We believe that electronic filing will yield substantially greater benefits to advisers and to investors, including allowing us to establish the public access system that Congress mandated in NSMIA.[51]

Electronic filing will eliminate many costs advisers currently incur in filing their Form ADV. Today, advisers must prepare registration materials on paper, copy them, and submit the paper copies to both the SEC and states. Many of these paper copies must be manually signed and notarized. Correcting a mistake requires the adviser to repeat the entire process. The IARD, in contrast, will permit the adviser to satisfy all of its filing obligations by submitting a single electronic filing prepared using a personal computer in its office. On the IARD, an adviser will be able to correct mistakes by simply typing over incorrect information and re-sending the electronic submission.[52] Today, advisers must determine the amount of filing fees due to each state, prepare checks and mail them so that they are delivered in a timely manner.[53] Errors can result in penalties or cause disruptions in business. The IARD, in contrast, will eliminate these costs by automatically determining the amount of filing fees owed and debiting the adviser's account when those fees are due. We believe these benefits will justify the filing fees and other expenses for advisers registered with the Commission.[54]

Revised Form ADV and the IARD system also benefit advisers by offering additional ways to reduce costs. An adviser may save a partially completed form as a "draft" that the adviser can access and complete at a later time. An on-line glossary allows advisers' personnel to refer to explanations of key terms while completing Form ADV, and an on-line "help" function answers frequently-asked questions and provides guidance on completing the form.[55] When an adviser prepares an amendment to its Form ADV, the IARD will fill in most of the items from the adviser's previous IARD filings, reducing the adviser's time (and therefore expense) in completing the amendment. Further, the IARD will allow advisers that also are registered as broker-dealers to complete schedules to their Form ADV by "linking" to parallel responses in their Form BD already on file.[56] These firms should recognize additional cost savings by avoiding entering certain data twice.

We have adopted a continuing hardship exemption, considering that not all advisers may have Internet access. We have provided the exemption for advisers that are small businesses and are unable to file through the IARD without undue burden and expense.[57]

The IARD also has the potential to speed the registration process for investment adviser representatives of SEC-registered advisers. Registration of investment adviser representatives on the IARD will be a matter for state securities authorities; we do not register or license investment adviser representatives. Our experience with the CRD system, however, provides an analogy. Our understanding of how broker-dealer agent filings on the CRD system are processed suggests that electronic filings on the IARD for investment adviser representatives are likely to be more efficient and cost effective than the current system of paper filings.

Electronic filing also will produce substantial benefits for investors. First, and most important, the information on these filings will be available for investors to view, quickly and without cost, on a web site.[58] Investors will be able to determine, for example, whether a prospective adviser has reported disciplinary events, what types of fees it charges, and whether the types of advisory services it offers are designed to meet their needs. As a result,

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[50] All of the commenters disagreeing with our cost-benefit analysis raised concerns with our proposed revisions to advisers' disclosure requirements. As discussed earlier, we are not adopting those proposals at this time. One commenter suggested that the cost savings of one-stop filing would be $100 or less per adviser, and would therefore be outweighed by the IARD filing fees.

[51] Section 306 of NSMIA, *supra*, note 16.

[52] The IARD will also benefit advisers by preventing them from making incomplete filings. Submitting an incomplete filing is a common error by new advisers applying for registration, and is one that can substantially delay the registration process and thus the business plans of applicants.

[53] Postage expenses alone can cost an SEC-registered firm $750 per year. This estimate assumes an average overnight mail cost of $10 per mailing in each of 50 states and an average of 1.5 amendments filed per year ($10 × 50 × 1.5)=$750.

[54] We recognize that not every adviser will experience net cost savings from one-stop electronic filing. In several areas, such as the sliding filing fee scale, we have recognized that some larger advisers may benefit more from using the IARD than other, smaller firms. In balancing the costs and benefits of the amendments we are adopting today, we must look at the expected costs to all SEC-registered firms, and we must also consider the benefits to investors.

[55] *See* discussion of electronic filing help features *supra* at Section 1.B.5 of this Release.

[56] Approximately 900 SEC-registered advisers also are registered with us as broker-dealers.

[57] *See* discussion of hardship exemptions *supra* at Section 1.B.3 of this Release.

[58] Investment adviser information is publicly available from us, but until now we have been unable to provide this information to the public without charge. We currently charge $.24 per page for copies and, upon receipt of the required fee, mail the Form ADV to the requester.

investors—clients and potential clients—will be in a better position to make informed decisions.

The added "sunlight" the web disclosure will shine on advisers may have additional, secondary benefits. Information from advisers' filings will be available through a web site, and easy availability of information about advisers and advisory affiliates may, for example, discourage advisers from engaging in certain practices or hiring certain persons (such as those with a disciplinary history or limited qualifications). Facilitating investors' access to information may also result in greater competition among advisers, which may in turn lower prices or encourage the development of different fee structures or different kinds of services that may benefit clients. These types of benefits are difficult to isolate or to quantify, but our experience is that they are real and are often the result of better disclosure.

Electronic filing will also give us better access to information about advisers to administer our regulatory programs. We expect this information will permit us to increase both the efficiency and effectiveness of our programs and thus increase investor protection. The IARD will permit us to better monitor advisers' failure to make required filings, identify advisers whose activities suggest a need for closer scrutiny, and manage our regulatory programs. The IARD will generate reports on the industry, its characteristics and trends. These reports will help us anticipate regulatory problems, allocate and reallocate our resources, and more fully evaluate and anticipate the implications of various regulatory actions we may consider taking.

The revisions to Form ADV are also likely to benefit advisers. We have re-drafted Part 1A in plain English, improved its organization, and added instructions to clarify some items. The revised schedules make it much simpler for an adviser to provide information about its control persons.[59] While smaller advisers may find these benefits limited, larger advisers (particularly advisers that are part of a larger, more intricate corporate structure) should see cost savings from the changes. The new Disclosure Reporting Pages (DRPs) require substantially more detailed information about disciplinary events than is specified in the current form, but the DRPs should serve mainly to clarify existing disclosure obligations, which are worded more generally.[60] Moreover, we are only requiring advisers to report disciplinary events occurring in the past ten years,[61] and have removed information about the educational and business background of employees. We believe these changes will justify any additional costs associated with amendments to Part 1A.

Advisers will also benefit from the revisions to Form ADV–W. In amended Form ADV–W, the adviser must complete only those items needed to process its withdrawal. Form ADV–W will also become effective immediately, rather than after a sixty-day "waiting period," thereby smoothing the transition period for advisers switching to state registration.

IV. Paperwork Reduction Act

As explained in the Proposing Release, the rule and form amendments (including new rule 203–3 and new Form ADV–H) that we are adopting today contain several "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995. In the Proposing Release, the Commission published notice soliciting comment on the collection of information requirements. The Commission submitted the collection of information requirements to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.[62] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. To correct an error in the proposed collection of information for Form ADV, the Commission has submitted a PRA change worksheet to OMB. Modifications made to the amendments as proposed do not affect the collection of information.

We use the information we require from advisers to determine eligibility for registration with us, as well as in managing our regulatory, examinations, and enforcement programs. The information will also form a database, easily accessible to investors, about advisers and their personnel.

Form ADV

As amended, rule 203–1 requires every applicant for investment adviser registration with the Commission to file Form ADV through the IARD. Rule 204–1 requires each registered adviser to file amendments to Form ADV through the IARD at least annually,[63] and requires currently registered advisers to transition to the IARD and the revised form. We expect the efficiencies of filing through the IARD to, over time, reduce the initial burdens associated with completing the revised Form ADV.

The total burden for all advisers filing current Form ADV is 19,448 hours.[64] There are currently approximately 8,100 advisers registered with us, and, based on recent experience, the Commission staff has now estimated that each year we receive approximately 1,000 new applications for registration as an adviser. As discussed in the Proposing Release, this increase in the number of respondents has increased the collection of information by 3,703 hours, independent of today's amendments.[65]

The revised burden estimate for the collection of information on Form ADV reflects the amendments to the form as well as the requirement that currently-registered advisers re-file their Form ADV electronically in order to transition to use of the revised form and IARD system. The revised collection of information also incorporates the burden of current Schedule I to Form ADV.[66]

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[59] An adviser generally will no longer be required to report an indirect owner unless the indirect owner own 25% of a direct owner. *See* Section II.D.1 of the Proposing Release, *supra* note 1.

[60] Moreover, most advisers do not have disciplinary events to report.

[61] *See* discussion of disciplinary disclosure requirements *supra* at Section C.1 of this Release. As discussed earlier, we also are no longer requiring advisers to report unsatisfied judgments or liens; bankruptcies; bond denials, payouts, or revocations; or any "minor" rule violations.

[62] 44 U.S.C. 3501 to 3520. The titles for the collections of information are "Form ADV"; "Rule 203–2 and Form ADV–W"; "Rule 203–3 and Form ADV–H"; and "Rule 0–2 and Form ADV–NR," all under the Advisers Act. OMB approved the collection of information requirements, and the OMB control numbers are as follows: Form ADV, 3235–0049 (expires Jun. 30, 2003); Rule 203–2 and Form ADV–W, 3235–0313 (expires Jun. 30, 2003); Rule 203–3 and Form ADV–H, 3235–0538 (expires Jun. 30, 2003); and Rule 0–2 and Form ADV–NR, 3235–0240 (expires Jun. 30, 2003).

[63] As discussed in the Proposing Release, revised Part 1A of Form ADV incorporates the collection of information that previously appeared in Schedule I to Form ADV.

[64] The current burden assumes there would be 760 new applicants per year, and an average of 9.01 hours for a new registrant to complete the form. The current burden also assumes that 7,300 other advisers are registered with us, and assumes that advisers file an aggregate of 11,810 amendments with us annually, at an average of 1.07 hours per amendment.

[65] The 3,703 hours represents an increase independent of today's amendments. We receive approximately 1,000 (not 760) new applications annually; and we have approximately 8,100 (not 7,300) advisers registered with us. [(240 more new registrants per year × 9.01 hours) + [(800 more currently-registered advisers × 1.5 amendments) + (240 new applicants × 1 amendment)] × 1.07 hours = 3,703 hours.]

[66] The collection of information for amended Form ADV also incorporates the burden of rule 206(4)–4, which requires advisers to disclose financial and disciplinary information to clients and prospective clients. The current burden does not include these separately existing 6,755 burden

Continued

The Commission staff had estimated an average burden increase for Form ADV of 1.47 hours per adviser per year for a 15-year period.[67] This burden increase reflected new registrants' filings of revised Form ADV as well as currently-registered advisers' IARD transition filings. Several commenters expressed concerns that the estimates for initial completion of revised Form ADV were too low, particularly for large firms.[68] The estimated hours are averages that take into consideration small advisers as well as those with thousands of employees.

The Commission has submitted a PRA change worksheet to OMB to correct an error in the collection of information, which error may have contributed to commenters' concerns. The increase in burden due to the amendments was presented as the total burden of the collection of information, omitting reference to the current burden to which the incremental hours were added.

As discussed in the Proposing Release, the Commission staff has estimated that advisers will file a total of 13,250 Form ADV amendments with us each year.[69] We anticipate that electronic filing will reduce the information collection burden of filing an amendment to Form ADV by approximately thirty percent,[70] and the estimated burden for Form ADV amendments is 9,938 hours per year.[71]

The collection of information burden due to rulemaking for advisers to file and complete the revised Form ADV is approximately 23,315 hours per year.[72] The total increase in the collection of information burden therefore is 27,018 hours,[73] and the total collection of information burden for Form ADV is therefore 46,466 hours.[74]

This collection of information appears at 17 CFR 275.203–1, 275.204–1, and 279.1. Responses are not kept confidential. The information collection requirements are required for all advisers registered with us or applying for registration after January 1, 2001.

Form ADV–W and Rule 203–2

The Commission is amending rule 203–2 to (i) require advisers to file Form ADV–W through the IARD and (ii) make adviser withdrawals effective upon filing.[75] The Commission is also amending Form ADV–W to permit advisers filing for "partial withdrawals" to omit certain items that we do not need from an adviser continuing in business as a state-registered adviser. The Commission staff has estimated that approximately 50 percent of advisers filing for withdrawal will file for full withdrawal, incurring a burden of approximately 0.75 hours (45 minutes) per response, and the remaining 50 percent will file for partial withdrawal, incurring a burden of approximately 0.25 hours (15 minutes) per response. The weighted average total time for each respondent to complete Form ADV–W as amended is estimated to be 0.5 hours (30 minutes), a decrease from the one hour required for the current form. Based on the Commission's recent experience in processing investment adviser withdrawals, however, the Commission staff has estimated that approximately 1,300 advisers withdraw from SEC registration each year, which is an increase from the current burden.[76] The total collection of information burden is estimated to be 650 hours.[77]

This collection of information is found at 17 CFR 275.203–2 and 17 CFR 279.2. Responses are not kept confidential. The information collection requirements are required for all advisers registered with the Commission once the transition period to electronic filing is complete.

Rule 0–2 and Form ADV–NR

The Commission is amending rule 0–2, adding Form ADV–NR, and deleting Forms 4–R, 5–R, 6–R and 7–R. Rule 0–2 permits service of process on non-resident advisers and on non-resident general partners or managing agents of advisers by service on their agents. The amended Form ADV execution page for non-resident advisers incorporates the substance of Forms 4–R through 6–R, and designates the Secretary of the Commission, among others, as the adviser's agent for service of process; accordingly, the paperwork burdens of Forms 4–R through 6–R have been incorporated into the collection of information requirements for Form ADV, discussed above. The substance of Form 7–R is contained in new Form ADV–NR. Form ADV–NR designates the Secretary of the Commission, among others, as the non-resident general partner's or managing agent's agent for service of process.

The Commission staff has estimated that approximately 380 respondents each year will be subject to rule 0–2. Of these, approximately 285 respondents will be non-resident advisers that will now comply with rule 0–2 simply by executing Form ADV. The remaining 95 respondents will be non-resident general partners or managing agents of SEC-registered investment advisers, and must file Form ADV–NR with the Commission.[78] The staff has estimated that preparing and filing Form ADV–NR will continue to require approximately one hour of the non-resident general partner's or managing agent's time.[79] The total estimated burden therefore is 95 hours.

This collection of information is found at 17 CFR 275.0–2 and 17 CFR 279.4. Responses are not kept confidential. The information collection requirements are required for each non-resident adviser, and for each non-resident general partner or managing agent of any SEC-registered adviser.

Rule 203–3 and Form ADV–H

We are adopting new rule 203–3 and new Form ADV–H. Rule 203–3 requires advisers requesting either a temporary or continuing hardship exemption to

hours per year. In the Proposing Release, we proposed to incorporate the requirements of rule 206(4)–4 into Part 2 of Form ADV and to withdraw the rule. As discussed above, however, we are deferring adoption of those proposals until later this year.

[67] As discussed in the Proposing Release, to estimate the annual burden associated with revised Form ADV, we amortized the burden of an adviser's initial preparation and filing of Form ADV over a 15-year period, which reflects the expected useful life of the revised form. After its initial filing of Form ADV through the IARD (whether as a new registrant or for an existing registrant re-filing to transition to the system), an adviser's burden will generally be limited to amending the form as needed.

[68] Many of the concerns centered on proposed Parts 2A (the adviser's narrative firm brochure) and 2B (brochure supplements for advisory personnel). As discussed earlier, we are deferring adoption of those proposals at this time.

[69] As discussed in the Proposing Release, based on the Commission's recent experience it is estimated that, each year, 890 new registrants and 10 multi-state advisers (i.e., advisers relying on the multi-state exemption found at rule 203A–2(e) [17 CFR 275.203A–2(e)]) will each amend their Form ADV 1 time; 100 advisers relying on rule 203A–2(d)[17 CFR 275.203A–2(d)] will each amend their Form ADV 2 times; and 8100 currently-registered advisers will amend their Form ADV, on average, 1.5 times.

[70] The revised collection of informatioin burden per amendment is 0.75 hours (current burden per amendment of 1.07 hours × .70 = .749 hours per amendment).

[71] 13,250 responses × 0.75 hours = 9,937.5 hours.

[72] 9,938 hours attributable to amendments + (1,000 new registrants × 1.47 (amortized) hours) = 23,315 hours.

[73] 23,315 hours due to rulemaking + 3,703 hours due to an increase in the number of advisers = 27,018 total burden hours.

[74] 19,448 + 27,018 = 46,466.

[75] Rule 203–2 currently provides for a 60-day wait before a withdrawal is effective.

[76] The Commission in the past received approximately 616 notices of withdrawal on Form ADV–W per year.

[77] (650 advisers filing for full withdrawal × .75 hours) + (650 advisers filing for partial withdrawal × .25 hours) = 487.5 +162.5 = 650 hours. This represents a net increase from the current burden of 616 hours, which was based on 616 respondents and one hour per response.

[78] A non-resident general partner or managing agent is required to file Form ADV–NR only once.

[79] One hour is the current burden for a response to Form 4–R, 5–R, 6–R or 7–R.

submit the request on Form ADV–H. An adviser requesting a temporary hardship is required to file Form ADV–H, providing a brief explanation of the nature and extent of the temporary technical difficulties. Form ADV–H requires an adviser requesting a continuing hardship exemption to indicate the reasons the adviser is unable to submit electronic filings without undue burden and expense.[80] A continuing hardship exemption will be available only to an adviser that is a small entity.[81]

Commission records indicate that approximately 1,500 SEC-registered advisers are small entities. There are, therefore, approximately 1,500 potential respondents that could apply for a continuing hardship exemption, and approximately 8,100 potential respondents that could apply for a temporary hardship exemption.[82] The Commission staff has estimated that, each year, 50 advisers will request a temporary hardship exemption and 20 will apply for a continuing hardship exemption. Form ADV–H and rule 203–3 have been estimated to create a collection of information burden of approximately 60 minutes per respondent, for a total of 70 hours.[83] This collection of information is found at 17 CFR 275.203–3 and 17 CFR 279.3. Responses are not kept confidential. The information collection requirements are required only if the adviser seeks an exemption.

V. Summary of Final Regulatory Flexibility Analysis

We have prepared a Final Regulatory Flexibility Analysis (FRFA) in accordance with section 3(a) of the Regulatory Flexibility Act (RFA)[84] regarding the amendments to Form ADV and other rules and forms under the Advisers Act. We prepared an Initial Regulatory Flexibility Analysis (IRFA) in conjunction with the Proposing Release and made it available to the public. We received no comments specifically on the IRFA.

A. Need for the Rule and Form Amendments

As discussed in more detail in the FRFA, and above, the rule and form amendments[85] are necessary to: (i) Facilitate the development of a system of electronic filing by investment advisers; (ii) update the registration forms for advisers to reflect recent legislative and regulatory developments; and (iii) develop a database of information about advisers that is easily accessible to investors.

B. Significant Issues Raised by Public Comment

The Commission received 70 comment letters in response to the Proposing Release. The commenters generally supported the proposal, although some expressed concerns with specific provisions, and some suggested alternative approaches for addressing particular issues. As discussed above, the Commission has concluded that certain suggestions from commenters are appropriate and has adopted the rule and form amendments with changes to reflect those suggestions.

The Commission specifically requested comment with respect to the IRFA. No comments were received specifically on the IRFA, but one commenter did urge the Commission to disregard any comments from Wyoming advisers if the commenters argued that the rule and form amendments would be burdensome. We did not receive any comments from Wyoming advisers. Some commenters, however, did address aspects of the proposed amendments that could potentially affect small businesses. The comments received concerning those issues are discussed below.

C. Small Entities Subject to the Rules

In developing the rule and form amendments, we have considered their potential effect on small entities that may be affected, which is discussed in the FRFA. The rule and form amendments will not affect most advisers that are small entities[86] (small advisers) because those advisers are registered with one or more state securities authorities rather than with us. Congress amended the Advisers Act in 1996 so that small advisers generally are regulated by state regulators and not the Commission.[87] Those small advisers that remain registered with us are located in Wyoming (which does not have an investment adviser statute), or are eligible for an exemption that permits SEC registration. Of the approximately 20,000 advisers in the United States, approximately 8,100 (approximately 40%) are registered with us. Of those 8,100, the FRFA estimates that approximately 1,500 (approximately 18%) qualify as small advisers. We have based this estimate on registration information advisers file with the Commission.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The FRFA states that the rule and form amendments impose certain reporting and compliance requirements on small advisers, requiring them (i) to file electronically through the IARD and (ii) to use amended Form ADV when applying for registration (or amending an existing registration). These requirements are discussed more fully in the FRFA and Section II of the Proposing Release, and the burdens on small advisers are discussed below.

1. Electronic Filing Requirements

The FRFA explains that electronic filing is likely to impose two types of burdens on small advisers—filing fees and the time and expense of familiarizing themselves with the system.

Filing Fees. The IARD system operator will charge filing fees to all advisers, including small advisers.[88] Small advisers will pay substantially smaller fees than larger advisers. This sliding scale is designed to minimize the burdens of electronic filing on small advisers while maintaining the economic viability of the IARD. It also recognizes that larger advisers, which are more likely to have filing requirements in multiple states, will benefit more from the IARD than small advisers.

Other Burdens. The FRFA explains that, to use the IARD, small advisers

[80] *See* Form ADV–H in Appendix C of this Release. The adviser applying for a continuing hardship exemption also must indicate the reasons that the hardware and software needed for Internet access are unavailable, and propose a time period for which the exemption would be in effect.

[81] Rules 203–3 and 0–7.

[82] A temporary hardship exemption would be available to advisers that submit electronic filings but are temporarily unable to do so. An adviser using a continuing hardship exemption could not apply for a temporary hardship exemption.

[83] (50 × 1) + (20 × 1) = 50 + 20 = 70 hours.

[84] 5 U.S.C. 603(a).

[85] References to "rule and form amendments" include new rule 203–3 and new Form ADV–H.

[86] For purposes of the Advisers Act and the RFA, an investment adviser generally is a small entity if (a) it manages assets of less than $25 million reported on its most recent Schedule I to Form ADV, (b) it does not have total assets of $5 million or more on the last day of the most recent fiscal year, and (c) it is not in a control relationship with another investment adviser that is not a small entity. Rule 0–7.

[87] Title III of NSMIA, *supra* note 16.

[88] Section 203A(d) of the Advisers Act [15 U.S.C. 80b–3A(d)] authorizes us to designate NASDR as operator of the filing system, and to require that advisers file through the system and pay filing fees. The rules we are adopting will require advisers to use the system and pay filing fees to NASDR, but do not themselves impose or authorize NASDR to impose any filing fee on advisers using the IARD. Nonetheless, we have included these filing fees as part of our FRFA. In Investment Advisers Act Release No. 1888, *supra* note 5, we designated NASDR as operator of the IARD and approved NASDR's proposed filing fees.

must also establish an account with NASDR, familiarize themselves with the IARD's filing rules, and obtain Internet access if they do not already have it. We believe that these burdens are small and that advisers will incur most of the costs when they first begin to use the IARD. Thereafter, using the IARD should actually reduce regulatory burdens for all advisers, including small advisers.

Our information suggests that almost all investment advisers, including small advisers, currently have Internet access, and use the Internet for various purposes.[89] Nonetheless, our rule and form amendments provide for a continuing hardship exemption, available only to small advisers. The exemption will permit the adviser to continue submitting paper filings if using the IARD would impose an "unreasonable burden or expense."[90] The operator of the IARD will convert the paper filing to electronic format and charge the adviser an additional fee to cover conversion costs. The IARD will also accommodate advisers' use of commercial filing service bureaus, which we understand many small advisers currently use to make regulatory filings. We have included these alternative means of making filings to minimize the burdens the electronic filing rules will have on small advisers.

Many small advisers today use filing services because they cannot hire professional compliance staff, and do not themselves have the knowledge, time, or expertise to understand the details of the various federal and state forms, deadlines, and fees. The IARD will have a number of features designed to make it easy to complete Form ADV, even if the user is unfamiliar with the form. We have written the new instructions in plain English and reorganized the form in a simpler manner. We have re-drafted questions that previously presented interpretive difficulties for small advisers, and have provided for an on-line "help" function that will provide easy access to answers to questions advisers frequently ask about the form. Advisers using the system will also have easy on-line access to the text of the Advisers Act and our rules. Together, these features should substantially benefit small advisers that may not have lawyers or other professional compliance personnel or staff.

The FRFA concludes that, although small advisers will experience some modest start-up costs in using the IARD, over time the system will actually reduce overall costs. As advisers become more familiar with the IARD, use of the system should substantially reduce administrative costs associated with making regulatory filings, and improve advisers' compliance with regulatory requirements, allowing them to reduce their dependence, in more routine matters, on lawyers, compliance firms and others who assist them in meeting their regulatory obligations.

2. Amendments to Form ADV

Part 1. The FRFA explains that the amendments to Part 1A of Form ADV should have a minimal effect on small advisers. None of the new items requests information that should not be readily available to the advisers. For example, advisers must provide the e-mail address of a contact person (if she has one), and the address of any web site the adviser sponsors. Further, because small advisers tend to have simpler business arrangements, fewer control persons, and fewer employees, the burdens of completing Part 1A should be significantly less for small advisers than for larger advisers.

The FRFA acknowledges that small advisers whose control persons have disciplinary histories will likely spend more resources than other advisers in completing the necessary DRPs for reporting of disciplinary events. Based on information filed on current Form ADV, we estimate that only approximately 14% of advisers will be required to report disciplinary information, and thus most small advisers will be unaffected by this requirement.[91]

Part 2. The Commission proposed significant amendments to Part 2 of Form ADV. These amendments would have imposed additional costs on advisers, including small advisers. The proposed amendments to Part 2 would have required advisers to begin preparing and disseminating narrative brochures. The Commission has elected to defer adoption of Part 2 and related rules until a later date.

E. Agency Action To Minimize Effect on Small Entities

The FRFA discusses the various alternatives that the Commission considered, in adopting the rule and form amendments, that might minimize the effect on small advisers, including (i) establishing different compliance or reporting requirements or timetables that take into account the resources available to small advisers; (ii) clarifying, consolidating, or simplifying compliance and reporting requirements for small advisers; (iii) using performance rather than design standards; and (iv) exempting small advisers from coverage of all or part of the amended rules and forms.

Regarding the first alternative, the Commission considered establishing different compliance or reporting requirements for small advisers. As explained in the FRFA, establishing different compliance or reporting requirements would be inconsistent with our mandate to provide a system of public disclosure of investment adviser information. The FRFA states that a small adviser will, by the nature of its business, likely spend fewer resources in completing the new Form ADV, and will pay lower filing fees, than a larger adviser.

Regarding the second alternative, it does not appear that the rules and forms can be formatted differently for small advisers and still achieve the stated objectives of the amendments. Nonetheless, the amendments clarify and simplify the form for all advisers, including small advisers. As discussed more fully in the FRFA, we are also adding a new item to Form ADV to identify small advisers so we can better assess the number of small advisers registered with us and the burdens our rules impose on them.

Regarding the third alternative, the FRFA explains that the rules and forms would permit advisers to use performance rather than design standards in some instances. In other contexts, however, the use of performance rather than design standards would be inconsistent with our statutory mandate to protect investors, as advisers must provide certain registration information in a uniform and quantifiable manner so that it is useful to our regulatory and examination programs. Design standards, therefore, are necessary to

[89] A 1998 industry survey of registered investment advisers noted that all respondents use the Internet. According to the survey, advisers "new to the business or those with less than $100 million of assets under management are more active users of the online channel than are higher-net-worth [advisers]." *See* Phil Clark, Cerrulli Survey; Advisers Flock to Internet for Research and Fund Data, *Fund Marketing Alert,* July 6, 1998 at 1. In 1999, the Institute of Certified Financial Planners (ICFP) and Morningstar also conducted a survey of financial planners and found that 99% of those surveyed had Internet access. *See* ICFP/Morningstar, *Work/Computer Environment Among RIAs* (available in File No. S7–10–00). Those advisers that cannot submit electronic filings themselves can obtain the assistance of a filing service bureau—a firm that provides assistance to advisers and broker-dealers in preparing and making regulatory filings. For advisers' convenience, we will maintain a list of service bureaus that offer assistance in making filings on the IARD system.

[90] *See* Form ADV–H, *infra* Appendix C of this Release.

[91] The 14% estimate is based on responses to Item 11 of current Form ADV.

achieve many objectives of the amended rules and forms.

Regarding the fourth alternative, the FRFA states that it would be inconsistent with the purposes of the Advisers Act to exempt small advisers from the amendments. As discussed, the information advisers file will form a publicly-accessible database, allowing investors to obtain information about, among other things, the disciplinary histories of an adviser and its personnel. Clients and potential clients of small advisers are entitled to obtain the same information, with the same ease, as those of larger advisers, and exempting small advisers from any of the rule and form amendments would be inconsistent with a central purpose of the Advisers Act.

We have incorporated several features, such as the "help" function, intended to minimize the burden on small advisers. Small advisers can also apply for a continuing hardship exemption from the electronic filing requirements, as discussed above.

The FRFA states that, having considered the above alternatives in the context of the proposed rule and form amendments, and after taking into account the resources available to small advisers and the potential burden the rule and form amendments could place on investment advisers, the alternatives, except as noted above, would not accomplish the stated objectives of the rule and form amendments.

A copy of the FRFA is available for public inspection in File No. S7–10–00, and a copy may be obtained by contacting Jennifer Sawin, Special Counsel, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0506.

VI. Statutory Authority

We are adopting new rule 203–3 under sections 203(c)(1) and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1) and 80b–11(a)].

We are amending rules 30–5 and 30–11 of our Organization and Program Management rules under sections 4A and 4B of the Securities Exchange Act of 1934 [15 U.S.C. 78d–1 and 78d–2].

We are amending rule 0–2 under section 19(a) of the Securities Act of 1933 [15 U.S.C. 77s(a)], section 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78w(a)], section 319(a) of the Trust Indenture Act of 1939 [15 U.S.C. 77sss(a)], section 38(a) of the Investment Company Act of 1940 [15 U.S.C. 78a–37(a)], and sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are amending rule 0–7 under chapter 6 of title 5 of the United States Code (particularly section 601 of that chapter [5 U.S.C. 601]) and section 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–11(a)].

We are amending rules 203–1 and 203–2 under sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are amending rule 203A–1 under sections 203A(a)(1)(A), 203A(c), and section 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3a(a)(1)(A), 80b–3a(c), and 80b–11(a)].

We are amending rule 203A–2 under section 203A(c) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3a(c)].

We are amending rule 204–1 under sections 203(c)(1) and 204 of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1) and 80b–4].

We are adopting new Form ADV–H under sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are amending rule 279.1, Form ADV, under section 19(a) of the Securities Act of 1933 [15 U.S.C. 77s(a)], sections 23(a) and 28(e)(2) of the Securities Exchange Act of 1934 [15 U.S.C. 78w(a) and 78bb(e)(2)], section 319(a) of the Trust Indenture Act of 1939 [15 U.S.C. 77sss(a)], section 38(a) of the Investment Company Act of 1940 [15 U.S.C. 78a–37(a)], and sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are amending rule 279.2, Form ADV–W, under sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are amending rule 279.4, Form 4–R, by replacing it with Form ADV–NR under section 19(a) of the Securities Act of 1933 [15 U.S.C. 77s(a)], section 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78w(a)], section 319(a) of the Trust Indenture Act of 1939 [15 U.S.C. 77sss(a)], section 38(a) of the Investment Company Act of 1940 [15 U.S.C. 78a–37(a)], and sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are withdrawing rule 204–5 under section 211(a) under the Investment Advisers Act of 1940 [15 U.S.C. 80b–11(a)].

We are removing and reserving rules 279.5, 279.6, and 279.7 and removing Forms 5–R, 6–R, and 7–R under section 19(a) of the Securities Act of 1933 [15 U.S.C. 77s(a)], section 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78w(a)], section 319(a) of the Trust Indenture Act of 1939 [15 U.S.C. 77sss(a)], section 38(a) of the Investment Company Act of 1940 [15 U.S.C. 78a–37(a)], and sections 203(c)(1), 204, and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1), 80b–4, and 80b–11(a)].

We are removing and reserving rule 279.9 and removing Form ADV–Y2K under section 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–11(a)].

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies)

17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority section for part 200 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. In § 200.30–5, the introductory text of paragraph (e) is revised and paragraph (e)(7) is added to read as follows:

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(e) With respect to the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 to 80b–22):

* * * * *

(7) Pursuant to section 203A(d) of the Act (15 U.S.C. 80b–3a(d)), to set the terms of, and grant or deny as appropriate, continuing hardship exemptions under § 275.203–3 of this chapter.

* * * * *

3. Section 200.30–11 is amended by revising paragraph (b)(2) to read as follows:

§ 200.30–11 Delegation of authority to Associate Executive Director of the Office of Filings and Information Services.

* * * * *

(b) * * *

(2) Under section 203(h) of the Act (15 U.S.C. 80b–3(h)), to authorize the issuance of orders canceling registrations of investment advisers, or pending applications for registration, if such investment advisers or applicants for registration are no longer in existence or are not engaged in business as investment advisers.

* * * * *

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

4. The general authority citation for part 275 is revised to read as follows:

Authority: 15 U.S.C. 80b–2(a)(11)(F), 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 80b–6a, 80b–11, unless otherwise noted.

* * * * *

5. Section 275.0–2 is revised to read as follows:

§ 275.0–2 General procedures for serving non-residents.

(a) *General procedures for serving process, pleadings, or other papers on non-resident investment advisers, general partners and managing agents.* Under Forms ADV and ADV–NR [17 CFR 279.1 and 279.4], a person may serve process, pleadings, or other papers on a non-resident investment adviser, or on a non-resident general partner or non-resident managing agent of an investment adviser by serving any or all of its appointed agents:

(1) A person may serve a non-resident investment adviser, non-resident general partner, or non-resident managing agent by furnishing the Commission with one copy of the process, pleadings, or papers, for each named party, and one additional copy for the Commission's records.

(2) If process, pleadings, or other papers are served on the Commission as described in this section, the Secretary of the Commission (Secretary) will promptly forward a copy to each named party by registered or certified mail at that party's last address filed with the Commission.

(3) If the Secretary certifies that the Commission was served with process, pleadings, or other papers pursuant to paragraph (a)(1) of this section and forwarded these documents to a named party pursuant to paragraph (a)(2) of this section, this certification constitutes evidence of service upon that party.

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

(1) *Managing agent* means any person, including a trustee, who directs or manages, or who participates in directing or managing, the affairs of any unincorporated organization or association other than a partnership.

(2) *Non-resident* means:

(i) An individual who resides in any place not subject to the jurisdiction of the United States;

(ii) A corporation that is incorporated in or that has its principal office and place of business in any place not subject to the jurisdiction of the United States; and

(iii) A partnership or other unincorporated organization or association that has its principal office and place of business in any place not subject to the jurisdiction of the United States.

(3) *Principal office and place of business* has the same meaning as in § 275.203A–3(c) of this chapter.

6. In § 275.0–7, the introductory text of paragraphs (a) and (b) are republished and paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 275.0–7 Small entities under the Investment Advisers Act for purposes of the Regulatory Flexibility Act.

(a) For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601) and unless otherwise defined for purposes of a particular rulemaking proceeding, the term "small business" or "small organization" for purposes of the Investment Advisers Act of 1940 means an investment adviser that:

(1) Has assets under management, as defined under Section 203A(a)(2) of the Act (15 U.S.C. 80b–3a(a)(2)) and reported on its annual updating amendment to Form ADV (17 CFR 279.1), of less than $25 million, or such higher amount as the Commission may by rule deem appropriate under Section 203A(a)(1)(A) of the Act (15 U.S.C. 80b–3a(a)(1)(A));

* * * * *

(b) For purposes of this section:

(1) *Control* means the power, directly or indirectly, to direct the management or policies of a person, whether through ownership of securities, by contract, or otherwise.

(i) A person is presumed to control a corporation if the person:

(A) Directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or

(B) Has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities.

(ii) A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership.

(iii) A person is presumed to control a limited liability company (LLC) if the person:

(A) Directly or indirectly has the right to vote 25 percent or more of a class of the interests of the LLC;

(B) Has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the LLC; or

(C) Is an elected manager of the LLC.

(iv) A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

* * * * *

7. Section 275.203–1 is revised to read as follows:

§ 275.203–1 Application for investment adviser registration.

(a) *Form ADV.* To apply for registration with the Commission as an investment adviser, you must complete and file Form ADV (17 CFR 279.1) by following the instructions in the Form.

(b) *Electronic filing.* (1) If you apply for registration after January 1, 2001, you must file electronically with the Investment Adviser Registration Depository (IARD), unless you have received a hardship exemption under § 275.203–3.

Note to Paragraph (b)(1): Information on how to file with the IARD is available on the Commission's website at <http://www.sec.gov/iard>.

(2) You are not required to file with the Commission a copy of Part II of Form ADV if you maintain a copy of your Part II (and any brochure you deliver to clients) in your files. The copy maintained in your files is considered filed with the Commission.

Note to Paragraph (b)(2): The Commission has proposed, but not adopted, substantial changes to Part II of Form ADV. Thus, the rules for preparing, delivering, and offering Part II (or a brochure containing at least the information contained in Part II) have not changed. If you are an SEC-registered adviser, however, you no longer have to file Part II with the Commission. Instead, you must keep a copy in your files, and update the information in your Part II whenever it becomes materially inaccurate. If you are a State-registered adviser, State law may continue to require you to file Part II with the appropriate State securities authority on paper, regardless of whether you are filing Part 1 on paper or through the IARD.

(c) *When filed.* Each Form ADV is considered filed with the Commission upon acceptance by the IARD.

(d) *Filing fees.* You must pay NASD Regulation, Inc. (NASDR) (the operator

of the IARD) a filing fee. The Commission has approved the amount of the filing fee. No portion of the filing fee is refundable. Your completed application for registration will not be accepted by NASDR, and thus will not be considered filed with the Commission, until you have paid the filing fee.

8. Section 275.203–2 is revised to read as follows:

§ 275.203–2 Withdrawal from investment adviser registration.

(a) *Form ADV–W.* You must file Form ADV–W (17 CFR 279.2) to withdraw from investment adviser registration with the Commission (or to withdraw a pending registration application).

(b) *Electronic filing.* Once you have filed your Form ADV (17 CFR 279.1) (or any amendments to Form ADV) electronically with the Investment Adviser Registration Depository (IARD), any Form ADV–W you file must be filed with the IARD, unless you have received a hardship exemption under § 275.203–3.

(c) *Effective date—upon filing.* Each Form ADV–W filed under this section is effective upon acceptance by the IARD, provided however that your investment adviser registration will continue for a period of sixty days after acceptance solely for the purpose of commencing a proceeding under section 203(e) of the Act (15 U.S.C. 80b–3(e)).

(d) *Filing fees.* You do not have to pay a fee to file Form ADV–W through the IARD.

(e) *Form ADV–W is a report.* Each Form ADV–W required to be filed under this section is a "report" within the meaning of sections 204 and 207 of the Act (15 U.S.C. 80b–4 and 80b–7).

9. Section 275.203–3 is added to read as follows:

§ 275.203–3 Hardship exemptions.

This section provides two "hardship exemptions" from the requirement to make Advisers Act filings electronically with the Investment Adviser Registration Depository (IARD).

(a) *Temporary hardship exemption—*(1) *Eligibility for exemption.* If you are registered with the Commission as an investment adviser and submit electronic filings on the Investment Adviser Registration Depository (IARD) system, but have unanticipated technical difficulties that prevent you from submitting a filing to the IARD system, you may request a temporary hardship exemption from the requirements of this chapter to file electronically.

(2) *Application procedures.* To request a temporary hardship exemption, you must:

(i) File Form ADV–H (17 CFR 279.3) in paper format with NASD Regulation, Inc. (NASDR) no later than one business day after the filing that is the subject of the ADV–H was due; and

(ii) Submit the filing that is the subject of the Form ADV–H in electronic format with the IARD no later than seven business days after the filing was due.

(3) *Effective date—upon filing.* The temporary hardship exemption will be granted when you file a completed Form ADV–H with NASDR.

(b) *Continuing hardship exemption—*(1) *Eligibility for exemption.* If you are a "small business" (as described in paragraph (b)(5) of this section), you may apply for a continuing hardship exemption.

The period of the exemption may be no longer than one year after the date on which you apply for the exemption.

(2) *Application procedures.* To apply for a continuing hardship exemption, you must file Form ADV–H with NASDR at least ten business days before a filing is due. The Commission will grant or deny your application within ten business days after you file Form ADV–H.

(3) *Effective date—upon approval.* You are not exempt from the electronic filing requirements until and unless the Commission approves your application. If the Commission approves your application, you may submit your filings to NASDR in paper format for the period of time for which the exemption is granted.

(4) *Criteria for exemption.* Your application will be granted only if you are able to demonstrate that the electronic filing requirements of this chapter are prohibitively burdensome or expensive.

(5) *Small business.* You are a "small business" for purposes of this section if you are required to answer Item 12 of Form ADV (17 CFR 279.1) and checked "no" to each question in Item 12 that you were required to answer.

Note to Paragraphs (a) and (b): NASDR will charge you an additional fee covering its cost to convert to electronic format a filing made in reliance on a continuing hardship exemption.

10. Section 275.203A–1 is revised to read as follows:

§ 275.203A–1 Eligibility for SEC registration; switching to or from SEC registration.

(a) *Eligibility for SEC registration—*(1) *Threshold for SEC registration—$30 million of assets under management.* If the State where you maintain your principal office and place of business has enacted an investment adviser statute, you are not required to register with the Commission, unless:

(i) You have assets under management of at least $30,000,000, as reported on your Form ADV (17 CFR 279.1); or

(ii) You are an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1).

(2) *Exemption for investment advisers having between $25 and $30 million of assets under management.* If the State where you maintain your principal office and place of business has enacted an investment adviser statute, you may register with the Commission if you have assets under management of at least $25,000,000 but less than $30,000,000, as reported on your Form ADV (17 CFR 279.1). This paragraph (a)(2) shall not apply if:

(i) You are an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 to 80a–64); or

(ii) You are eligible for an exemption described in § 275.203A–2 of this chapter.

Note to Paragraphs (a)(1) and (a)(2): Paragraphs (a)(1) and (a)(2) of this section together make SEC registration optional for certain investment advisers that have between $25 and $30 million of assets under management.

(b) *Switching to or from SEC registration—*(1) *State-registered advisers—switching to SEC registration.* If you are registered with a State securities authority, you must apply for registration with the Commission within 90 days of filing an annual updating amendment to your Form ADV reporting that you have at least $30 million of assets under management.

(2) *SEC-registered advisers—switching to State registration.* If you are registered with the Commission and file an annual updating amendment to your Form ADV reporting that you no longer have $25 million of assets under management (or are not otherwise eligible for SEC registration), you must file Form ADV–W (17 CFR 279.2) to withdraw your SEC registration within 180 days of your fiscal year end (unless you then have at least $25 million of assets under management or are otherwise eligible for SEC registration). During this period while you are registered with both the Commission and one or more State securities authorities, the Investment Advisers Act of 1940 and applicable State law will apply to your advisory activities.

11. Section 275.203A–2 is amended as follows:

a. The introductory text is republished;

b. In paragraph (b)(3), the phrase "Schedule I" is revised to read "an annual updating amendment";

c. The introductory text to paragraph (d) is republished;

d. Paragraphs (d)(2) and (d)(3) are revised;

e. The introductory text to paragraph (e) is republished; and

f. Paragraphs (e)(2), (e)(3) and (e)(4) are revised to read as follows:

§ 275.203A–2 Exemptions from prohibition on SEC registration.

The prohibition of section 203A(a) of the Act (15 U.S.C. 80b–3a(a)) does not apply to:

* * * * *

(d) *Investment advisers expecting to be eligible for SEC registration within 120 days.* An investment adviser that:

* * * * *

(2) Indicates on Schedule D of its Form ADV (17 CFR 279.1) that it will withdraw from registration with the Commission if, on the 120th day after the date the investment adviser's registration with the Commission becomes effective, the investment adviser would be prohibited by section 203A(a) of the Act (15 U.S.C. 80b–3a(a)) from registering with the Commission; and

(3) Notwithstanding § 275.203A–1(b)(2) of this chapter, files a completed Form ADV–W (17 CFR 279.2) withdrawing from registration with the Commission within 120 days after the date the investment adviser's registration with the Commission becomes effective.

(e) *Multi-State investment advisers.* An investment adviser that:

* * * * *

(2) Indicates on Schedule D of its Form ADV that the investment adviser has reviewed the applicable State and federal laws and has concluded that, in the case of an application for registration with the Commission, it is required by the laws of 30 or more States to register as an investment adviser with the State securities authorities in the respective States or, in the case of an amendment to Form ADV, it would be required by the laws of at least 25 States to register as an investment adviser with the State securities authorities in the respective States, within 90 days prior to the date of filing Form ADV;

(3) Undertakes on Schedule D of its Form ADV to withdraw from registration with the Commission if the adviser indicates on an annual updating amendment to Form ADV that the investment adviser would be required by the laws of fewer than 25 States to register as an investment adviser with the securities commissioners (or any agencies or officers performing like functions) in the respective States, and that the investment adviser would be prohibited by section 203A(a) of the Act (15 U.S.C. 80b–3a(a)) from registering with the Commission, by filing a completed Form ADV–W within 180 days of the adviser's fiscal year end (unless the adviser then has at least $25 million of assets under management or is otherwise eligible for SEC registration); and

(4) Maintains in an easily accessible place a record of the States in which the investment adviser has determined it would, but for the exemption, be required to register for a period of not less than five years from the filing of a Form ADV that includes a representation that is based on such record.

12. Section 275.204–1 is revised to read as follows:

§ 275.204–1 Amendments to application for registration.

(a) *When amendment is required.* You must amend your Form ADV (17 CFR 279.1):

(1) At least annually, within 90 days of the end of your fiscal year; and

(2) More frequently, if required by the instructions to Form ADV.

(b) *Transition to electronic filing.* (1) If you are an investment adviser registered with the Commission on December 31, 2000, you must amend your Form ADV by electronically filing a completed Part 1A of Form ADV (as amended effective October 10, 2000) with the Investment Adviser Registration Depository (IARD) according to the following schedule:

(i) If your fiscal year ends in December, and

(A) Your SEC registration number is 801–1 through 801–36806, you must file no later than January 31, 2001;

(B) Your SEC registration number is 801–36807 through 801–54145, you must file no later than February 28, 2001;

(C) Your SEC registration number is 801–54146 or higher, you must file no later than March 30, 2001.

(ii) If your fiscal year ends in any month other than December (*i.e.*, January through November), you must file no later than April 30, 2001.

Note to Paragraphs (a) and (b): Information on how to file with the IARD is available on our website at <http://www.sec.gov/iard>.

(2) If you are an investment adviser whose registration application (filed on paper) was pending on January 1, 2001 and became effective after that date, you must amend your Form ADV by electronically filing a completed Part 1A of Form ADV (as amended effective October 10, 2000) with the IARD by April 30, 2001.

(3) If you have received a continuing hardship exemption under § 275.203–3, you must file a completed Part 1A of Form ADV on paper with NASD Regulation, Inc. (NASDR) when you are required to amend your Form ADV by the schedule in paragraph (b)(1) of this section.

(4) If you have filed Part 1A of Form ADV with the IARD under paragraphs (1) or (2) of this section, you must file all subsequent amendments to Part 1A of your Form ADV with the IARD.

(c) *Special rule for Part II.* You are not required to file with the Commission a copy of Part II of Form ADV if you maintain a copy of your Part II (and any brochure you deliver to clients) in your files. The copy maintained in your files is considered filed with the Commission.

Note to Paragraph (c): The Commission has proposed, but not adopted, substantial changes to Part II of Form ADV. Thus, the rules for preparing, delivering, and offering Part II (or a brochure containing at least the information contained in Part II) have not changed. If you are an SEC-registered adviser, however, you no longer have to file Part II with the Commission. Instead, you must keep a copy in your files, and update the information in your Part II whenever it becomes materially inaccurate. If you are a State-registered adviser, State law may continue to require you to file Part II with the appropriate State securities authority on paper, regardless of whether you are filing Part 1 on paper or through the IARD.

(d) *Filing fees.* You must pay NASDR (the operator of the IARD) an initial filing fee when you first electronically file Part 1A of Form ADV pursuant to sub-paragraph (b) of this section. After you pay the initial filing fee, you must pay an annual filing fee each time you file your annual updating amendment. No portion of either fee is refundable. The Commission has approved the filing fees. Your amended Form ADV will not be accepted by NASDR, and thus will not be considered filed with the Commission, until you have paid the filing fee.

(e) *Amendments to Form ADV are reports.* Each amendment required to be filed under this section is a "report" within the meaning of sections 204 and 207 of the Act (15 U.S.C. 80b–4 and 80b–7).

13. Section 275.204–5 is removed and reserved.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

14. The authority citation for Part 279 continues to read as follows:

Authority: 15 U.S.C. 80b–1 to 80b–22.

15. Form ADV (referenced in § 279.1) is revised.

Note: The text of Form ADV does not and the amendments will not appear in the Code of Federal Regulations. Form ADV is attached as Appendix A.

16. Form ADV–W (referenced in § 279.2) is revised.

Note: The text of Form ADV-W does not and the amendments will not appear in the Code of Federal Regulations. Form ADV–W is attached as Appendix B.

17. Section 279.3 and Form ADV–H are added as follows:

Note: The text of Form ADV–H will not appear in the Code of Federal Regulations. Form ADV–H is attached as Appendix C.

§ 279.3 Form ADV–H, application for a temporary or continuing hardship exemption.

An investment adviser must file this form under § 275.203–3 of this chapter to request a temporary hardship exemption or apply for a continuing hardship exemption.

18. Form 4–R (referenced in § 279.4) is removed.

19. Section 279.4 is revised and Form ADV–NR is added as follows:

Note: Form ADV–NR will not appear in the Code of Federal Regulations. Form ADV–NR is attached as Appendix D.

§ 279.4 Form ADV–NR, appointment of agent for service of process by non-resident general partner and non-resident managing agent of an investment adviser.

Each non-resident general partner or managing agent of an investment adviser must file this form under § 275.0–2 of this chapter.

§ 279.5 [Removed and Reserved]

20. Section 279.5 and Form 5–R are removed and reserved.

Note: Form 5–R does not appear in the Code of Federal Regulations.

§ 279.6 [Removed and Reserved]

21. Section 279.6 and Form 6–R are removed and reserved.

Note: Form 6–R does not appear in the Code of Federal Regulations.

§ 279.7 [Removed and Reserved]

22. Section 279.7 and Form 7–R are removed and reserved.

Note: Form 7–R does not appear in the Code of Federal Regulations.

§ 279.9 [Removed and Reserved]

23. Section 279.9 and Form ADV–Y2K are removed and reserved.

Note: Form ADV–Y2K does not appear in the Code of Federal Regulations.

By the Commission.
Dated: September 12, 2000.

Margaret H. McFarland,

Deputy Secretary.

[**Note:** Appendixes A, B, C, and D will not appear in the Code of Federal Regulations]

Appendix A

Form ADV (Paper Version); UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

Form ADV: General Instructions

Read these instructions carefully before filing Form ADV. Failure to follow these instructions, properly complete the form, and pay all required fees may result in your filing being returned to you. Electronic filers should follow the instructions available on-line, which are different.

In these instructions and in the form, "you" means the investment adviser (i.e., the advisory firm) applying for registration or amending its registration. If you are a "separately identifiable department or division" (SID) of a bank, "you" means the SID, rather than your bank, unless the instructions or the form provide otherwise. Terms that appear in *italics* are defined in the Glossary of Terms to Form ADV.

1. Where can I get more information on Form ADV, electronic filing, and the IARD?

The SEC provides information about its rules and the Advisers Act on its website: <http://www.sec.gov/iard>.

NASAA provides information about state investment adviser laws and state rules, and how to contact a *state securities authority*, on its website: <http://www.nasaa.org>.

NASDR provides information about the IARD and electronic filing on the IARD website: <http://www.iard.com>.

2. What is Form ADV used for?

Investment advisers use Form ADV to:

- Register with the Securities and Exchange Commission
- Register with one or more *state securities authorities*
- Amend those registrations

3. How is Form ADV organized?

- Part 1A asks a number of questions about you, your business practices, the *persons* who own and *control* you, and the *persons* who provide investment advice on your behalf. All advisers registering with the SEC or any of the *state securities authorities* must complete Part 1A.

Part 1A also contains several schedules that supplement Part 1A. The items of Part 1A let you know which schedules you must complete.

- Schedule A asks for information about your direct owners and executive officers.
- Schedule B asks for information about your indirect owners.
- Schedule C is used by paper filers to update the information required by Schedules A and B (see Instruction 14).
- Schedule D asks for additional information for certain items in Part 1A.
- Disclosure Reporting Pages (or "DRPs") ask for details about disciplinary events involving you or *persons* affiliated with you. (These are considered schedules too.)
- Part 1B asks additional questions required by *state securities authorities*. Part 1B contains three DRPs. If you are applying for registration or are registered only with the SEC, you do not have to complete Part 1B. (If you are filing electronically and you do not have to complete Part 1B, you will not see Part 1B.)
- Part II is your current brochure. You must continue to amend your brochure, deliver it to prospective clients, and annually offer it to current clients. *See* rule 204–3. You are not required to file amendments to Part II with the SEC.

Note: The SEC has proposed to amend Part II of Form ADV. These changes, proposed as Part 2, have not been adopted at this time. Until the Commission adopts Part 2, the current brochure requirements are in effect, except that you are no longer required to file amendments to Part II with the Commission. *See* rule 204–3.

4. When am I required to update my Form ADV?

You must amend your Form ADV each year by filing an *annual updating amendment* within 90 days after the end of your fiscal year. When you submit your *annual updating amendment*, you must update your responses to all items.

In addition to your *annual updating amendment*, you must amend your Form ADV by filing additional amendments (other-than-annual amendments) *promptly* if:

- information you provided in response to Items 1, 3, 9, or 11 of Part 1A or Items 1, 2.A. through 2.F., or 2.I. of Part 1B become inaccurate in any way;
- information you provided in response to Items 4, 8, or 10 of Part 1A or Item 2.G. of Part 1B become *materially* inaccurate; or
- information you provided in your brochure becomes materially inaccurate.

If you are submitting an other-than-annual amendment, you are not required to update your responses to Items 2, 5, 6, 7, or 12 of Part 1A or Items 2.H. or 2.J. of Part 1B even if your responses to those items have become inaccurate. If you are amending Part II, do not file the amendment with the SEC.

Failure to update your Form ADV, as required by this instruction, is a violation of SEC rule 204–1 and similar state rules and could lead to your registration being revoked.

5. Are there changes to the Part II requirements?

The rules for preparing, delivering and offering Part II have not changed. You can still satisfy these requirements by delivering Part II or a brochure containing at least the information contained in Part II. If you are using Part II, you can continue to use

Schedule F as a continuation sheet. If you check "yes" to Item 14 of Part II, prepare and file a balance sheet following instructions in Schedule G. The balance sheet information must be distributed to clients as part of your written disclosure statement (regardless of whether you use Part II or a brochure).

If you are an SEC-registered adviser, however, you no longer have to file Part II with the SEC. Instead, you must keep a copy in your files, and provide it to SEC staff upon request. You must update the information in your Part II whenever it becomes materially inaccurate. You can do this by substituting pages, or by affixing a "sticker" replacing the stale information.

If you are a state-registered adviser, you must continue to file Part II with the appropriate *state securities authority* on paper, regardless of whether you are filing Part 1 on paper or electronically through the IARD.

Note: The SEC has proposed, but not adopted, substantial changes to Part II.

6. Where do I sign my Form ADV application or amendment?

You must sign the appropriate Execution Page. There are three Execution Pages at the end of the form. Your initial application and all amendments to Form ADV must include at least one Execution Page.

- If you are applying for or amending your SEC registration, you must sign and submit either a:
- Domestic Investment Adviser Execution Page, if you (the advisory firm) are a resident of the United States; or
- *Non-Resident* Investment Adviser Execution Page, if you (the advisory firm) are not a resident of the United States.
- If you are applying for or amending your registration with a *state securities authority*, you must sign and submit the State-Registered Investment Adviser Execution Page.

7. Who must sign my Form ADV or amendment?

The individual who signs the form depends upon your form of organization:

- For a sole proprietorship, the sole proprietor.
- For a partnership, a general partner.
- For a corporation, an authorized principal officer.
- For a "separately identifiable department or division" (SID) of a bank, a principal officer of your bank who is directly engaged in the management, direction or supervision of your investment advisory activities.
- For all others, an authorized individual who participates in managing or directing your affairs.

The signature does not have to be notarized, and in the case of an electronic filing, should be a typed name.

8. How do I file my Form ADV?

Note: Until May 1, 2001, you must also consult the Form ADV Supplemental Instructions for Transition to Electronic Filing.

Complete Form ADV electronically using the Investment Adviser Registration Depository (IARD) if:

- You are filing with the SEC (and submitting *notice filings* to any of the *state securities authorities*), or
- You are filing with a *state securities authority* that requires or permits advisers to submit Form ADV through the IARD.

To file electronically, go the IARD website (<www.iard.com>), which contain detailed instructions for advisers to follow when filing through the IARD.

Complete Form ADV (Paper Version) on paper if:

- You are filing with the SEC or a *state securities authority* that requires electronic filing, but you have been granted a continuing hardship exemption. Hardship exemptions are described in Instruction 13.
- You are filing with a *state securities authority* that permits (but does not require) electronic filing and you do not file electronically.

9. How do I get started filing electronically?

- First, get a copy of the IARD Entitlement Package from the following web site: <http://www.iard.com>. Second, request access to the IARD system for your firm by completing and submitting the IARD Entitlement Package. The IARD Entitlement Package must be submitted on paper. Mail the forms to: IARD Entitlement Requests, NASD Regulation, Inc., P.O. Box 9495, Gaithersburg, MD 20898–9495.
- When NASDR receives your Entitlement Package, they will assign a *CRD* number (identification number for your firm) and a user I.D. code and password (identification number and system password for the individual(s) who will submit Form ADV filings for your firm). Your firm may request an I.D. code and password for more than one individual. The NASDR also will create a financial account for you from which the IARD will deduct filing fees and any *state* fees you are required to pay. If you already have a *CRD* account with NASDR, it will also serve as your IARD account; a separate account will not be established.
- Once you receive your *CRD* number, user I.D. code and password, and you have funded your account, you are ready to file electronically.
- Questions regarding the Entitlement Process should be addressed to NASDR at 240.386.4848.

10. If I am applying for registration with the SEC, or amending my SEC registration, how do I make *notice filings* with the *state securities authorities*?

If you are applying for registration with the SEC or amending your SEC registration, one or more *state securities authorities* may require you to provide them with copies of your SEC filings. We call these filings "*notice filings.*" Your *notice filings* will be sent electronically to the *states* that you check on Item 2.B. of Part 1A. The *state securities authorities* to which you send *notice filings* may charge fees, which will be deducted from the account you establish with NASDR. To determine which *state securities authorities* require SEC-registered advisers to submit *notice filings* and to pay fees, consult the relevant state investment adviser law or *state securities authority*. See General Instruction 1.

If you are granted a continuing hardship exemption to file Form ADV on paper, NASDR will enter your filing into the IARD and your *notice filings* will be sent electronically to the *state securities authorities* that you check on Item 2.B. of Part 1A.

11. I am registered with a *state*. When must I switch to SEC registration?

If you report on your *annual updating amendment* that your assets under management have increased to $30 million or more, you must register with the SEC within 90 days after you file that *annual updating amendment*. If your assets under management increase to $25 million or more but not $30 million, you may, but are not required to, register with the SEC (assuming you are not otherwise required to register with the SEC). Once you register with the SEC, you are subject to SEC regulation, regardless of whether you remain registered with one or more *states*. Each of your *investment adviser representatives*, however, may be subject to registration in those states in which the representative has a place of business. See SEC rule 203A–1(b). For additional information, consult the investment adviser laws or the *state securities authority* for the particular state in which you are "doing business." See General Instruction 1.

12. I am registered with the SEC. When must I switch to registration with a *state securities authority*?

If you report on your *annual updating amendment* that you have assets under management of less than $25 million *and* you are not otherwise eligible to register with the SEC, you must withdraw from SEC registration within 180 days after the end of your fiscal year by filing Form ADV–W. You should consult state law in the states that you are doing business to determine if you are required to register in these states. *See* General Instruction 1. Until you file your Form ADV–W with the SEC, you will remain subject to SEC regulation, and you also will be subject to regulation in any states where you register. *See* SEC rule 203A–1(b).

13. Are there filing fees?

Yes. These fees go to support and maintain the IARD. The IARD filing fees are in addition to any registration or other fee that may be required by state law. You must pay an IARD filing fee for your initial application and each *annual updating amendment*. There is no filing fee for an other-than-annual amendment or Form ADV–W. The IARD filing fee schedule is published at <http://www.sec.gov/iard>; <http://www.nasaa.org>; and <http://www.iard.com>.

If you are submitting a paper filing under a continuing hardship exemption (*see* Instruction 14), you are required to pay an additional fee. The amount of the additional fee depends on whether you are filing Form ADV or Form ADV–W. (There is no additional fee for filings made on Form ADV–W.) The hardship filing fee schedule is available at 240.386.4848.

14. What if I am not able to file electronically?

If you are required to file electronically but cannot do so, you may be eligible for one of two types of hardship exemptions from the electronic filing requirements.

• A temporary hardship exemption is available if you file electronically, but you encounter unexpected difficulties that prevent you from making a timely filing with the IARD, such as a computer malfunction or electrical outage. This exemption does *not* permit you to file on paper; instead, it extends the deadline for an electronic filing for seven business days. *See* SEC rule 203–3(a).

• **A continuing hardship exemption** may be granted if you are a small business and you can demonstrate that filing electronically would impose an undue hardship. You are a small business, and may be eligible for a continuing hardship exemption, if you are required to answer Item 12 of Part 1A (because you have assets under management of less than $25 million) *and* you are able to respond "no" to each question in Item 12. See SEC rule 0–7.

If you have been granted a continuing hardship exemption, you must complete and file the paper version of Form ADV with NASDR. NASDR will enter your responses into the IARD. As discussed in General Instruction 13, NASDR will charge you a fee to reimburse it for the expense of data entry.

Before applying for a continuing hardship exemption, consider engaging a firm that assists investment advisers in making filings with the IARD. Check the SEC's web site (<http://www.sec.gov/iard>) to obtain a list of firms that provide these services.

15. I am eligible to file on paper. How do I make a paper filing?

When filing on paper, you must:

• Type all of your responses.

• Include your name (the same name you provide in response to Item 1.A. of Part 1A) and the date on every page.

• If you are amending your Form ADV:

• complete page 1 and circle the number of any item for which you are changing your response.

• include your SEC 801-number (if you have one) and your *CRD* number (if you have one) on every page.

• complete the amended item in full and circle the number of the item for which you are changing your response.

• to amend Schedule A or Schedule B, complete and submit Schedule C.

Where you submit your paper filing depends on why you are eligible to file on paper:

• If you are filing on paper because you have been granted a continuing hardship exemption, submit one manually signed Form ADV and one copy to: IARD Document Processing, NASD Regulation, Inc., P.O. Box 9495, Gaithersburg, MD 20898–9495.

If you complete Form ADV on paper and submit it to NASDR but you do not have a continuing hardship exemption, the submission will be returned to you.

• If you are filing on paper because a *state* in which you are registered or applying for registration allows you to submit paper instead of electronic filings, submit one manually signed Form ADV and one copy to the appropriate *state securities authorities.*

16. Who is required to file Form ADV–NR?

Every *non-resident* general partner and *managing agent* of *all* SEC-registered advisers, whether or not the adviser is resident in the United States, must file Form ADV–NR in connection with the adviser's initial application. A general partner or *managing agent* of an SEC-registered adviser who becomes a *non-resident* after the adviser's initial application has been submitted must file Form ADV–NR within 30 days. Form ADV–NR must be filed on paper (it cannot be filed electronically).

Submit Form ADV–NR to the SEC at the following address: Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop A–2, Washington, DC 20549; Attn: Branch of Registrations & Examinations

Failure to file Form ADV–NR promptly may delay SEC consideration of your initial application.

Federal Information Law and Requirements

Advisers Act Sections 203(c), 204, 206 and 211(a) authorize the SEC to collect the information required by Form ADV. The SEC uses the information for regulatory purposes, including deciding whether to grant registration. The SEC keeps files of the information submitted on this form and makes the information publicly available. The SEC may reject forms that do not include required information. By accepting a form, however, the SEC does not make a finding that it has been completed or submitted correctly. Intentional misstatements or omissions constitute federal criminal violations under 18 U.S.C. § 1001 and 15 U.S.C. § 80b–17.

SEC's Collection of Information

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The Advisers Act authorizes the SEC to collect the information on Form ADV from applicants. See 15 U.S.C. §§ 80b–3(c)(1) and 80b–4. Filing the form is mandatory.

The main purpose of this form is to enable the SEC to register investment advisers. Every applicant for registration with the SEC as an adviser must file the form. See 17 C.F.R. § 275.203–1. The form is filed annually by every adviser, no later than 90 days after the end of its fiscal year, to amend its registration. It also is filed promptly during the year to reflect material changes. See 17 C.F.R. § 275.204–1. The SEC maintains the information on the form and makes it publicly available through the IARD.

Anyone may send the SEC comments on the accuracy of the burden estimate on page 1 of the form, as well as suggestions for reducing the burden. The Office of Management and Budget has reviewed this collection of information under 44 U.S.C. § 3507.

The information contained in the form is part of a system of records subject to the Privacy Act of 1974, as amended. The SEC has published in the **Federal Register** the Privacy Act System of Records Notice for these records.

Form ADV (Paper Version), Uniform Application for Investment Adviser Registration

Form ADV: Supplemental Instructions for Transition to Electronic Filing

SEC Requirements

SEC rules require advisers that are registered or applying for registration with the SEC to file electronically. All applications for registration filed after December 31, 2000 must be filed electronically through the IARD system. See SEC rule 203–1.

If your SEC registration was made effective on or before December 31, 2000, you must transition to electronic filing by submitting an amendment to your Form ADV through the IARD during one of the first four months of 2001. To facilitate an orderly transition, registered advisers have been divided into four groups. Members of each group will file amendments to their registration forms during one of the four months. See SEC rule 204–1.

If your fiscal year ends in December and

your SEC 801 number is:	*you must file by:*
• 801–1 through 801–36806.	January 31, 2001
• 801–36807 through 801–54145.	February 28, 2001
• 801–54146 and higher.	March 30, 2001

If your fiscal year ends in any month other than December

	you must file by:
	April 30, 2001

State Requirements

Check with the state securities authorities of the states in which you have a filing obligation to determine whether you can or must file Form ADV electronically through the IARD. NASAA provides information about state investment adviser laws and state rules, and how to contact a state securities authority, on its website: *http://www.nasaa.org.*

Form ADV (Paper Version); Uniform Application for Investment Adviser Registration

Form ADV: Instructions for Part 1A

These instructions explain how to complete certain items in Part 1A of Form ADV.

1. Item 1: Identifying Information

If you are a "separately identifiable department or division" (SID) of a bank, answer Item 1.A. with the full legal name of your bank, and answer Item 1.B. with your own name (the name of the department or division) and all names under which you conduct your advisory business. In addition, your *principal office and place of business* in

Item 1.F. should be the principal office at which you conduct your advisory business. In response to Item 1.I., the World Wide Web site addresses you list on Schedule D should be sites that provide information about your own activities, rather than general information about your bank.

2. Item 2: SEC Registration

If you are registered or applying for registration with the SEC, you must indicate in Item 2.A. why you are eligible to register with the SEC by checking one or more boxes.

a. **Item 2.A(1): Adviser with Assets Under Management of $25 Million or More.** You may check box 1 *only* if your response to Item 5.F(2)(c) is $25 million or more. While you *may* register with the SEC if your assets under management are at least $25 million but less than $30 million, you *must* register with the SEC if your assets under management are $30 million or more. Part 1A Instruction 5.b. explains how to calculate your assets under management.

If you are a state-registered adviser and you report on your *annual updating amendment* that your assets under management increased to $25 million or more, you *may* register with the SEC. If your assets under management increased to $30 million or more, you *must* register with the SEC within 90 days after you file that *annual updating amendment*. See SEC rule 203A–1(b) and Form ADV General Instruction 10.

b. **Item 2.A(4): Adviser to an Investment Company.** You may check box 4 *only* if you currently provide advisory services under an investment advisory contract to an investment company registered under the Investment Company Act of 1940 and the investment company is operational (*i.e.*, has assets and shareholders, other than just the organizing shareholders). See section 203A(a)(1)(B) of the Advisers Act. Advising investors about the merits of investing in mutual funds or recommending particular mutual funds does not make you eligible to check this box.

c. **Item 2.A(5): Nationally Recognized Statistical Rating Organization.** You may check box 5 *only* if you are designated as a nationally recognized statistical rating organization pursuant to an application filed under paragraph (c)(13)(i) of SEC rule 15c3–1 under the Securities Exchange Act of 1934. See SEC rule 203A–2(a). This designation generally is limited to rating agencies, such as Moody's and Standard & Poor's.

d. **Item 2.A(6): Pension Consultant.** You may check box 6 *only* if you are eligible for the pension consultant exemption from the prohibition on SEC registration.

- You are eligible for this exemption if you provided investment advice to employee benefit plans, governmental plans, or church plans with respect to assets having an aggregate value of $50 million or more during the 12-month period that ended within 90 days of filing this Form ADV. You are *not* eligible for this exemption if you only advise plan participants on allocating their investments within their pension plans. See SEC rule 203A–2(b).
- To calculate the value of assets for purposes of this exemption, aggregate the assets of the plans for which you provided advisory services at the end of the 12-month period. If you provided advisory services to other plans during the 12-month period, but your employment or contract terminated before the end of the 12-month period, you also may include the value of those assets.

e. **Item 2.A(7): Affiliated Adviser.** You may check box 7 *only* if you are eligible for the affiliated adviser exemption from the prohibition on SEC registration. See SEC rule 203A–2(c). You are eligible for this exemption if you *contral*, are *cantralled by*, or *are under cammon cantral with* an investment adviser that is registered with the SEC, *and* you have the same *principal office and place of business* as that other investment adviser. If you check box 7, you also must complete Section 2.A(7) of Schedule D.

f. **Item 2.A(8): Newly-Formed Adviser.** You may check box 8 *only* if you are eligible for the newly-formed-adviser exemption from the prohibition on SEC registration. See SEC rule 203A–2(d). You are eligible for this exemption if:

- immediately before you file your application for registration with the SEC, you were not registered or required to be registered with the SEC or a *state securities authority; and*
- at the time of your formation, you have a reasonable expectation that within 120 days of registration you will be eligible for SEC registration.

If you check box 8, you also must complete Section 2.A(8) of Schedule D.

You must file an amendment to Part 1A of your Form ADV that updates your response to Item 2.A. within 120 days after the SEC declares your registration effective. You may not check box 8 on your amendment; since this exemption is available only if you are not registered, you may not "re-rely" on this exemption. If you indicate on that amendment (by checking box 11) that you are not eligible to register with the SEC, you also must at that same time file a Form ADV–W to withdraw your SEC registration.

g. **Item 2.A(9): Multi-State Adviser.** You may check box 9 *only* if you are eligible for the multi-state adviser exemption from the prohibition on SEC registration. See SEC rule 203A–2(e). You are eligible for this exemption if you are required to register as an investment adviser with the securities authorities of 30 or more *states*. If you check box 9, you must complete Section 2.A(9) of Schedule D. You must complete Section 2.A(9) of Schedule D in each *annual updating amendment* you submit.

If you check box 9, you also must:

- create and maintain a list of the *states* in which, but for this exemption, you would be required to register;
- update this list each time you submit an *annual updating amendment* in which you continue to represent that you are eligible for this exemption; and
- maintain the list in an easily accessible place for a period of not less than five years from each date on which you indicate that you are eligible for the exemption.

If, at the time you file your *annual updating amendment*, you are required to register in less than 25 *states* and you are not otherwise eligible to register with the SEC, you must check box 11 in Item 2.A. You also must file a Form ADV–W to withdraw your SEC registration. See Part 1A Instruction 2.

h. **Item 2.A(11): Adviser No Longer Eligible to Remain Registered with the SEC.** You *must* check box 11 if:

- you are registered with the SEC;
- you are filing an *annual updating amendment* to Form ADV in which you indicate in response to Item 5.F(2)(c) that you have assets under management of less than $25 million; *and*
- you are not eligible to check any other box (other than box 11) in Item 2.A. (and are therefore no longer eligible to remain registered with the SEC).

You must withdraw from SEC registration within 180 days after the end of your fiscal year by filing Form ADV–W. Until you file your Form ADV–W, you will remain subject to SEC regulation, and you also will be subject to regulation in the *states* in which you register. See SEC rule 203A–1(b).

3. Item 3: Form of Organization

If you are a "separately identifiable department or division" (SID) of a bank, answer Item 3.A. by checking "other." In the space provided, specify that you are a "SID of" and indicate the form of organization of your bank. Answer Items 3.B. and 3.C. with information about your bank.

4. Item 4: Successions

a. **Succession of an SEC-Registered Adviser.** If you (1) have taken over the business of an investment adviser *or* (2) have changed your structure or legal status (*e.g.* form of organization or state of incorporation), a new organization has been created, which has registration obligations under the Advisers Act. There are different ways to fulfill these obligations. You may rely on the registration provisions discussed in the General Instructions, or you may be able to rely on special registration provisions for "successors" to SEC-registered advisers, which may ease the transition to the successor adviser's registration.

To determine if you may rely on these provisions, review "Registration of Successors to Broker-Dealers and Investment Advisers," Investment Advisers Act Release No. 1357 (Dec. 28, 1992). If you have taken over an adviser, follow Part 1A Instruction 4.a(1), Succession by Application. If you have changed your structure or legal status, follow Part 1A Instruction 4.a(2), Succession by Amendment. If either (1) you are a "separately identifiable department or division" (SID) of a bank that is currently registered as an investment adviser, and you are taking over your bank's advisory business; or (2) you are a SID currently registered as an investment adviser, and your bank is taking over your advisory business, then follow Part 1A Instruction 4.a(1), Succession by Application.

(1) **Succession by Application.** If you are not registered with the SEC as an adviser, and you are acquiring or assuming substantially all of the assets and liabilities of the advisory business of an SEC-registered adviser, file a new application for registration on Form ADV. You will receive new registration numbers. You must file the new

application within 30 days after the succession. On the application, make sure you check "yes" to Item 4.A., enter the date of the succession in Item 4.B., and complete Section 4 of Schedule D.

Until the SEC declares your new registration effective, you may rely on the registration of the adviser you are acquiring, but only if the adviser you are acquiring is no longer conducting advisory activities. Once your new registration is effective, a Form ADV–W must be filed with the SEC to withdraw the registration of the acquired adviser.

(2) **Succession by Amendment.** If you are a new investment adviser formed solely as a result of a change in form of organization, a reorganization, or a change in the composition of a partnership, and there has been no practical change in control or management, you may amend the registration of the registered investment adviser to reflect these changes rather than file a new application. You will keep the same registration numbers, and you should not file a Form ADV–W. On the amendment, make sure you check "yes" to Item 4.A., enter the date of the succession in Item 4.B., and complete Section 4 of Schedule D. You *must* submit the amendment within 30 days after the change or reorganization.

b. **Succession of a State-Registered Adviser.** If you (1) have taken over the business of an investment adviser *or* (2) have changed your structure or legal status (*e.g.*, form of organization or state of incorporation), a new organization has been created, which has registration obligations under state investment adviser laws. There may be different ways to fulfill these obligations. You should contact each state in which you are registered to determine that state's requirements for successor. registration. See Form ADV General Instruction 1.

5. Item 5: Information About Your Advisory Business

a. **Newly-Formed Advisers:** Several questions in Item 5 that ask about your advisory business assume that you have been operating your advisory business for some time. Your response to these questions should reflect your current advisory business (*i.e.*, at the time you file your Form ADV), with the following exceptions:

- base your response to Item 5.E. on the types of compensation you expect to accept;
- base your response to Item 5.G. on the types of advisory services you expect to provide during the next year; and
- skip Item 5.H.

b. **Item 5.F: Calculating Your Assets Under Management.** In determining the amount of your assets under management, include the securities portfolios for which you provide continuous and regular supervisory or management services as of the date of filing this Form ADV.

(1) **Securities Portfolios.** An account is a securities portfolio if at least 50% of the total value of the account consists of securities. For purposes of this 50% test, you may treat cash and cash equivalents (*i.e.*, bank deposits, certificates of deposit, bankers acceptances, and similar bank instruments) as securities. You may include securities portfolios that are:

(a) your family or proprietary accounts (unless you are a sole proprietor, in which case your personal assets must be excluded);

(b) accounts for which you receive no compensation for your services; and

(c) accounts of *clients* who are not U.S. residents.

(2) **Value of Portfolio.** Include the entire value of each securities portfolio for which you provide continuous and regular supervisory or management services. If you provide continuous and regular supervisory or management services for only a portion of a securities portfolio, include as assets under management only that portion of the securities portfolio for which you provide such services. Exclude, for example, the portion of an account:

(a) under management by another *person;* or

(b) that consists of real estate or businesses whose operations you "manage" on behalf of a *client* but not as an investment.

Do not deduct securities purchased on margin.

(3) **Continuous and Regular Supervisory or Management Services.**

General Criteria. You provide continuous and regular supervisory or management services with respect to an account if:

(a) you have *discretionary authority* over and provide ongoing supervisory or management services with respect to the account; or

(b) you do not have *discretionary authority* over the account, but you have ongoing responsibility to select or make recommendations, based upon the needs of the *client,* as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the *client,* you are responsible for arranging or effecting the purchase or sale.

Factors. You should consider the following factors in evaluating whether you provide continuous and regular supervisory or management services to an account.

(a) **Terms of the advisory contract.** If you agree in an advisory contract to provide ongoing management services, this suggests that you provide these services for the account. Other provisions in the contract, or your actual management practices, however, may suggest otherwise.

(b) **Form of compensation.** If you are compensated based on the average value of the *client's* assets you manage over a specified period of time, that suggests that you provide continuous and regular supervisory or management services for the account. If you receive compensation in a manner similar to either of the following, that suggests you *do not* provide continuous and regular supervisory or management services for the account—

(i) you are compensated based upon the time spent with a *client* during a *client* visit; or

(ii) you are paid a retainer based on a percentage of assets covered by a financial plan.

(c) **Management practices.** The extent to which you actively manage assets or provide advice bears on whether the services you provide are continuous and regular supervisory or management services. The fact that you make infrequent trades (*e.g.*, based on a "buy and hold" strategy) does not mean your services are not "continuous and regular."

Examples. You *may* provide continuous and regular supervisory or management services for an account if you:

(a) have *discretionary authority* to allocate *client* assets among various mutual funds;

(b) do not have *discretionary authority,* but provide the same allocation services, and satisfy the criteria set forth in Instruction 5.b(3);

(c) allocate assets among other managers (a "manager of managers"), but only if you have *discretionary authority* to hire and fire managers and reallocate assets among them; or

(d) you are a broker-dealer and treat the account as a brokerage account, but only if you have *discretionary authority* over the account.

You *do not* provide continuous and regular supervisory or management services for an account if you:

(a) provide market timing recommendations (*i.e.*, to buy or sell), but have no ongoing management responsibilities;

(b) provide only *impersonal investment advice* (*e.g.*, market newsletters);

(c) make an initial asset allocation, without continuous and regular monitoring and reallocation; or

(d) provide advice on an intermittent or periodic basis (such as upon *client* request, in response to a market event, or on a specific date (*e.g.*, the account is reviewed and adjusted quarterly)).

(4) **Value of Assets Under Management.** Determine your assets under management based on the current market value of the assets as determined within 90 days prior to the date of filing this Form ADV. Determine market value using the same method you used to report account values to *clients*or to calculate fees for investment advisory services.

(5) **Example.** This is an example of the method of determining whether a *client* account may be included as assets under management.

A *client's* portfolio consists of the following:

$ 6,000,000	stocks and bonds
$ 1,000,000	cash and cash equivalents
$ 3,000,000	non-securities (collectibles, commodities, real estate, etc.)
$10,000,000	Total Assets

First, is the account a securities portfolio? The account is a securities portfolio because securities as well as cash and cash equivalents (which you have chosen to include as securities) ($6,000,000 + $1,000,000 = $7,000,000) comprise at least 50% of the value of the account (here, 70%). (See Instruction 5.b(1)).

Second, does the account receive continuous and regular supervisory or management services? The entire account is

managed on a *discretionary* basis and is provided ongoing supervisory and management services, and therefore receives continuous and regular supervisory or management services. (See Instruction 5.b(3)).

Third, what is the entire value of the account? The entire value of the account ($10,000,000) is included in the calculation of the adviser's total assets under management.

6. Item 10: *Control Persons*

If you are a "separately identifiable department or division" (SID) of a bank, identify on Schedule A your bank's executive officers who are directly engaged in managing, directing, or supervising your investment advisory activities, and list any other *persons* designated by your bank's board of directors as responsible for the day-to-day conduct of your investment advisory activities, including supervising *employees* performing investment advisory activities.

7. Additional Information.

If you believe your response to an item in Form ADV Part 1A requires further explanation, or if you wish to provide additional information, you may do so on Schedule D, in the Miscellaneous section. Completion of this section is optional.

Form ADV (Paper Version); Uniform Application for Investment Adviser Registration

Form ADV: Instructions for Part 1B

These instructions explain how to complete certain items in Part 1B of Form ADV.

1. Item 2.B: Bond Information

Your *home state* may require you to maintain a bond. For example, a bond may be required if you have *custody* of or *discretionary authority* over your *client's* funds or securities. A bond also may be required if your *home state* requires you to maintain a minimum net worth and you do not have that net worth. For additional information concerning bond requirements, you should consult your *home state's* investment adviser laws or contact your *home state's* securities authority. See Form ADV General Instruction 1.

2. Item 2.H: Financial Planning Services

Item 2.H. asks about financial planning services you have provided to your *clients*. This question assumes that you have been providing financial planning services for some time. Your response to this question should reflect your current advisory business (i.e., at the time you file your Form ADV). If you are a newly-formed adviser, skip Item 2.H.

3. Item 2.I: *Custody*

Item 2.I. asks about practices that you engage in that may indicate whether you have *custody* of *client's* funds or securities. This question assumes that you have been operating your advisory business for some time. Your response to this question should reflect your current advisory business (i.e., at the time you file your Form ADV). If you are a newly-formed adviser, base your response to Item 2.I. on the way you expect to conduct your business during the next year.

GLOSSARY OF TERMS

1. **Advisory Affiliate:** Your advisory affiliates are (1) all of your officers, partners, or directors (or any ***person*** performing similar functions); (2) all ***persons*** directly or indirectly ***controlling*** or ***controlled by*** you; and (3) all of your current employees (other than employees performing only clerical, administrative, support or similar functions).

If you are a "separately identifiable department or division" (SID) of a bank, your ***advisory affiliates*** are: (1) all of your bank's employees who perform your investment advisory activities (other than clerical or administrative employees); (2) all persons designated by your bank's board of directors as responsible for the day-to-day conduct of your investment advisory activities (including supervising the employees who perform investment advisory activities); (3) all persons who directly or indirectly control your bank, and all persons whom you control in connection with your investment advisory activities; and (4) all other persons who directly manage any of your investment advisory activities (including directing, supervising or performing your advisory activities), all persons who directly or indirectly ***control*** those management functions, and all persons whom you control in connection with those management functions. *[Used in: Part 1A, Item 11; Part 1B, Item 2]*

2. **Annual Updating Amendment:** Within 90 days after your firm's fiscal year end, your firm must file an "annual updating amendment," which is an amendment to your firm's Form ADV that reaffirms the eligibility information contained in Item 2 of Part 1A and updates the responses to any other item for which the information is no longer accurate. *[Used in: General Instructions; Part 1A Instructions, Introductory Text, Item 2]*

3. **Charged:** Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge). *[Used in: Part 1A, Item 11; DRPs]*

4. **Client:** Any of your firm's investment advisory clients. This term includes clients from which your firm receives no compensation, such as members of your family. If your firm also provides other services (*e.g.*, accounting services), this term does not include clients that are not investment advisory clients. *[Used throughout Form ADV and Form ADV-W]*

5. **Control:** Control means the power, directly or indirectly, to direct the management or policies of a person, whether through ownership of securities, by contract, or otherwise.

- Each of your firm's officers, partners, or directors exercising executive responsibility (or ***persons*** having similar status or functions) is presumed to control your firm.
- A ***person*** is presumed to control a corporation if the ***person:*** (i) directly or indirectly has the right to vote 25 percent or more of a class of the corporation's voting securities; or (ii) has the power to sell or direct the sale of 25 percent or more of a class of the corporation's voting securities.
- A ***person*** is presumed to control a partnership if the ***person*** has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the partnership.
- A ***person*** is presumed to control a limited liability company ("LLC") if the ***person:*** (i) directly or indirectly has the right to vote 25 percent or more of a class of the interests of the LLC; (ii) has the right to receive upon dissolution, or has contributed, 25 percent or more of the capital of the LLC; or (iii) is an elected manager of the LLC.
- A ***person*** is presumed to control a trust if the ***person*** is a trustee or ***managing agent*** of the trust.

Used in: General Instructions; Part 1A, Instructions, Items 2, 7, 10, 11, 12, Schedules A, B, C, D; Regulatory DRP]

6. **Custody:** Your firm has custody if it directly or indirectly holds ***client*** funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them. Your firm has custody, for example, if it has a general power of attorney over a ***client's*** account or signatory power over a ***client's*** checking account. *See* Advisers Act rule 206(4)-2. *[Used in: Part 1A, Item 9; Part 1B, Instructions, Item 2]*

7. **Discretionary Authority:** Your firm has discretionary authority if it has the authority to decide which securities to purchase and sell for the ***client.*** Your firm also has discretionary authority if it has the authority to decide which investment advisers to retain on behalf of the ***client.*** *[Used in: Part 1A, Instructions, Item 8; Part 1B, Instructions]*

8. **Employee:** This term includes an independent contractor who performs advisory functions on your behalf. *[Used in: Part 1A, Instructions, Items 1, 5, 7, 11]*

9. **Enjoined:** This term includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order. *[Used in: Part 1A, Item 11; DRPs]*

10. **Felony:** For jurisdictions that do not differentiate between a felony and a ***misdemeanor,*** a felony is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial. *[Used in: Part 1A, Item 11; DRPs]*

11. **Foreign Financial Regulatory Authority:** This term includes (1) a foreign securities authority; (2) another governmental body or foreign equivalent of a ***self-regulatory organization*** empowered by a foreign government to administer or enforce its laws relating to the regulation of investment-related activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in the activities listed above. *[Used in: Part 1A, Items 1, 11; DRPs]*

12. **Found:** This term includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters. *[Used in: Part 1A, Item 11; Part 1B, Item 2]*

13. **Government Entity:** Any state or political subdivision of a state, including (i)

any agency, authority, or instrumentality of the state or political subdivision; (ii) a plan or pool of assets controlled by the state or political subdivision or any agency, authority or instrumentality thereof; and (iii) any officer, agent, or employee of the state or political subdivision or any agency, authority or instrumentality thereof, acting in their official capacity. *[Used in: Part 1A, Item 5]*

14. **High Net Worth Individual:** An individual with at least $750,000 managed by you, or whose net worth your firm reasonably believes exceeds $1,500,000, or who is a "qualified purchaser" as defined in section 2(a)(51)(A) of the Investment Company Act of 1940. The net worth of an individual may include assets held jointly with his or her spouse. *[Used in: Part 1A, Item 5]*

15. **Home State:** If your firm is registered with a ***state securities authority***, your firm's "home state" is the state where it maintains its ***principal office and place of business***. *[Used in: Part 1B, Instructions]*

16. **Impersonal Investment Advice:** Investment advisory services that do not purport to meet the objectives or needs of specific individuals or accounts. *[Used in: Part 1A, Instructions]*

17. **Investment-Related:** Activities that pertain to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with an investment adviser, broker-dealer, municipal securities dealer, government securities broker or dealer, issuer, investment company, futures sponsor, bank, or savings association). *[Used in: Part 1A, Item 11; DRPs; Part 1B, Item 2]*

18. **Involved:** Engaging in any act or omission, aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act. *[Used in: Part 1A, Item 11]*

19. **Management Persons:** Anyone with the power to exercise, directly or indirectly, a ***controlling*** influence over your firm's management or policies, or to determine the general investment advice given to the ***clients*** of your firm.

Generally, all of the following are management persons:

- Your firm's principal executive officers, such as your chief executive officer, chief financial officer, chief operations officer, chief legal officer, and chief compliance officer; your directors, general partners, or trustees; and other individuals with similar status or performing similar functions;
- The members of your firm's investment committee or group that determines general investment advice to be given to clients; and
- If your firm does not have an investment committee or group, the individuals who determine general investment advice provided to clients (if there are more than five people, you may limit your firm's response to their supervisors). *[Used in: Part 1B, Item 2]*

20. **Managing Agent:** A managing agent of an investment adviser is any ***person***, including a trustee, who directs or manages (or who participates in directing or managing) the affairs of any unincorporated organization or association that is not a partnership. *[Used in: General Instructions; Form ADV–NR]*

21. **Minor Rule Violation:** A violation of a ***self-regulatory organization*** rule that has been designated as "minor" pursuant to a plan approved by the SEC. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500 or less, and if the sanctioned ***person*** does not contest the fine. (Check with the appropriate ***self-regulatory organization*** to determine if a particular rule violation has been designated as "minor" for these purposes.) *[Used in: Part 1A, Item 11]*

22. **Misdemeanor:** For jurisdictions that do not differentiate between a ***felony*** and a misdemeanor, a misdemeanor is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial. *[Used in: General Instructions; Part 1A, Item 11; DRPs]*

23. **NASDR CRD or CRD:** The Web Central Registration Depository ("CRD") system operated by the National Association of Securities Dealers Regulation, Inc. ("NASDR") for the registration of broker-dealers and broker-dealer representatives. *[Used in: Part 1A, Item 1; Form ADV–W, Item 1]*

24. **Non-Resident:** (a) an individual who resides in any place not subject to the jurisdiction of the United States; (b) a corporation incorporated in and having its ***principal office and place of business*** in any place not subject to the jurisdiction of the United States; and (c) a partnership or other unincorporated organization or association that has its ***principal office and place of business*** in any place not subject to the jurisdiction of the United States. *[Used in: General Instructions; Form ADV–NR]*

25. **Notice Filing:** SEC-registered advisers may have to provide ***state securities authorities*** with copies of documents that are filed with the SEC. These filings are referred to as "notice filings." *[Used in: General Instructions; Part 1A, Item 2; Execution Page(s); Form ADV–W]*

26. **Order:** A written directive issued pursuant to statutory authority and procedures, including an order of denial, exemption, suspension, or revocation. Unless included in an order, this term does not include special stipulations, undertakings, or agreements relating to payments, limitations on activity or other restrictions. *[Used in: Part 1A, Items 2 and 11; Schedule D; DRPs]*

27. **Performance-Based Fee:** An investment advisory fee based on a share of capital gains on, or capital appreciation of, ***client*** assets. A fee that is based upon a percentage of assets that you manage is not a performance-based fee. *[Used in: Part 1A, Item 5]*

28. **Person:** A natural person (an individual) or a company. A company includes any partnership, corporation, trust, limited liability company ("LLC"), limited liability partnership ("LLP"), or other organization. *[Used throughout Form ADV and Form ADV–W]*

29. **Principal Place of Business** or **Principal Office and Place of Business:** Your firm's executive office from which your firm's officers, partners, or managers direct, control, and coordinate the activities of your firm. *[Used in: Part 1A, Instructions, Items 1 and 2; Schedule D; Form ADV–W, Item 1]*

30. **Proceeding:** This term includes a formal administrative or civil action initiated by a governmental agency, ***self-regulatory organization*** or ***foreign financial regulatory authority;*** a ***felony*** criminal indictment or information (or equivalent formal charge); or a ***misdemeanor*** criminal information (or equivalent formal charge). This term does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge). *[Used in: Part 1A, Item 11; DRPs; Part 1B, Item 2]*

31. **Related Person:** Any ***advisory affiliate*** and any ***person*** that is under common ***control*** with your firm. *[Used in: Part 1A, Items 7, 8, 9; Schedule D; Form ADV–W, Item 3]*

32. **Self-Regulatory Organization** or **SRO:** Any national securities or commodities exchange, registered securities association, or registered clearing agency. For example, the Chicago Board of Trade ("CBOT"), National Association of Securities Dealers, Inc. ("NASD") and New York Stock Exchange ("NYSE") are self-regulatory organizations. *[Used in: Part 1A, Item 11; DRPs; Part 1B, Item 2]*

33. **Sponsor:** A sponsor of a ***wrap fee program*** sponsors, organizes, or administers the program or selects, or provides advice to ***clients*** regarding the selection of, other investment advisers in the program. *[Used in: Part 1A, Item 5; Schedule D]*

34. **State Securities Authority:** The securities commission (or any agency or office performing like functions) of any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other possession of the United States. *[Used throughout Form ADV]*

35. **Wrap Fee Program:** Any advisory program under which a specified fee or fees not based directly upon transactions in a ***clients*** account is charged for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and the execution of ***client*** transactions. *[Used in: Part 1, Item 5; Schedule D]*

BILLING CODE 8010–01–U

FORM ADV (Paper Version)
UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

PART 1A

WARNING: Complete this form truthfully. False statements or omissions may result in denial of your application, revocation of your registration, or criminal prosecution. You must keep this form updated by filing periodic amendments. See Form ADV General Instruction 3.

Check the box that indicates what you would like to do (check all that apply):

- ☐ Submit an initial application to register as an investment adviser with the SEC.
- ☐ Submit an initial application to register as an investment adviser with one or more states.
- ☐ Submit an *annual updating amendment* to your registration for your fiscal year ended _____.
- ☐ Submit an other-than-annual amendment to your registration.

Item 1 Identifying Information

Responses to this Item tell us who you are, where you are doing business, and how we can contact you.

A. Your full legal name (if you are a sole proprietor, your last, first, and middle names):
_____

B. Name under which you primarily conduct your advisory business, if different from Item 1.A.
_____

List on Section 1.B. of Schedule D any additional names under which you conduct your advisory business.

C. If this filing is reporting a change in your legal name (Item 1.A.) or primary business name (Item 1.B.), enter the new name and specify whether the name change is of ☐ your legal name or ☐ your primary business name:
_____

D. If you are registered with the SEC as an investment adviser, your SEC file number: 801-_____

E. If you have a number ("*CRD* Number") assigned by the *NASD's CRD* system or by the IARD system, your *CRD* number:
_____

If your firm does not have a CRD number, skip this Item 1.E. Do not provide the CRD number of one of your officers, employees, or affiliates.

FORM ADV Part 1A Page 2 of 16	Your Name _____ CRD Number _____ Date _____ SEC 801-Number _____

F. *Principal Office and Place of Business*

(1) Address (do not use a P.O. Box):

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

List on Section 1.F. of Schedule D any office, other than your principal office and place of business, at which you conduct investment advisory business. If you are applying for registration, or are registered, with one or more state securities authorities, you must list all of your offices in the state or states to which you are applying for registration or with whom you are registered. If you are applying for registration, or are registered only, with the SEC, list the largest five offices in terms of numbers of employees.

(2) Days of week that you normally conduct business at your *principal office and place of business*:

☐ Monday - Friday ☐ Other: _____

Normal business hours at this location: _____

(3) Telephone number at this location: _____
(area code) (telephone number)

(4) Facsimile number at this location: _____
(area code) (telephone number)

G. Mailing address, if different from your *principal office and place of business* address:

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

H. If you are a sole proprietor, state your full residence address, if different from your *principal office and place of business* address in Item 1.F.:

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

FORM ADV Part 1A Page 3 of 16	Your Name _____ CRD Number _____ Date _____ SEC 801-Number _____

I. Do you have World Wide Web site addresses? Yes ☐ No ☐

If "yes," list these addresses on Section 1.I. of Schedule D. If a web address serves as a portal through which to access other information you have published on the World Wide Web, you may list the portal without listing addresses for all of the other information. Some advisers may need to list more than one portal address. Do not provide individual electronic mail addresses in response to this Item.

J. Contact Employee:

_____
(name)

_____
(title)

_____ _____
(area code) (telephone number) (area code) (facsimile number)

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

_____
(electronic mail (e-mail) address, if contact employee has one)

The contact employee should be an employee whom you have authorized to receive information and respond to questions about this Form ADV.

K. Do you maintain some or all of the books and records you are required to keep under Section 204 of the Advisers Act, or similar state law, somewhere other than your *principal office and place of business*?
Yes ☐ No ☐

If "yes," complete Section 1.K. of Schedule D.

L. Are you registered with a *foreign financial regulatory authority*? Yes ☐ No ☐

Answer "no" if you are not registered with a foreign financial regulatory authority, even if you have an affiliate that is registered with a foreign financial regulatory authority. If "yes," complete Section 1.L. of Schedule D.

FORM ADV Part 1A Page 4 of 16	Your Name _____ CRD Number _____ Date _____ SEC 801-Number _____

Item 2 SEC Registration

Responses to this Item help us (and you) determine whether you are eligible to register with the SEC. Complete this Item 2 only if you are applying for SEC registration or submitting an *annual updating amendment* to your SEC registration.

A. To register (or remain registered) with the SEC, you must check at least one of the Items 2.A(1) through 2.A(10), below. If you are submitting an *annual updating amendment* to your SEC registration and you are no longer eligible to register with the SEC, check Item 2.A(11). You:

☐ (1) have *assets under management* of $25 million (in U.S. dollars) or more;

See Part 1A Instruction 2.a. to determine whether you should check this box.

☐ (2) have your *principal office and place of business* in the U.S. Virgin Islands or Wyoming;

☐ (3) have your *principal office and place of business* outside the United States;

☐ (4) are an investment adviser (or sub-adviser) to an investment company registered under the Investment Company Act of 1940;

See Part 1A Instruction 2.b. to determine whether you should check this box.

☐ (5) have been designated as a nationally recognized statistical rating organization;

See Part 1A Instruction 2.c. to determine whether you should check this box.

☐ (6) are a pension consultant that qualifies for the exemption in rule 203A-2(b);

See Part 1A Instruction 2.d. to determine whether you should check this box.

☐ (7) are relying on rule 203A-2(c) because you are an investment adviser that *controls,* is *controlled* by, or is under common *control* with, an investment adviser that is registered with the SEC, and your *principal office and place of business* is the same as the registered adviser;

See Part 1A Instruction 2.e. to determine whether you should check this box. If you check this box, complete Section 2.A(7) of Schedule D.

☐ (8) are a newly formed adviser relying on rule 203A-2(d) because you expect to be eligible for SEC registration within 120 days;

See Part 1A Instruction 2.f. to determine whether you should check this box. If you check this box, complete Section 2.A(8) of Schedule D.

☐ (9) are a multi-state adviser relying on rule 203A-2(e);

See Part 1A Instruction 2.g. to determine whether you should check this box. If you check this box, complete Section 2.A(9) of Schedule D.

☐ (10) have received an SEC *order* exempting you from the prohibition against registration with the SEC;

If you check this box, complete Section 2.A(10) of Schedule D.

☐ (11) are no longer eligible to remain registered with the SEC.

See Part 1A Instruction 2.h. to determine whether you should check this box.

B. Under state laws, SEC-registered advisers may be required to provide to state securities authorities a copy of the Form ADV and any amendments they file with the SEC. These are called *notice filings*. If this is an initial application, check the box(es) next to the state(s) that you would like to receive notice of this and all subsequent filings you submit to the SEC. If this is an amendment to direct your *notice filings* to additional state(s), check and circle the box(es) next to the state(s) that you would like to receive notice of this and all subsequent filings you submit to the SEC. If this is an amendment to your registration to stop your *notice filings* from going to state(s) that currently receive them, circle the unchecked box(es) next to those state(s).

☐ AL	☐ CT	☐ HI	☐ KY	☐ MN	☐ NH	☐ OH	☐ SC	☐ VA
☐ AK	☐ DE	☐ ID	☐ LA	☐ MS	☐ NJ	☐ OK	☐ SD	☐ WA
☐ AZ	☐ DC	☐ IL	☐ ME	☐ MO	☐ NM	☐ OR	☐ TN	☐ WV
☐ AR	☐ FL	☐ IN	☐ MD	☐ MT	☐ NY	☐ PA	☐ TX	☐ WI
☐ CA	☐ GA	☐ IA	☐ MA	☐ NE	☐ NC	☐ PR	☐ UT	
☐ CO	☐ GU	☐ KS	☐ MI	☐ NV	☐ ND	☐ RI	☐ VT	

If you are amending your registration to stop your notice filings from going to a state that currently receives them and you do not want to pay that state's notice filing fee for the coming year, your amendment must filed before the end of the year (December 31).

Item 3 Form of Organization

A. How are you organized?

☐ Corporation ☐ Sole Proprietorship ☐ Limited Liability Partnership (LLP)
☐ Partnership ☐ Limited Liability Company (LLC)
☐ Other (specify):_____

If you are changing your response to this Item, see Part 1A Instruction 4.

B. On the last day of what month does your fiscal year end each year? _____

C. Under the laws of what state or country are you organized? _____

If you are a partnership, provide the name of the state or country under whose laws your partnership was formed. If you are a sole proprietor, provide the name of the state or country where you reside.

If you are changing your response to this Item, see Part 1A Instruction 4.

Item 4 Successions

A. Are you, at the time of this filing, succeeding to the business of a registered investment adviser?
☐ Yes ☐ No

If "yes," complete Item 4.B. and Section 4 of Schedule D.

B. Date of Succession: _____
(mm/dd/yyyy)

If you have already reported this succession on a previous Form ADV filing, do not report the succession again. Instead, check "No." See Part 1A Instruction 4.

Item 5 Information About Your Advisory Business

Responses to this Item help us understand your business, assist us in preparing for on-site examinations, and provide us with data we use when making regulatory policy. Part 1A Instruction 5.a. provides additional guidance to newly-formed advisers for completing this Item 5.

Employees

A. Approximately how many *employees* do you have? Include full and part-time *employees* but do not include any clerical workers.

☐ 1-5 ☐ 6-10 ☐ 11-50 ☐ 51-250 ☐ 251-500 ☐ 501-1,000 ☐ More than 1,000
If more than 1,000, how many? _____ (round to the nearest 100)

B.

(1) Approximately how many of these *employees* perform investment advisory functions (including research)?

☐ 0 ☐ 1-5 ☐ 6-10 ☐ 11-50 ☐ 51-250 ☐ 251-500 ☐ 501-1,000
☐ More than 1,000 If more than 1,000, how many? _____ (round to the nearest 100)

(2) Approximately how many of these *employees* are registered representatives of a broker-dealer?

☐ 0 ☐ 1-5 ☐ 6-10 ☐ 11-50 ☐ 51-250 ☐ 251-500 ☐ 501-1,000
☐ More than 1,000 If more than 1,000, how many? _____ (round to the nearest 100)

If you are organized as a sole proprietorship, include yourself as an employee in your responses to Items 5.A(1) and 5.B(2). If an employee performs more than one function, you should count that employee in each of your responses to Item 5.B(1) and 5.B(2).

FORM ADV Part 1A Page 7 of 16	Your Name _____ Date _____	CRD Number _____ SEC 801-Number _____

(3) Approximately how many firms or other *persons* solicit advisory *clients* on your behalf?

☐ 0 ☐ 1-5 ☐ 6-10 ☐ 11 – 50 ☐ 51-250 ☐ 251-500 ☐ 501-1,000
☐ More than 1,000 If more than 1,000, how many? _____ (round to the nearest 100)

In your response to Item 5.B(3), do not count any of your employees and count a firm only once -- do not count each of the firm's employees that solicit on your behalf.

Clients

C. To approximately how many *clients* did you provide investment advisory services during your most-recently completed fiscal year?

☐ 0 ☐ 1-10 ☐ 11-25 ☐ 26-100 ☐ 101-250 ☐ 251 – 500
☐ More than 500 If more than 500, how many? _____ (round to the nearest 100)

D. What types of *clients* do you have? Indicate the approximate percentage that each type of *client* comprises of your total number of *clients*.

	None	Up to 10%	11-25%	26-50%	51-75%	More Than 75%
(1) Individuals (other than *high net worth individuals*)	☐	☐	☐	☐	☐	☐
(2) *High net worth individuals*	☐	☐	☐	☐	☐	☐
(3) Banking or thrift institutions	☐	☐	☐	☐	☐	☐
(4) Investment companies (including mutual funds)	☐	☐	☐	☐	☐	☐
(5) Pension and profit sharing plans (other than plan participants)	☐	☐	☐	☐	☐	☐
(6) Other pooled investment vehicles (e.g., hedge funds)	☐	☐	☐	☐	☐	☐
(7) Charitable organizations	☐	☐	☐	☐	☐	☐
(8) Corporations or other businesses not listed above	☐	☐	☐	☐	☐	☐
(9) State or municipal *government entities*	☐	☐	☐	☐	☐	☐
(10) Other: _____	☐	☐	☐	☐	☐	☐

The category "individuals" includes trusts, estates, 401(k) plans and IRAs of individuals and their family members, but does not include businesses organized as sole proprietorships.

Unless you provide advisory services pursuant to an investment advisory contract to an investment company registered under the Investment Company Act of 1940, check "None" in response to Item 5.D(4).

FORM ADV Part 1A Page 8 of 16	Your Name _____ CRD Number _____ Date _____ SEC 801-Number _____

Compensation Arrangements

E. You are compensated for your investment advisory services by (check all that apply):

- ☐ (1) A percentage of assets under your management
- ☐ (2) Hourly charges
- ☐ (3) Subscription fees (for a newsletter or periodical)
- ☐ (4) Fixed fees (other than subscription fees)
- ☐ (5) Commissions
- ☐ (6) *Performance-based fees*
- ☐ (7) Other (specify): _____

Assets Under Management

F. (1) Do you provide continuous and regular supervisory or management services to securities portfolios? ☐ Yes ☐ No

(2) If yes, what is the amount of your assets under management and total number of accounts?

	U.S. Dollar Amount	Total Number of Accounts
Discretionary:	(a) $_____.00	(d) _____
Non-Discretionary:	(b) $_____.00	(e) _____
Total:	(c) $_____.00	(f) _____

Part 1A Instruction 5.b. explains how to calculate your assets under management. You must follow these instructions carefully when completing this Item.

Advisory Activities

G. What type(s) of advisory services do you provide? Check all that apply.

- ☐ (1) Financial planning services
- ☐ (2) Portfolio management for individuals and/or small businesses
- ☐ (3) Portfolio management for investment companies
- ☐ (4) Portfolio management for businesses or institutional *clients* (other than investment companies)
- ☐ (5) Pension consulting services
- ☐ (6) Selection of other advisers
- ☐ (7) Publication of periodicals or newsletters
- ☐ (8) Security ratings or pricing services
- ☐ (9) Market timing services
- ☐ (10) Other (specify): _____

Do not check Item 5.G(3) unless you provide advisory services pursuant to an investment advisory contract to an investment company registered under the Investment Company Act of 1940.

H. If you provide financial planning services, to how many *clients* did you provide these services during your last fiscal year?

☐ 0 ☐ 1-10 ☐ 11-25 ☐ 26-50 ☐ 51-100 ☐ 101-250 ☐ 251 – 500
☐ More than 500 If more than 500, how many? _____ (round to the nearest 100)

I. If you participate in a *wrap fee program*, do you (check all that apply):

☐ (1) *sponsor* the *wrap fee program*?
☐ (2) act as a portfolio manager for the *wrap fee program*?

If you are a portfolio manager for a wrap fee program, list the names of the programs and their sponsors in Section 5.I(2) of Schedule D.

If your involvement in a wrap fee program is limited to recommending wrap fee programs to your clients, or you advise a mutual fund that is offered through a wrap fee program, do not check either Item 5.I(1) or 5.I(2).

Item 6 Other Business Activities

In this Item, we request information about your other business activities.

A. You are actively engaged in business as a (check all that apply):

☐ (1) Broker-dealer
☐ (2) Registered representative of a broker-dealer
☐ (3) Futures commission merchant, commodity pool operator, or commodity trading advisor
☐ (4) Real estate broker, dealer, or agent
☐ (5) Insurance broker or agent
☐ (6) Bank (including a separately identifiable department or division of a bank)
☐ (7) Other financial product salesperson (specify): _____

B. (1) Are you actively engaged in any other business not listed in Item 6.A. (other than giving investment advice)? ☐ Yes ☐ No

(2) If yes, is this other business your primary business? ☐ Yes ☐ No

If "yes," describe this other business on Section 6.B. of Schedule D.

(3) Do you sell products or provide services other than investment advice to your advisory *clients*?
☐ Yes ☐ No

FORM ADV Part 1A Page 10 of 16	Your Name _____ Date _____	CRD Number _____ SEC 801-Number _____

Item 7 Financial Industry Affiliations

In this Item, we request information about your financial industry affiliations and activities. This information identifies areas in which conflicts of interest may occur between you and your *clients*.

Item 7 requires you to provide information about you and your *related persons*. Your *related persons* are all of your advisory affiliates and any *person* that is under common *control* with you.

A. You have a *related person* that is a (check all that apply):

- ☐ (1) broker-dealer, municipal securities dealer, or government securities broker or dealer
- ☐ (2) investment company (including mutual funds)
- ☐ (3) other investment adviser (including financial planners)
- ☐ (4) futures commission merchant, commodity pool operator, or commodity trading advisor
- ☐ (5) banking or thrift institution
- ☐ (6) accountant or accounting firm
- ☐ (7) lawyer or law firm
- ☐ (8) insurance company or agency
- ☐ (9) pension consultant
- ☐ (10) real estate broker or dealer
- ☐ (11) sponsor or syndicator of limited partnerships

If you checked Item 7.A(3), list on Section 7.A. of Schedule D all investment advisers with which you are affiliated.

B. Are you or any *related person* a general partner in an *investment-related* limited partnership or manager of an *investment-related* limited liability company? ☐ Yes ☐ No

If "yes," for each limited partnership or limited liability company, complete Section 7.B. of Schedule D.

Item 8 Participation or Interest in *Client* Transactions

In this Item, we request information about your participation and interest in your *clients'* transactions. Like Item 7, this information identifies areas in which conflicts of interest may occur between you and your *clients*.

Like Item 7, Item 8 requires you to provide information about you and your *related persons*.

FORM ADV Part 1A Page 11 of 16	Your Name _____ Date _____	CRD Number _____ SEC 801-Number _____

Proprietary Interest in *Client* Transactions

A. Do you or any *related person*:	Yes	No
(1) buy securities for yourself from advisory *clients*, or sell securities you own to advisory *clients* (principal transactions)?	☐	☐
(2) buy or sell for yourself securities (other than shares of mutual funds) that you also recommend to advisory *clients*?	☐	☐
(3) recommend securities (or other investment products) to advisory *clients* in which you or any *related person* has some other proprietary (ownership) interest (other than those mentioned in Items 8.A(1) or (2))?	☐	☐

Sales Interest in *Client* Transactions

B. Do you or any *related person*:	Yes	No
(1) as a broker-dealer or registered representative of a broker-dealer, execute securities trades for brokerage customers in which advisory *client* securities are sold to or bought from the brokerage customer (agency cross transactions)?	☐	☐
(2) recommend purchase of securities to advisory *clients* for which you or any *related person* serves as underwriter, general or managing partner, or purchaser representative?	☐	☐
(3) recommend purchase or sale of securities to advisory *clients* for which you or any *related person* has any other sales interest (other than the receipt of sales commissions as a broker or registered representative of a broker-dealer)?	☐	☐

Investment or Brokerage Discretion

C. Do you or any *related person* have *discretionary authority* to determine the:	Yes	No
(1) securities to be bought or sold for a *client's* account?	☐	☐
(2) amount of securities to be bought or sold for a *client's* account?	☐	☐
(3) broker or dealer to be used for a purchase or sale of securities for a *client's* account?	☐	☐
(4) commission rates to be paid to a broker or dealer for a *client's* securities transactions?	☐	☐

FORM ADV Part 1A Page 12 of 16	Your Name _____ CRD Number _____ Date _____ SEC 801-Number _____

	Yes	No
D. Do you or any *related person* recommend brokers or dealers to *clients*?	☐	☐
E. Do you or any *related person* receive research or other products or services other than execution from a broker-dealer or a third party in connection with *client* securities transactions?	☐	☐
F. Do you or any *related person*, directly or indirectly, compensate any *person* for *client* referrals?	☐	☐

In responding to this Item 8.F., consider in your response all cash and non-cash compensation that you or a related person gave any person in exchange for client referrals, including any bonus that is based, at least in part, on the number or amount of client referrals.

Item 9 *Custody*

In this Item, we ask you whether you or a *related person* has *custody* of *client* assets.

A. Do you have *custody* of any advisory *clients'*:	Yes	No
☐ (1) cash or bank accounts?	☐	☐
☐ (2) securities?	☐	☐
B. Do any of your *related persons* have *custody* of any of your advisory *clients'*:		
☐ (1) cash or bank accounts?	☐	☐
☐ (2) securities?	☐	☐
C. If you answered "yes" to either Item 9.B(1) or 9.B(2), is that *related person* a broker-dealer registered under Section 15 of the Securities Exchange Act of 1934?	☐	☐

Item 10 *Control Persons*

In this Item, we ask you to identify every *person* that, directly or indirectly, *controls* you.

If you are submitting an initial application, you must complete Schedule A and Schedule B. Schedule A asks for information about your direct owners and executive officers. Schedule B asks for information about your indirect owners. If this is an amendment and you are updating information you reported on either Schedule A or Schedule B (or both) that you filed with your initial application, you must complete Schedule C.

Does any *person* not named in Item 1.A. or Schedules A, B, or C, directly or indirectly, *control* your management or policies? ☐ Yes ☐ No

If yes, complete Section 10 of Schedule D.

FORM ADV Part 1A Page 13 of 16	Your Name _____ Date _____	CRD Number _____ SEC 801-Number _____

Item 11 Disclosure Information

In this Item, we ask for information about your disciplinary history and the disciplinary history of all your *advisory affiliates*. We use this information to determine whether to grant your application for registration, to decide whether to revoke your registration or to place limitations on your activities as an investment adviser, and to identify potential problem areas to focus on during our on-site examinations. One event may result in "yes" answers to more than one of the questions below.

Your *advisory affiliates* are: (1) all of your current *employees* (other than *employees* performing only clerical, administrative, support or similar functions); (2) all of your officers, partners, or directors (or any *person* performing similar functions); and (3) all *persons* directly or indirectly *controlling* you or *controlled* by you. If you are a "separately identifiable department or division" (SID) of a bank, see the Glossary of Terms to determine who your *advisory affiliates* are.

If you are registered or registering with the SEC, you may limit your disclosure of any event listed in Item 11 to ten years following the date of the event. If you are registered or registering with a state, you must respond to the questions as posed; you may, therefore, limit your disclosure to ten years following the date of an event only in responding to Items 11.A(1), 11.A(2), 11.B(1), 11.B(2), 11.D(4), and 11.H(1)(a). For purposes of calculating this ten-year period, the date of an event is the date the final order, judgment, or decree was entered, or the date any rights of appeal from preliminary orders, judgments, or decrees lapsed.

You must complete the appropriate Disclosure Reporting Page ("DRP") for "yes" answers to the questions in this Item 11.

For "yes" answers to the following questions, complete a Criminal Action DRP:

	Yes	No
A. In the past ten years, have you or any *advisory affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐

If you are registered or registering with the SEC, you may limit your response to Item 11.A(2) to charges that are currently pending.

B. In the past ten years, have you or any *advisory affiliate*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* involving: investments or an *investment-related* business, or any fraud, false statements, or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* listed in Item 11.B(1)?	☐	☐

If you are registered or registering with the SEC, you may limit your response to Item 11.B(2) to charges that are currently pending.

FORM ADV Part 1A Page 14 of 16	Your Name _____ CRD Number _____ Date _____ SEC 801-Number _____

For "yes" answers to the following questions, complete a Regulatory Action DRP:

	Yes	No
C. Has the SEC or the Commodity Futures Trading Commission (CFTC) ever:		
(1) *found* you or any *advisory affiliate* to have made a false statement or omission?	☐	☐
(2) *found* you or any *advisory affiliate* to have been *involved* in a violation of SEC or CFTC regulations or statutes?	☐	☐
(3) *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) entered an *order* against you or any *advisory affiliate* in connection with *investment-related* activity?	☐	☐
(5) imposed a civil money penalty on you or any *advisory affiliate*, or *ordered* you or any *advisory affiliate* to cease and desist from any activity?	☐	☐
D. Has any other federal regulatory agency, any state regulatory agency, or any *foreign financial regulatory authority*:		
(1) ever *found* you or any *advisory affiliate* to have made a false statement or omission, or been dishonest, unfair, or unethical?	☐	☐
(2) ever *found* you or any *advisory affiliate* to have been *involved* in a violation of *investment-related* regulations or statutes?	☐	☐
(3) ever *found* you or any *advisory affiliate* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) in the past ten years, entered an *order* against you or any *advisory affiliate* in connection with an *investment-related* activity?	☐	☐
(5) ever denied, suspended, or revoked your or any *advisory affiliate's* registration or license, or otherwise prevented you or any *advisory affiliate*, by *order*, from associating with an *investment-related* business or restricted your or any *advisory affiliate's* activity?	☐	☐
E. Has any *self-regulatory organization* or commodities exchange ever:		
(1) *found* you or any *advisory affiliate* to have made a false statement or omission?	☐	☐
(2) *found* you or any *advisory affiliate* to have been *involved* in a violation of its rules (other than a violation designated as a "*minor rule violation*" under a plan approved by the SEC)?	☐	☐

FORM ADV Part 1A Page 15 of 16	Your Name _____ Date _____	CRD Number _____ SEC 801-Number _____

	Yes	No
(3) *found* you or any *advisory affiliate* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) disciplined you or any *advisory affiliate* by expelling or suspending you or the *advisory affiliate* from membership, barring or suspending you or the *advisory affiliate* from association with other members, or otherwise restricting your or the *advisory affiliate's* activities?	☐	☐
F. Has an authorization to act as an attorney, accountant, or federal contractor granted to you or any *advisory affiliate* ever been revoked or suspended?	☐	☐
G. Are you or any *advisory affiliate* now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of Item 11.C., 11.D., or 11.E.?	☐	☐

For "yes" answers to the following questions, complete a Civil Judicial Action DRP:

	Yes	No
H. (1) Has any domestic or foreign court:		
(a) in the past ten years, *enjoined* you or any *advisory affiliate* in connection with any *investment-related* activity?	☐	☐
(b) ever *found* that you or any *advisory affiliate* were *involved* in a violation of *investment-related* statutes or regulations?	☐	☐
(c) ever dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against you or any *advisory affiliate* by a state or *foreign financial regulatory authority*?	☐	☐
(2) Are you or any *advisory affiliate* now the subject of any civil *proceeding* that could result in a "yes" answer to any part of Item 11.H(1)?	☐	☐

Item 12 Small Businesses

The SEC is required by the Regulatory Flexibility Act to consider the effect of its regulations on small entities. In order to do this, we need to determine whether you meet the definition of "small business" or "small organization" under rule 0-7.

Answer this Item 12 only if you are registered or registering with the SEC and you indicated in response to Item 5.F(2)(c) that you have assets under management of less than $25 million. You are not required to answer this Item 12 if you are filing for initial registration as a state adviser, amending a current state registration, or switching from SEC to state registration.

For purposes of this Item 12 only:

- Total Assets refers to the total assets of a firm, rather than the assets managed on behalf of *clients*. In determining your or another *person's* total assets, you may use the total assets shown on a current balance sheet (but use total assets reported on a consolidated balance sheet with subsidiaries included, if that amount is larger).

- Control means the power to direct or cause the direction of the management or policies of a *person*, whether through ownership of securities, by contract, or otherwise. Any *person* that directly or indirectly has the right to vote 25 percent or more of the voting securities, or is entitled to 25 percent or more of the profits, of another *person* is presumed to control the other *person*.

	Yes	No
A. Did you have total assets of $5 million or more on the last day of your most recent fiscal year?	☐	☐

If "yes," you do not need to answer Items 12.B. and 12.C.

B. Do you:

(1) control another investment adviser that had assets under management of $25 million or more on the last day of its most recent fiscal year?	☐	☐
(2) control another *person* (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year?	☐	☐

C. Are you:

(1) controlled by or under common control with another investment adviser that had assets under management of $25 million or more on the last day of its most recent fiscal year?	☐	☐
(2) controlled by or under common control with another *person* (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year?	☐	☐

FORM ADV (Paper Version)
UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

PART 1B

You must complete this Part 1B only if you are applying for registration, or are registered, as an investment adviser with any of the *state securities authorities*.

Item 1 State Registration

Complete this Item 1 if you are submitting an initial application for state registration or requesting additional state registration(s). Check the boxes next to the states to which you are submitting this application. If you are already registered with at least one state and are applying for registration with an additional state or states, check the boxes next to the states in which you are applying for registration. Do not check the boxes next to the states in which you are currently registered or where you have an application for registration pending.

☐ AL ☐ CT ☐ HI ☐ KY ☐ MN ☐ NH ☐ OH ☐ SC ☐ VA
☐ AK ☐ DE ☐ ID ☐ LA ☐ MS ☐ NJ ☐ OK ☐ SD ☐ WA
☐ AZ ☐ DC ☐ IL ☐ ME ☐ MO ☐ NM ☐ OR ☐ TN ☐ WV
☐ AR ☐ FL ☐ IN ☐ MD ☐ MT ☐ NY ☐ PA ☐ TX ☐ WI
☐ CA ☐ GA ☐ IA ☐ MA ☐ NE ☐ NC ☐ PR ☐ UT
☐ CO ☐ GU ☐ KS ☐ MI ☐ NV ☐ ND ☐ RI ☐ VT

Item 2 Additional Information

A. Person responsible for supervision and compliance:

_____
(name)

_____
(title)

_____ _____
(area code) (telephone number) (area code) (facsimile number)

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

_____
(electronic mail (e-mail) address, if the person has one)

B. Bond/Capital Information, if required by your *home state*.

(1) Name of Issuing Insurance Company:

_____

(2) Amount of Bond: $_____.00

(3) Bond Policy Number: _____

FORM ADV Part 1B Page 2 of 4	Your Name _____ *CRD* Number _____ Date _____ SEC 801-Number _____

	Yes	No
(4) If required by your home state, are you in compliance with your home state's minimum capital requirements?	☐	☐
For "yes" answers to the following question, complete a Bond DRP:		
C. Has a bonding company ever denied, paid out on, or revoked a bond for you?	☐	☐
For "yes" answers to the following question, complete a Judgment/Lien DRP:		
D. Do you have any unsatisfied judgments or liens against you?	☐	☐
For "yes" answers to the following questions, complete an Arbitration DRP:		
E. Are you, any *advisory affiliate*, or any *management person* currently the subject of, or have you , any *advisory affiliate*, or any *management person* been the subject of, an arbitration claim alleging damages in excess of $2,500, involving any of the following:		
(1) any investment or an *investment-related* business or activity?	☐	☐
(2) fraud, false statement, or omission?	☐	☐
(3) theft, embezzlement, or other wrongful taking of property?	☐	☐
(4) bribery, forgery, counterfeiting, or extortion?	☐	☐
(5) dishonest, unfair, or unethical practices?	☐	☐
For "yes" answers to the following questions, complete a Civil Judicial Action DRP:		
F. Are you, any *advisory affiliate*, or any *management person* currently subject to, or have you, any *advisory affiliate*, or any *management person* been *found* liable in, a civil, *self-regulatory organization*, or administrative *proceeding* involving any of the following:		
(1) an investment or *investment-related* business or activity?	☐	☐
(2) fraud, false statement, or omission?	☐	☐
(3) theft, embezzlement, or other wrongful taking or property?	☐	☐
(4) bribery, forgery, counterfeiting, or extortion?	☐	☐
(5) dishonest, unfair, or unethical practices?	☐	☐

FORM ADV Part 1B Page 3 of 4	Your Name _____ *CRD* Number ____ __ Date _____ SEC 801-Number _____

G. Other Business Activities

(1) Are you actively engaged in business as a(n) (check all that apply):

- ☐ Attorney
- ☐ Certified public accountant
- ☐ Tax preparer

(2) If you are actively engaged in any business other than those listed in Item 6.A. of Part 1A or Item 2.G(1) of Part 1B, describe the business and the approximate amount of time spent on that business:

_____
_____
_____
_____
_____
_____
_____
_____

H. If you provide financial planning services, the investments made based on those services at the end of your last fiscal year totaled:

	Securities Investments	Non-Securities Investments
Under $100,000	☐	☐
$100,001 to $500,000	☐	☐
$500,001 to $1,000,000	☐	☐
$1,000,001 to $2,500,000	☐	☐
$2,500,001 to $5,000,000	☐	☐
More than $5,000,000	☐	☐

If securities investments are over $5,000,000, how much?
$ _____ (round to the nearest $1,000,000)

If non-securities investments are over $5,000,000, how much?
$_____ (round to the nearest $1,000,000)

I. *Custody*

	Yes	No
(1) Do you withdraw advisory fees directly from your *clients'* accounts?	☐	☐
(2) Do you act as a general partner for any partnership or trustee for any trust in which your advisory *clients* are either partners of the partnership or beneficiaries of the trust?	☐	☐

FORM ADV Part 1B Page 4 of 4	Your Name _____ *CRD* Number _____ Date _____ SEC 801-Number _____

	Yes	No
(3) If you answered "yes" to Item 2.I(1) or 2.I(2), respond to the following:		
(a) Do you send a copy of your invoice to the custodian or trustee at the same time that you send a copy to the *client*?	☐	☐
(b) Do you send quarterly statements to your *clients* showing all disbursements for the custodian account, including the amount of the advisory fees?	☐	☐
(c) Do your *clients* provide written authorization permitting you to be paid directly for their accounts held by the custodian or trustee?	☐	☐
(d) If you are the general partner of a partnership, have you engaged an attorney or an independent certified public accountant to provide authority permitting each direct payment or any transfer of funds or securities from the partnership account?	☐	☐
(4) Do you require prepayment of fees of more than $500 per *client* and for six months or more in advance?	☐	☐

J. If you are organized as a sole proprietorship, please answer the following:

	Yes	No
(1) (a) Have you passed, on or after January 1, 2000, the Series 65 examination?	☐	☐
(b) Have you passed, on or after January 1, 2000, the Series 66 examination and also passed, at any time, the Series 7 examination?	☐	☐
(2) (a) Do you have any investment advisory professional designations?	☐	☐

If "no," you do not need to answer Item 2.J(2)(b).

(b) I have earned and I am in good standing with the organization that issued the following credential:

☐ 1. Certified Financial Planner ("CFP")
☐ 2. Chartered Financial Analyst ("CFA")
☐ 3. Chartered Financial Consultant ("ChFC")
☐ 4. Chartered Investment Counselor ("CIC")
☐ 5. Personal Financial Specialist ("PFS")
☐ 6. None of the above

(3) Your social security number: _____

FORM ADV Schedule A	Your Name: _____	SEC File No.: _____
	Date: _____	CRD No.: _____

Direct Owners and Executive Officers

1. Complete Schedule A only if you are submitting an initial application. Schedule A asks for information about your direct owners and executive officers. Use Schedule C to amend this information.

2. Direct Owners and Executive Officers. List below the names of:

   (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, director, and individuals with similar status or functions;

   (b) if you are organized as a corporation, each shareholder that is a direct owner of 5% or more of a class of your voting securities, unless you are a public reporting company (a company subject to Section 12 or 15(d) of the Exchange Act);

   Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 5% or more of a class of your voting securities. For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

   (c) if you are organized as a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of your capital;

   (d) in the case of a trust that directly owns 5% or more of a class of your voting securities, or that has the right to receive upon dissolution, or has contributed, 5% or more of your capital, the trust and each trustee; and

   (e) if you are organized as a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 5% or more of your capital, and (ii) if managed by elected managers, all elected managers.

3. Do you have any indirect owners to be reported on Schedule B? ☐ Yes ☐ No

4. In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner is an individual.

5. Complete the Title or Status column by entering board/management titles; status as partner, trustee, sole proprietor, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

6. Ownership codes are: NA - less than 5%; A - 5% but less than 10%; B - 10% but less than 25%; C - 25% but less than 50%; D - 50% but less than 75%; E - 75% or more

7. (a) In the *Control Person* column, enter "Yes" if the person has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have control. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.
   (b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.
   (c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Title or Status	Date Title or Status Acquired		Ownership Code	Control Person		CRD No. If None: S.S. No. and Date of Birth, IRS Tax No., or Employer ID No.
			MM	YYYY			PR	

FORM ADV
Schedule B

Your Name: _____ SEC File No.: _____

Date: _____ CRD No.: _____

Indirect Owners

1. Complete Schedule B only if you are submitting an initial application. Schedule B asks for information about your indirect owners; you must first complete Schedule A, which asks for information about your direct owners. Use Schedule C to amend this information.

2. Indirect Owners. With respect to each owner listed on Schedule A (except individual owners), list below:

   (a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;

   For purposes of this Schedule, a *person* beneficially owns any securities: (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant, or right to purchase the security.

   (b) in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;

   (c) in the case of an owner that is a trust, the trust and each trustee; and

   (d) in the case of an owner that is a limited liability company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

3. Continue up the chain of ownership listing all 25% owners at each level. Once a public reporting company (a company subject to Sections 12 or 15(d) of the Exchange Act) is reached, no further ownership information need be given.

4. In the DE/FE/I column below, enter "DE" if the owner is a domestic entity, "FE" if the owner is an entity incorporated or domiciled in a foreign country, or "I" if the owner is an individual.

5. Complete the Status column by entering the owner's status as partner, trustee, elected manager, shareholder, or member; and for shareholders or members, the class of securities owned (if more than one is issued).

6. Ownership codes are: C - 25% but less than 50% D - 50% but less than 75% E - 75% or more F - Other (general partner, trustee, or elected manager)

7. (a) In the *Control Person* column, enter "Yes" if the *person* has *control* as defined in the Glossary of Terms to Form ADV, and enter "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 25% owners, general partners, elected managers, and trustees are *control persons*.
   (b) In the PR column, enter "PR" if the owner is a public reporting company under Sections 12 or 15(d) of the Exchange Act.
   (c) Complete each column.

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Entity in Which Interest is Owned	Status	Date Status Acquired		Ownership Code		Control Person	CRD No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.
				MM	YYYY		PR		

FORM ADV Schedule C	Your Name: _____ SEC File No.: _____ Date: _____ CRD No.: _____

Amendments to Schedules A and B

1. Use Schedule C only to amend information requested on either Schedule A or Schedule B. Refer to Schedule A and Schedule B for specific instructions for completing this Schedule C. Complete each column.

2. In the Type of Amendment column, indicate "A" (addition), "D" (deletion), or "C" (change in information about the same *person*).

3. Ownership codes are:
   NA - less than 5%
   A - 5% but less than 10%
   B - 10% but less than 25%
   C - 25% but less than 50%
   D - 50% but less than 75%
   E - 75% or more
   G - Other (general partner, trustee, or elected member)

4. List below all changes to Schedule A (Direct Owners and Executive Officers):

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Type of Amend-ment	Title or Status	Date Title or Status Acquired MM	Date Title or Status Acquired YYYY	Owner-ship Code	Control Person	Control Person PR	CRD No. If None: S.S. No. and Date of Birth, IRS Tax No. or Employer ID No.

5. List below all changes to Schedule B (Indirect Owners):

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	DE/FE/I	Type of Amend-ment	Entity in Which Interest is Owned	Status	Date Status Acquired MM	Date Status Acquired YYYY	Owner-ship Code	Control Person	Control Person PR	CRD No. If None: S.S. No. and Date of Birth, IRS Tax No., or Employer ID No.

FORM ADV
Schedule D
Page 1 of 5

Your Name: _____ SEC File No.: _____

Date: _____ CRD No.: _____

Certain items in Part 1A of Form ADV require additional information on Schedule D. Use this Schedule D Page 1 to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

This is an ☐ INITIAL or ☐ AMENDED Schedule D Page 1.

SECTION 1.B. Other Business Names

List your other business names and the jurisdictions in which you use them. You must complete a separate Schedule D for each business name.
Check only one box: ☐ Add ☐ Delete ☐ Amend

Name _____ Jurisdictions _____

SECTION 1.F. Other Offices

Complete the following information for each office, other than your *principal office and place of business*, at which you conduct investment advisory business. You must complete a separate Schedule D Page 1 for each location. If you are applying for registration, or are registered, only with the SEC, list only the largest five (in terms of numbers of employees).
Check only one box: ☐ Add ☐ Delete

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

_____ _____
(area code) (telephone number) (area code) (facsimile number)

SECTION 1.I. World Wide Web Site Addresses

List your World Wide Web site addresses. You must complete a separate Schedule D for each World Wide Web site address.

Check only one box: ☐ Add ☐ Delete

World Wide Web Site Address: _____

SECTION 1.K. Location of Books and Records

Complete the following information for each location at which you keep your books and records, other than your *principal office and place of business*. You must complete a separate Schedule D Page 1 for each location.
Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of entity where books and records are kept: _____

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

_____ _____
(area code) (telephone number) (area code) (facsimile number)

This is (check one): ☐ one of your branch offices or affiliates.
☐ a third-party unaffiliated recordkeeper.
☐ other.

Briefly describe the books and records kept at this location. _____

_____

_____

FORM ADV Schedule D **Page 2 of 5**	Your Name: _____ SEC File No.: _____ Date: _____ CRD No.: _____

Use this Schedule D Page 2 to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

This is an ☐ INITIAL or ☐ AMENDED Schedule D Page 2.

SECTION 1.L. Registration with *Foreign Financial Regulatory Authorities*

List the name, in English, of each *foreign financial regulatory authority* and country with which you are registered. You must complete a separate Schedule D Page 2 for each *foreign financial regulatory authority* with whom you are registered.

Check only one box: ☐ Add ☐ Delete

English Name of *Foreign Financial Regulatory Authority* _____
Name of Country _____

SECTION 2.A(7) Affiliated Adviser

If you are relying on the exemption in rule 203A-2(c) from the prohibition on registration because you *control*, are *controlled* by, or are under common *control* with an investment adviser that is registered with the SEC and your *principal office and place of business* is the same as that of the registered adviser, provide the following information:

Name of Registered Investment Adviser _____
CRD Number of Registered Investment Adviser (if any) _____
SEC Number of Registered Investment Adviser 801-_____

SECTION 2.A(8) Newly Formed Adviser

If you are relying on rule 203A-2(d), the newly formed adviser exemption from the prohibition on registration, you are required to make certain representations about your eligibility for SEC registration. By checking the appropriate boxes, you will be deemed to have made the required representations. You must make both of these representations:

☐ I am not registered or required to be registered with the SEC or a state securities authority and I have a reasonable expectation that I will be eligible to register with the SEC within 120 days after the date my registration with the SEC becomes effective.

☐ I undertake to withdraw from SEC registration if, on the 120th day after my registration with the SEC becomes effective, I would be prohibited by Section 203A(a) of the Advisers Act from registering with the SEC.

SECTION 2.A(9) Multi-State Adviser

If you are relying on rule 203A-2(e), the multi-state adviser exemption from the prohibition on registration, you are required to make certain representations about your eligibility for SEC registration. By checking the appropriate boxes, you will be deemed to have made the required representations.

If you are applying for registration as an investment adviser with the SEC, you must make both of these representations:

☐ I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of 30 or more states to register as an investment adviser with the securities authorities in those states.

☐ I undertake to withdraw from SEC registration if I file an amendment to this registration indicating that I would be required by the laws of fewer than 25 states to register as an investment adviser with the securities authorities of those states.

If you are submitting your *annual updating amendment*, you must make this representation:

☐ Within 90 days prior to the date of filing this amendment, I have reviewed the applicable state and federal laws and have concluded that I am required by the laws of at least 25 states to register as an investment adviser with the securities authorities in those states.

FORM ADV
Schedule D
Page 3 of 5

Your Name: _____ SEC File No.: _____

Date: _____ CRD No.: _____

Use this Schedule D Page 3 to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

This is an ☐ INITIAL or ☐ AMENDED Schedule D Page 3.

SECTION 2.A(10) SEC Exemptive Order

If you are relying upon an SEC order exempting you from the prohibition on registration, provide the following information:

Application Number: 803-_____ Date of order: _____
(mm/dd/yyyy)

SECTION 4 Successions

Complete the following information if you are succeeding to the business of a currently-registered investment adviser. If you acquired more than one firm in the succession you are reporting on this Form ADV, you must complete a separate Schedule D Page 3 for each acquired firm. See Part 1A Instruction 4.

Name of Acquired Firm _____

Acquired Firm's SEC File No. (if any) 801-_____ Acquired Firm's CRD Number (if any) _____

SECTION 5.I(2) *Wrap Fee Programs*

If you are a portfolio manager for one or more *wrap fee programs*, list the name of each program and its *sponsor*. You must complete a separate Schedule D Page 3 for each *wrap fee program* for which you are a portfolio manager.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of Wrap Fee Program _____

Name of Sponsor _____

SECTION 6.B. Description of Primary Business

Describe your primary business (not your investment advisory business): _____

SECTION 7.A. Affiliated Advisers

Complete the following information for each adviser with whom you are affiliated. You must complete a separate Schedule D Page 3 for each affiliated adviser.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Legal Name of Affiliated Adviser: _____

Primary Business Name of Affiliated Adviser: _____

Affiliated Adviser's SEC File Number (if any) 801- _____ Affiliated Adviser's CRD Number (if any): _____

FORM ADV
Schedule D
Page 4 of 5

Your Name: _____ SEC File No.: _____

Date: _____ CRD No.: _____

Use this Schedule D Page 4 to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

This is an ☐ INITIAL or ☐ AMENDED Schedule D Page 4.

SECTION 7.B. Limited Partnership Participation

You must complete a separate Schedule D Page 4 for each limited partnership in which you or a *related person* is a general partner and each limited liability company for which you or a *related person* is a manager.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Name of Limited Partnership or Limited Liability Company: _____

Are your *clients* solicited to invest in the limited partnership or limited liability company? ☐ yes ☐ no

Approximately what percentage of your *clients* have invested in this limited partnership or limited liability company? _____%

Minimum investment commitment required of a limited partner or member: $_____

Current value of the total assets of the limited partnership or limited liability company: $_____

SECTION 10 *Control Persons*

You must complete a separate Schedule D Page 4 for each *control person* not named in Item 1.A. or Schedules A, B, or C that directly or indirectly *controls* your management or policies.

Check only one box: ☐ Add ☐ Delete ☐ Amend

Firm or Organization Name _____

CRD Number (if any) _____ Effective Date _____ (mm/dd/yyyy) Termination Date _____ (mm/dd/yyyy)

Business Address:

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

Individual Name (if applicable) (Last, First, Middle) _____

CRD Number (if any) _____ Effective Date _____ (mm/dd/yyyy) Termination Date _____ (mm/dd/yyyy)

Business Address:

_____
(number and street)

_____
(city) (state/country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

Briefly describe the nature of the *control*: _____

FORM ADV
Schedule D
Page 5 of 5

Your Name: _____ SEC File No.: _____

Date: _____ CRD No.: _____

Use this Schedule D Page 5 to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

This is an ☐ INITIAL or ☐ AMENDED Schedule D Page 5.

Miscellaneous

You may use the space below to explain a response to an Item or to provide any other information.

CRIMINAL DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Items 11.A. or 11.B. of Form ADV.

Check item(s) being responded to: 11.A(1) 11.A(2) ☐ 11.B(1) ☐ 11.B(2)

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

Multiple counts of the same charge arising out of the same event(s) should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs. Use this DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the items listed above.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
- ☐ You (the advisory firm)
- ☐ You and one or more of your *advisory affiliates*
- ☐ One or more of your *advisory affiliates*

If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

If the *advisory affiliate* has a CRD number, provide that number. If not, indicate "non-registered" by checking the appropriate box.

Your Name	Your CRD Number

ADV DRP - *ADVISORY AFFILIATE*

CRD Number	This *advisory affiliate* is ☐ a firm ☐ an individual Registered: ☐ Yes ☐ No

Name (For individuals, Last, First, Middle)

☐ This DRP should be removed from the ADV record because the *advisory affiliate(s)* is no longer associated with the adviser.

☐ This DRP should be removed from the ADV record because: (1) the event or proceeding occurred more than ten years ago or (2) the adviser is registered or applying for registration with the SEC and the event was resolved in the adviser's or advisory affiliate's favor.

B. If the *advisory affiliate* is registered through the IARD system or CRD system, has the *advisory affiliate* submitted a DRP (with Form ADV, BD or U-4) to the IARD or CRD for the event? If the answer is "Yes," no other information on this DRP must be provided.
☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or CRD records.

(continued)

CRIMINAL DISCLOSURE REPORTING PAGE (ADV)
(continuation)

PART II

1. If charge(s) were brought against an organization over which you or an *advisory affiliate* exercise(d) control: Enter organization name, whether or not the organization was an *investment-related* business and your or the *advisory affiliate's* position, title, or relationship.

2. Formal Charge(s) were brought in: (include name of Federal, Military, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case number).

3. Event Disclosure Detail (Use this for both organizational and individual charges.)

   A. Date First Charged (MM/DD/YYYY): ☐ Exact ☐ Explanation

   If not exact, provide explanation:

   B. Event Disclosure Detail (include Charge(s)/Charge Description(s), and for each charge provide: (1) number of counts, (2) *felony* or *misdemeanor*, (3) plea for each charge, and (4) product type if charge is *investment-related*).

   C. Did any of the Charge(s) within the Event involve a *felony*? ☐ Yes ☐ No

   D. Current status of the Event? ☐ Pending ☐ On Appeal ☐ Final

   E. Event Status Date (complete unless status is Pending) (MM/DD/YYYY):

   ☐ Exact ☐ Explanation

   If not exact, provide explanation:

4. Disposition Disclosure Detail: Include for each charge (a) Disposition Type (e.g., convicted, acquitted, dismissed, pretrial, etc.), (b) Date, (c) Sentence/Penalty, (d) Duration (if sentence-suspension, probation, etc.), (e) Start Date of Penalty, (f) Penalty/Fine Amount, and (g) Date Paid.

(continued)

CRIMINAL DISCLOSURE REPORTING PAGE (ADV)
(continuation)

5. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred. (Your response must fit within the space provided.)

REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Items 11.C., 11.D., 11.E., 11.F. or 11.G. of Form ADV.

Check item(s) being responded to:

☐ 11.C(1) ☐ 11.C(2) ☐ 11.C(3) ☐ 11.C(4) ☐ 11.C(5)
☐ 11.D(1) ☐ 11.D(2) ☐ 11.D(3) ☐ 11.D(4) ☐ 11.D(5)
☐ 11.E(1) ☐ 11.E(2) ☐ 11.E(3) ☐ 11.E(4)
☐ 11.F. ☐ 11.G.

Use *a* separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with *a* completed Execution Page.

One event may result in more than one affirmative answer to Items 11.C., 11.D., 11.E., 11.F. or 11.G. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details for each action on a separate DRP.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
- ☐ You (the advisory firm)
- ☐ You and one or more of your *advisory affiliates*
- ☐ One or more of your *advisory affiliates*

If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

If the *advisory affiliate* has a CRD number, provide that number. If not, indicate "non-registered" by checking the appropriate box.

Your Name	Your CRD Number

ADV DRP - *ADVISORY AFFILIATE*

CRD Number	This *advisory affiliate* is ☐ a firm ☐ an individual Registered: ☐ Yes ☐ No

Name (For individuals, Last, First, Middle)

☐ This DRP should be removed from the ADV record because the *advisory affiliate(s)* is no longer associated with the adviser.

☐ This DRP should be removed from the ADV record because: (1) the event or proceeding occurred more than ten years ago or (2) the adviser is registered or applying for registration with the SEC and the event was resolved in the adviser's or advisory affiliate's favor.

If you are registered or registering with a *state securities authority*, you may remove a DRP for an event you reported only in response to Item 11.D(4), and only if that event occurred more than ten years ago. If you are registered or registering with the SEC, you may remove a DRP for any event listed in Item 11 that occurred more than ten years ago.

B. If the *advisory affiliate* is registered through the IARD system or CRD system, has the *advisory affiliate* submitted *a* DRP (with Form ADV, BD or U-4) to the IARD or CRD for the event? If the answer is "Yes," no other information on this DRP must be provided.

☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or CRD records.

(continued)

REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

PART II

1. Regulatory Action initiated by:
   SEC Other Federal State *SRO* Foreign

(Full name of regulator, *foreign financial regulatory authority*, federal, state or *SRO*)

_____

2. Principal Sanction (check appropriate item):

Civil and Administrative Penalty(ies)/Fine(s)	Disgorgement	Restitution
Bar	Expulsion	Revocation
Cease and Desist	Injunction	Suspension
Censure	Prohibition	Undertaking
Denial	Reprimand	Other _____

Other Sanctions:

_____
_____
_____

3. Date Initiated (MM/DD/YYYY): _____ Exact Explanation

If not exact, provide explanation: _____

4. Docket/Case Number:

5. *Advisory Affiliate* Employing Firm when activity occurred which led to the regulatory action (if applicable):

6. Principal Product Type (check appropriate item):

Annuity(ies) - Fixed	Derivative(s)	Investment Contract(s)
Annuity(ies) - Variable	Direct Investment(s) - DPP & LP Interest(s)	Money Market Fund(s)
CD(s)	Equity - OTC	Mutual Fund(s)
Commodity Option(s)	Equity Listed (Common & Preferred Stock)	No Product
Debt - Asset Backed	Futures - Commodity	Options
Debt - Corporate	Futures - Financial	Penny Stock(s)
Debt - Government	Index Option(s)	Unit Investment Trust(s)
Debt - Municipal	Insurance	Other _____

Other Product Types:

_____
_____

(continued)

REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

7. Describe the allegations related to this regulatory action (your response must fit within the space provided):

8. Current status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, regulatory action appealed to (SEC, *SRO*, Federal or State Court) and Date Appeal Filed:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 13 only.

10. How was matter resolved (check appropriate item):

☐ Acceptance, Waiver & Consent (AWC) ☐ Dismissed ☐ Vacated
☐ Consent ☐ Order ☐ Withdrawn
☐ Decision ☐ Settled ☐ Other _____
☐ Decision & Order of Offer of Settlement ☐ Stipulation and Consent

11. Resolution Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

12. Resolution Detail:

A. Were any of the following Sanctions Ordered (check all appropriate items)?

☐ Monetary/Fine ☐ Revocation/Expulsion/Denial ☐ Disgorgement/Restitution

Amount: $ ☐ Censure ☐ Cease and Desist/Injunction ☐ Bar ☐ Suspension

B. Other Sanctions Ordered:

Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you or an *advisory affiliate*, date paid and if any portion of penalty was waived:

REGULATORY ACTION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

(continued)

13. Provide a brief summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates (your response must fit within the space provided).

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to Item 11.H. of Part 1A and Item 2.F. of Part 1B of Form ADV.

Check Part 1A item(s) being responded to: ☐ 11.H(1)(a) ☐ 11.H(1)(b) ☐ 11.H(1)(c) ☐ 11.H(2)
Check Part 1B item(s) being responded to: ☐ 2.F(1) ☐ 2.F(2) ☐ 2.F(3) ☐ 2.F(4) ☐ 2.F(5)

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

One event may result in more than one affirmative answer to Item 11.H. of Part 1A or Item 2.F. of Part 1B. Use only one DRP to report details related to the same event. Unrelated civil judicial actions must be reported on separate DRPs.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
- ☐ You (the advisory firm)
- ☐ You and one or more of your *advisory affiliates*
- ☐ One or more of your *advisory affiliates*

If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

If the *advisory affiliate* has a CRD number, provide that number. If not, indicate "non-registered" by checking the appropriate box.

Your Name	Your CRD Number

ADV DRP - *ADVISORY AFFILIATE*

CRD Number	This *advisory affiliate* is ☐ a firm ☐ an individual Registered: ☐ Yes ☐ No

Name (For individuals, Last, First, Middle)

☐ This DRP should be removed from the ADV record because the *advisory affiliate(s)* is no longer associated with the adviser.

☐ This DRP should be removed from the ADV record because: (1) the event or proceeding occurred more than ten years ago or (2) the adviser is registered or applying for registration with the SEC and the event was resolved in the adviser's or advisory affiliate's favor.

If you are registered or registering with a *state securities authority*, you may remove a DRP for an event you reported only in response to Item 11.H(1)(a), and only if that event occurred more than ten years ago. If you are registered or registering with the SEC, you may remove a DRP for any event listed in Item 11 that occurred more than ten years ago.

B. If the *advisory affiliate* is registered through the IARD system or CRD system, has the *advisory affiliate* submitted a DRP (with Form ADV, BD or U-4) to the IARD or CRD for the event? If the answer is "Yes," no other information on this DRP must be provided.
☐ Yes ☐ No

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or CRD records.

(continued)

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

PART II

1. Court Action initiated by: (Name of regulator, *foreign financial regulatory authority, SRO*, commodities exchange, agency, firm, private plaintiff, etc.)

2. Principal Relief Sought (check appropriate item):

- Cease and Desist
- Civil Penalty(ies)/Fine(s)
- Disgorgement
- Injunction
- Money Damages (Private/Civil Complaint)
- Restitution
- Restraining Order
- Other _____

Other Relief Sought:

3. Filing Date of Court Action (MM/DD/YYYY): _____ Exact Explanation

If not exact, provide explanation: _____

4. Principal Product Type (check appropriate item):

- Annuity(ies) - Fixed
- Annuity(ies) - Variable
- CD(s)
- Commodity Option(s)
- Debt - Asset Backed
- Debt - Corporate
- Debt - Government
- Debt - Municipal
- Derivative(s)
- Direct Investment(s) - DPP & LP Interest(s)
- Equity - OTC
- Equity Listed (Common & Preferred Stock)
- Futures - Commodity
- Futures - Financial
- Index Option(s)
- Insurance
- Investment Contract(s)
- Money Market Fund(s)
- Mutual Fund(s)
- No Product
- Options
- Penny Stock(s)
- Unit Investment Trust(s)
- Other _____

Other Product Types:

5. Formal Action was brought in (include name of Federal, State or Foreign Court, Location of Court - City or County and State or Country, Docket/Case Number):

6. *Advisory Affiliate* Employing Firm when activity occurred which led to the civil judicial action (if applicable):

(continued)

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

7. Describe the allegations related to this civil action (your response must fit within the space provided):

8. Current status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, action appealed to (provide name of court) and Date Appeal Filed (MM/DD/YYYY):

10. If pending, date notice/process was served (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation:

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 14 only.

11. How was matter resolved (check appropriate item):

☐ Consent ☐ Judgment Rendered ☐ Settled
☐ Dismissed ☐ Opinion ☐ Withdrawn ☐ Other

12. Resolution Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation:

13. Resolution Detail:

A. Were any of the following Sanctions Ordered or Relief Granted (check appropriate items)?

☐ Monetary/Fine ☐ Revocation/Expulsion/Denial ☐ Disgorgement/Restitution

Amount: $ ☐ Censure ☐ Cease and Desist/Injunction ☐ Bar ☐ Suspension

B. Other Sanctions:

(continued)

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

C. Sanction detail: if suspended, enjoined or barred, provide duration including start date and capacities affected (General Securities Principal, Financial Operations Principal, etc.). If requalification by exam/retraining was a condition of the sanction, provide length of time given to requalify/retrain, type of exam required and whether condition has been satisfied. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you or an *advisory affiliate*, date paid and if any portion of penalty was waived:

14. Provide a brief summary of circumstances related to the action(s), allegation(s), disposition(s) and/or finding(s) disclosed above (your response must fit within the space provided).

BOND DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Item 2.C. of Part 1B of Form ADV.

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

Your Name	Your *CRD* Number

1. Firm Name: (Policy Holder)

2. Bonding Company Name:

3. Disposition Type: (check appropriate item)

☐ Denied ☐ Payout ☐ Revoked

4. Disposition Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

5. If disposition resulted in Payout, list Payout Amount and Date Paid:

6. Summarize the details of circumstances leading to the necessity of bonding company action: (your response must fit within the space provided):

JUDGMENT / LIEN DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Item 2.D. of Part 1B of Form ADV.

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

Your Name	Your *CRD* Number

1. Judgment/Lien Amount:

2. Judgment/Lien Holder:

3. Judgment/Lien Type: (check appropriate item)

☐ Civil ☐ Default ☐ Tax

4. Date Filed (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

5. Is Judgment/Lien outstanding? ☐ Yes ☐ No

If no, provide status date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

If no, how was matter resolved? (check appropriate item)

☐ Discharged ☐ Released ☐ Removed ☐ Satisfied

6. Court (Name of Federal, State or Foreign Court), Location of Court (City or County and State or Country) and Docket/Case Number:

7. Provide a brief summary of events leading to the action and any payment schedule details including current status (if applicable) (your response must fit within the space provided):

ARBITRATION DISCLOSURE REPORTING PAGE (ADV)

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP ADV) is an ☐ INITIAL ***OR*** ☐ AMENDED response used to report details for affirmative responses to Item 2.E. of Part 1B of Form ADV.

Check Part 1B item(s) being responded to: ☐ 2.E(1) ☐ 2.E(2) ☐ 2.E(3) ☐ 2.E(4) ☐ 2.E(5)

Use a separate DRP for each event or *proceeding*. The same event or *proceeding* may be reported for more than one *person* or entity using one DRP. File with a completed Execution Page.

One event may result in more than one affirmative answer to Item 2.E. Use only one DRP to report details related to the same event. Unrelated arbitration actions must be reported on separate DRPs.

PART I

A. The *person(s)* or entity(ies) for whom this DRP is being filed is (are):
- ☐ You (the advisory firm)
- ☐ You and one or more of your *advisory affiliates*
- ☐ One or more of your *advisory affiliates*

If this DRP is being filed for an *advisory affiliate*, give the full name of the *advisory affiliate* below (for individuals, Last name, First name, Middle name).

If the *advisory affiliate* has a *CRD* number, provide that number. If not, indicate "non-registered" by checking the appropriate checkbox.

Your Name	Your *CRD* Number

ADV DRP - *ADVISORY AFFILIATE*

CRD Number	This *advisory affiliate* is ☐ a firm ☐ an individual Registered: ☐ Yes ☐ No

Name (For individuals, Last, First, Middle)

☐ This DRP should be removed from the ADV record because the *advisory affiliate(s)* is no longer associated with the adviser.

NOTE: The completion of this form does not relieve the *advisory affiliate* of its obligation to update its IARD or *CRD* records.

PART II

1. Arbitration/Reparation Claim initiated by: (Name of private plaintiff, firm, etc.)

_____

2. Principal Relief Sought (check appropriate item):

☐ Restraining Order ☐ Disgorgement ☐ Money Damages (Private/Civil Claim) ☐ Other _____
☐ Civil Penalty(ies)/Fine(s) ☐ Injunction ☐ Restitution

(continued)

ARBITRATION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

Other Relief Sought:

_____
_____

3. Initiation Date of Arbitration/Reparation Claim (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

4. Principal Product Type (check appropriate item):

☐ Annuity(ies) - Fixed	☐ Derivative(s)	☐ Investment Contract(s)
☐ Annuity(ies) - Variable	☐ Direct Investment(s) - DPP & LP Interest(s)	☐ Money Market Fund(s)
☐ CD(s)	☐ Equity - OTC	☐ Mutual Fund(s)
☐ Commodity Option(s)	☐ Equity Listed (Common & Preferred Stock)	☐ No Product
☐ Debt - Asset Backed	☐ Futures - Commodity	☐ Options
☐ Debt - Corporate	☐ Futures - Financial	☐ Penny Stock(s)
☐ Debt - Government	☐ Index Option(s)	☐ Unit Investment Trust(s)
☐ Debt - Municipal	☐ Insurance	☐ Other _____

Other Product Types:

_____

5. Arbitration/Reparation Claim was filed with (*NASD*, AAA, NYSE, CBOE, CFTC, etc.) and Docket/Case Number:

_____

6. *Advisory Affiliate* Employing Firm when activity occurred which led to the arbitration/reparation (if applicable):

7. Describe the allegations related to this arbitration/reparation (your response must fit within the space provided):

_____
_____
_____
_____
_____

8. Current status? ☐ Pending ☐ On Appeal ☐ Final

9. If on appeal, action appealed to (provide name of court) and Date Appeal Filed (MM/DD/YYYY):

_____

(continued)

ARBITRATION DISCLOSURE REPORTING PAGE (ADV)
(continuation)

10. If pending, date notice/process was served (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

If Final or On Appeal, complete all items below. For Pending Actions, complete Item 14 only.

11. How was matter resolved (check appropriate item):

☐ Consent ☐ Judgment Rendered ☐ Settled
☐ Dismissed ☐ Opinion ☐ Withdrawn ☐ Other _____

12. Resolution Date (MM/DD/YYYY): ☐ Exact ☐ Explanation

If not exact, provide explanation: _____

13. Resolution Detail:

A. Were any of the following Sanctions Ordered or Relief Granted (check appropriate items)?

☐ Monetary Award ☐ Settlement ☐ Disgorgement/Restitution

Amount: $ ☐ Injunction

B. Other Sanctions:

C. Sanction detail: If disposition resulted in a penalty, restitution, disgorgement or monetary compensation, provide total amount, portion levied against you or an *advisory affiliate*, date paid and if any portion of penalty was waived:

14. Provide a brief summary of circumstances related to the action(s), allegation(s), disposition(s) and/or finding(s) disclosed above (your response must fit within the space provided).

FORM ADV

Part II - Page 1

Uniform Application for Investment Adviser Registration

Name of Investment Adviser:					
Address: (Number and Street)	(City)	(State)	(Zip Code)	Area Code: ( )	Telephone Number:

This part of Form ADV gives information about the investment adviser and its business for the use of clients. The information has not been approved or verified by any governmental authority.

Table of Contents

(Schedules A, B, C, D, and E are included with Part I of this Form, for the use of regulatory bodies, and are not distributed to clients.)

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

FORM ADV Part II - Page 2	Applicant:	SEC File Number: 801-	Date:

1. A. **Advisory Services and Fees.** (check the applicable boxes)

For each type of service provided, state the approximate % of total advisory billings from that service. (See instruction below.)

Applicant:

- ☐ (1) Provides investment supervisory services ____%
- ☐ (2) Manages investment advisory accounts not involving investment supervisory services ____%
- ☐ (3) Furnishes investment advice through consultations not included in either service described above ____%
- ☐ (4) Issues periodicals about securities by subscription ____%
- ☐ (5) Issues special reports about securities not included in any service described above ____%
- ☐ (6) Issues, not as part of any service described above, any charts, graphs, formulas, or other devices which clients may use to evaluate securities ____%
- ☐ (7) On more than an occasional basis, furnishes advice to clients on matters not involving securities ____%
- ☐ (8) Provides a timing service ____%
- ☐ (9) Furnishes advice about securities in any manner not described above ____%

(Percentages should be based on applicant's last fiscal year. If applicant has not completed its first fiscal year, provide estimates of advisory billings for that year and state that the percentages are estimates.)

B. Does applicant call any of the services it checked above financial planning or some similar term? Yes ☐ No ☐

C. Applicant offers investment advisory services for: (check all that apply)

- ☐ (1) A percentage of assets under management
- ☐ (2) Hourly charges
- ☐ (3) Fixed fees (not including subscription fees)
- ☐ (4) Subscription fees
- ☐ (5) Commissions
- ☐ (6) Other

D. For each checked box in A above, describe on Schedule F:

- the services provided, including the name of any publication or report issued by the adviser on a subscription basis or for a fee
- applicant's basic fee schedule, how fees are charged and whether its fees are negotiable
- when compensation is payable, and if compensation is payable before service is provided, how a client may get a refund or may terminate an investment advisory contract before its expiration date

2. **Types of clients** — Applicant generally provides investment advice to: (check those that apply)

- ☐ A. Individuals
- ☐ B. Banks or thrift institutions
- ☐ C. Investment companies
- ☐ D. Pension and profit sharing plans
- ☐ E. Trusts, estates, or charitable organizations
- ☐ F. Corporations or business entities other than those listed above
- ☐ G. Other (describe on Schedule F)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part II - Page 3	Applicant:	SEC File Number: 801-	Date:

3. **Types of Investments.** Applicant offers advice on the following: (check those that apply)

- ☐ A. Equity securities
  - ☐ (1) exchange-listed securities
  - ☐ (2) securities traded over-the-counter
  - ☐ (3) foreign issuers
- ☐ B. Warrants
- ☐ C. Corporate debt securities (other than commercial paper)
- ☐ D. Commercial paper
- ☐ E. Certificates of deposit
- ☐ F. Municipal securities
- G. Investment company securities:
  - ☐ (1) variable life insurance
  - ☐ (2) variable annuities
  - ☐ (3) mutual fund shares
- ☐ H. United States government securities
- I. Options contracts on:
  - ☐ (1) securities
  - ☐ (2) commodities
- J. Futures contracts on:
  - ☐ (1) tangibles
  - ☐ (2) intangibles
- K. Interests in partnerships investing in:
  - ☐ (1) real estate
  - ☐ (2) oil and gas interests
  - ☐ (3) other (explain on Schedule F)
- ☐ L. Other (explain on Schedule F)

4. **Methods of Analysis, Sources of Information, and Investment Strategies.**

A. Applicant's security analysis methods include: (check those that apply)

- (1) ☐ Charting
- (2) ☐ Fundamental
- (3) ☐ Technical
- (4) ☐ Cyclical
- (5) ☐ Other (explain on Schedule F)

B. The main sources of information applicant uses include: (check those that apply)

- (1) ☐ Financial newspapers and magazines
- (2) ☐ Inspections of corporate activities
- (3) ☐ Research materials prepared by others
- (4) ☐ Corporate rating services
- (5) ☐ Timing services
- (6) ☐ Annual reports, prospectuses, filings with the Securities and Exchange Commission
- (7) ☐ Company press releases
- (8) ☐ Other (explain on Schedule F)

C. The investment strategies used to implement any investment advice given to clients include: (check those that apply)

- (1) ☐ Long term purchases (securities held at least a year)
- (2) ☐ Short term purchases (securities sold within a year)
- (3) ☐ Trading (securities sold within 30 days)
- (4) ☐ Short sales
- (5) ☐ Margin transactions
- (6) ☐ Option writing, including covered options, uncovered options, or spreading strategies
- (7) ☐ Other (explain on Schedule F)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part II - Page 4	Applicant:	SEC File Number: 801-	Date:

5. Education and Business Standards.

Are there any general standards of education or business experience that applicant requires of those involved in determining or giving investment advice to clients? ☐ Yes ☐ No

(If yes, describe these standards on Schedule F.)

6. Education and Business Background.

For:

- each member of the investment committee or group that determines general investment advice to be given to clients, or
- if the applicant has no investment committee or group, each individual who determines general investment advice given to clients (if more than five, respond only for their supervisors)
- each principal executive officer of applicant or each person with similar status or performing similar functions.

On Schedule F, give the:

- name
- year of birth
- formal education after high school
- business background for the preceding five years

7. Other Business Activities. (check those that apply)

☐ A. Applicant is actively engaged in a business other than giving investment advice.

☐ B. Applicant sells products or services other than investment advice to clients.

☐ C. The principal business of applicant or its principal executive officers involves something other than providing investment advice.

(For each checked box describe the other activities, including the time spent on them, on Schedule F)

8. Other Financial Industry Activities or Affiliations. (check those that apply)

☐ A. Applicant is registered (or has an application pending) as a securities broker-dealer.

☐ B. Applicant is registered (or has an application pending) as a futures commission merchant, commodity pool operator or commodity trading adviser.

C. Applicant has arrangements that are material to its advisory business or its clients with a related person who is a:

☐ (1)	broker-dealer	☐ (7)	accounting firm
☐ (2)	investment company	☐ (8)	law firm
☐ (3)	other investment adviser	☐ (9)	insurance company or agency
☐ (4)	financial planning firm	☐ (10)	pension consultant
☐ (5)	commodity pool operator, commodity trading adviser or futures commission merchant	☐ (11)	real estate broker or dealer
☐ (6)	banking or thrift institution	☐ (12)	entity that creates or packages limited partnerships

(For each checked box in C, on Schedule F identify the related person and describe the relationship and the arrangements.)

D. Is applicant or a related person a general partner in any partnership in which clients are solicited to invest? ☐ Yes ☐ No

(If yes, describe on Schedule F the partnerships and what they invest in.)

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part II - Page 5	Applicant:	SEC File Number: 801-	Date:

9. Participation or Interest in Client Transactions.

Applicant or a related person. (check those that apply)

- ☐ A. As principal, buys securities for itself from or sells securities it owns to any client.
- ☐ B. As broker or agent effects securities transactions for compensation for any client.
- ☐ C. As broker or agent for any person other than a client effects transactions in which client securities are sold to or bought from a brokerage customer.
- ☐ D. Recommends to clients that they buy or sell securities or investment products in which the applicant or a related person has some financial interest.
- ☐ E. Buys or sells for itself securities that it also recommends to clients.

(For each box checked, describe on Schedule F when the applicant or a related person engages in these transactions and what restrictions, internal procedures, or disclosures are used for conflicts of interest in those transactions.)

10. Conditions for Managing Accounts. Does the applicant provide investment supervisory services, manage investment advisory accounts or hold itself out as providing financial planning or some similarly termed services *and* impose a minimum dollar value of assets or other conditions for starting or maintaining an account? ..... Yes ☐ No ☐

(If yes, describe on Schedule F.)

11. Review of Accounts. If applicant provides investment supervisory services, manages investment advisory accounts, or holds itself out as providing financial planning or some similarly termed services:

A. Describe below the reviews and reviewers of the accounts. **For reviews**, include their frequency, different levels, and triggering factors. **For reviewers**, include the number of reviewers, their titles and functions, instructions they receive from applicant on performing reviews, and number of accounts assigned each.

B. Describe below the nature and frequency of regular reports to clients on their accounts.

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

FORM ADV Part II - Page 6	Applicant	SEC File Number 801-	Date

12. Investment or Brokerage Discretion.

A. Does applicant or any related person have authority to determine, without obtaining specific client consent, the:

	Yes	No
(1) securities to be bought or sold?	☐	☐
(2) amount of the securities to be bought or sold?	☐	☐
(3) broker or dealer to be used?	☐	☐
(4) commission rates paid?	☐	☐

B. Does applicant or a related person suggest brokers to clients? Yes ☐ No ☐

For each yes answer to A describe on Schedule F any limitations on the authority. For each yes to A(3), A(4) or B, describe on Schedule F the factors considered in selecting brokers and determining the reasonableness of their commissions. If the value of products, research and services given to the applicant or a related person is a factor, describe:

- the products, research and services
- whether clients may pay commissions higher than those obtainable from other brokers in return for those products and services
- whether research is used to service all of applicant's accounts or just those accounts paying for it; and
- any procedures the applicant used during the last fiscal year to direct client transactions to a particular broker in return for products and research services received.

13. Additional Compensation.

Does the applicant or a related person have any arrangements, oral or in writing, where it:

	Yes	No
A. is paid cash by or receives some economic benefit (including commissions, equipment or non-research services) from a non-client in connection with giving advice to clients?	☐	☐
B. directly or indirectly compensates any person for client referrals?	☐	☐

(For each yes, describe the arrangements on Schedule F.)

14. Balance Sheet. Applicant must provide a balance sheet for the most recent fiscal year on Schedule G if applicant:

- has custody of client funds or securities; or
- requires prepayment of more than $500 in fees per client and 6 or more months in advance

	Yes	No
Has applicant provided a Schedule G balance sheet?	☐	☐

Answer all items. Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule F of Form ADV Continuation Sheet for Form ADV Part II	Applicant	SEC File Number: 801-	Date

(Do not use this Schedule as a continuation sheet for Form ADV Part 1 or any other schedules.)

1. Full name of applicant exactly as stated in Item 1A of Part 1 of Form ADV:	IRS Empl. Ident. No.:

Item of Form (identify)	Answer

Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule G of Form ADV Balance Sheet	Applicant:	SEC File Number: 801-	Date:

(Answers in Response to Form ADV Part II Item 14.)

1. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV:	IRS Empl. Ident. No.:

Instructions

1. The balance sheet must be:

   A. Prepared in accordance with generally accepted accounting principles

   B. Audited by an independent public accountant

   C. Accompanied by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity.

2. Securities included at cost should show their market or fair value parenthetically.

3. Qualifications and any accompanying independent accountant's report must conform to Article 2 of Regulation S-X (17 CFR 210.2-01 et. seq.).

4. Sole proprietor investment advisers:

   A. Must show investment advisory business assets and liabilities separate from other business and personal assets and liabilities

   B. May aggregate other business and personal assets and liabilities unless there is an asset deficiency in the total financial position.

Complete amended pages in full, circle amended items and file with execution page (page 1).

Schedule H of Form ADV Page 1	Applicant:	SEC File Number: 801-	DATE: MM/DD/YY

(for sponsors of wrap fee programs)

Name of wrap fee program or programs described in attached brochure:

1. ***Applicability of Schedule.*** This Schedule must be completed by applicants that are compensated under a wrap fee program for sponsoring, organizing, or administering the program, or for selecting, or providing advice to clients regarding the selection of, other investment advisers in the program ("sponsors"). A wrap fee program is any program under which a specified fee or fees not based directly upon transactions in a client's account is charged for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and execution of client transactions.

2. ***Use of Schedule.*** This Schedule sets forth the information the sponsor must include in the wrap fee brochure it is required to deliver or offer to deliver to clients and prospective clients of its wrap fee programs under Rule 204-3 under the federal Advisers Act and similar rules of the jurisdictions. The wrap fee brochure prepared in response to this Schedule must be filed with the Commission and the jurisdictions as part of Form ADV by completing the identifying information on this Schedule and attaching the brochure. Brochures should be prepared separately, not on copies of this Schedule. Any wrap fee brochure filed with the Commission as part of an amendment to Form ADV shall contain in the upper right hand corner of the cover page the sponsor's registration number (801-).

3. ***General Contents of Brochure.*** Unlike Parts I and II of this form, this Schedule is not organized in "check-the-box" format. These instructions, including the requests for information in Item 7 below, should not be repeated in the brochure. Rather, this Schedule describes minimum disclosures that must be made in the brochure to satisfy the sponsor's duty to disclose all material facts about the sponsor and its wrap fee programs. **Nothing in this Schedule relieves the sponsor from any obligation under any provision of the federal Advisers Act or rules thereunder, or other federal or state law to disclose information to its advisory clients or prospective advisory clients not specifically required by this Schedule.**

4. ***Multiple Sponsors.*** If two or more persons fall within the definition of "sponsor" in Item 1 above for a single wrap fee program, only one such sponsor need complete the Schedule. The sponsors may choose among themselves the sponsor that will complete the Schedule.

5. ***Omission of Inapplicable Information.*** Any information not specifically required by this Schedule that is included in the brochure should be applicable to clients and prospective clients of the sponsor's wrap fee programs. If the sponsor is required to complete this Schedule with respect to more than one wrap fee program, the sponsor may omit from the brochure furnished to clients and prospective clients of any wrap fee program or programs information required by this Schedule that is not applicable to clients or prospective clients of that wrap fee program or programs. If a sponsor of more than one wrap fee program prepares separate wrap fee brochures for clients of different programs, each brochure prepared must be filed with the Commission and the jurisdictions attached to a separate copy of this Schedule. Each such brochure must state that the sponsor sponsors other wrap fee programs and state how brochures for those programs may be obtained.

6. ***Updating.*** Sponsors are required to file an amendment to the brochure promptly after any information in the brochure becomes materially inaccurate. Amendments may be made by use of a "sticker," *i.e.*, a supplement affixed to the brochure that indicates what information is being added or updated and states the new or revised information, as long as the resulting brochure is readable. Stickers should be dated and should be incorporated into the text of the brochure when the brochure itself is revised.

7. ***Contents of Brochure.*** Include in the brochure prepared in response to this Schedule:

   (a) on the cover page, the sponsor's name, address, telephone number, and the following legend in bold type or some other prominent fashion:

   This brochure provides clients with information about [name of sponsor] and the [name of program or programs] that should be considered before becoming a client of the [name of program or programs]. This information has not been approved or verified by any governmental authority.

   (b) a table of contents reflecting the subject headings in the sponsor's brochure;

   (c) the amount of the wrap fee charged for each program or, if fees vary according to a schedule established by the sponsor, a table setting forth the fee schedule, whether such fees are negotiable, the portion of the total fee (or the range of such amounts) paid to persons providing advice to clients regarding the purchase or sale of specific securities under the program ("portfolio managers"), and the services provided under each program (including the types of portfolio management services);

Schedule H of Form ADV Page 2	Applicant:	SEC File Number: 801-	DATE: MM/DD/YY

(d) a statement that the program may cost the client more or less than purchasing such services separately and a statement of the factors that bear upon the relative cost of the program (*e.g.*, the cost of the services if provided separately and the trading activity in the client's account);

(e) if applicable, a statement that the person recommending the program to the client receives compensation as a result of the client's participation in the program, that the amount of this compensation may be more than what the person would receive if the client participated in other programs of the sponsor or paid separately for investment advice, brokerage, and other services, and that the person may therefore have a financial incentive to recommend the wrap fee program over other programs or services;

(f) a description of the nature of any fees that the client may pay in addition to the wrap fee and the circumstances under which these fees may be paid (including, if applicable, mutual fund expenses and mark-ups, mark-downs or spreads paid to market makers from whom securities were obtained by the wrap fee broker);

(g) how the program's portfolio managers are selected and reviewed, the basis upon which portfolio managers are recommended or chosen for particular clients, and the circumstances under which the sponsor will replace or recommend the replacement of the portfolio manager;

(h) (1) if applicable, a statement to the effect that portfolio manager performance information is not reviewed by the sponsor or a third party and/or that performance information is not calculated on a uniform and consistent basis,

(2) if performance information is reviewed to determine its accuracy, the name of the party who reviews the information and a brief description of the nature of the review,

(3) a reference to any standards (*i.e.*, industry standards or standards used solely by the sponsor) under which performance information may be calculated;

(i) a description of the information about the client that is communicated by the sponsor to the client's portfolio manager, and how often or under what circumstances the sponsor provides updated information about the client to the portfolio manager;

(j) any restrictions on the ability of clients to contact and consult with portfolio managers;

(k) in narrative text, the information required by Items 7 and 8 of Part II of this form and, as applicable to clients of the wrap fee program, the information required by Items 2, 5, 6, 9A and C, 10, 11, 13 and 14 of Part II;

(l) if any practice or relationship disclosed in response to Item 7, 8, 9A, 9C and 13 of Part II presents a conflict between the interests of the sponsor and those of its clients, explain the nature of any such conflict of interest; and

(m) if the sponsor or its divisions or employees covered under the same investment adviser registration as the sponsor act as portfolio managers for a wrap fee program described in the brochure, a brief, general description of the investments and investment strategies utilized by those portfolio managers.

8. ***Organization and Cross References.*** Except for the cover page requirements in Item 7(a) above, information contained in the brochure need not follow the order of the items listed in Item 7. However, the brochure should not be organized in such a manner that important information called for by the form is obscured.

Set forth below the page(s) of the brochure on which the various disclosures required by Item 7 are provided.

		Page(s)			*Page(s)*			*Page(s)*
Item	7(a)	cover	Item	7(f)		Item	7(j)	
	#7(b)			#7(g)			#7(k)	
	#7(c)			#7(h)			#7(l)	
	#7(d)			#7(i)			#7(m)	
	#7(e)							

BILLING CODE 8010-01-C

Form ADV (Paper Version); Uniform Application for Investment Adviser Registration

Domestic Investment Adviser Execution Page

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial application for SEC registration and all amendments to registration.

Appointment of Agent for Service of Process

By signing this Form ADV Execution Page, you, the undersigned adviser, irrevocably appoint the Secretary of State or other legally designated officer, of the state in which you are submitting a *notice filing*, as your agents to receive service, and agree that such persons may accept service on your behalf, of any notice, subpoena, summons, *order* instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding* or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is founded, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of the state in which you maintain your *principal office and place of business* or of any state in which you maintain your *principal office and place of business* and any other state in which you are submitting a *notice* filing.

Signature

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that investment adviser will, within five days of a state's request, provide to that state a copy of the investment adviser's Form ADV Part II.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having *custody* or possession of these books and records to make them available to federal and state regulatory representatives.

Signature: _____
Printed Name: _____
Adviser *CRD* Number: _____
Date: _____
Title: _____

Form ADV (Paper Version); Uniform Application for Investment Adviser Registration

State-Registered Investment Adviser Execution Page

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial application for state registration and all amendments to registration.

1. Appointment of Agent for Service of Process

By signing this form ADV Execution Page, you, the undersigned adviser, irrevocably appoint the legally designated officers and their successors, of the state in which you maintain your *principal office and place of business* and any other state in which you are applying for registration or amending your registration, as your agents to receive service, and agree that such persons may accept service on your behalf, of any notice, subpoena, summons, *order* instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding* or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is founded, directly or indirectly, upon the provisions of: (i) The Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of the state in which you maintain your *principal office and place of business* or of any state in which you are applying for registration, or amending your registration.

2. State-Registered Investment Adviser Affidavit

If you are subject to state regulation, by signing this Form ADV, you represent that, you are in compliance with the registration requirements of the state in which you maintain your principal place of business and are in compliance with the bonding, capital, and recordkeeping requirements of that state.

Signature

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having *custody* or possession of these books and records to make them available to federal and state regulatory representatives.

Signature:

_____
Printed Name:

_____
Adviser *CRD* Number:

_____
Date:

_____
Title:

_____

Form ADV (Paper Version); Uniform Application for Investment Adviser Registration

***NON-RESIDENT* INVESTMENT ADVISER EXECUTION PAGE 1**

You must complete the following Execution Page to Form ADV. This execution page must be signed and attached to your initial application for SEC registration and all amendments to registration.

1. Appointment of Agent for Service of Process

By signing this Form ADV Execution Page, you, the undersigned adviser, irrevocably appoint each of the Secretary of the SEC, and the Secretary of State or other legally designated officer, of any other state in which you are submitting a *notice filing*, as your agents to receive service, and agree that such persons may accept service on your behalf, of any notice, subpoena, summons, *order* instituting *proceedings*, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative *proceeding* or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, *proceeding* or arbitration (a) arises out of any activity in connection with your investment advisory business that is subject to the jurisdiction of the United States, and (b) is founded, directly or indirectly, upon the provisions of: (i) The Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of any state in which you are submitting a *notice filing*.

2. Appointment and Consent: Effect on Partnerships

If you are organized as a partnership, this irrevocable power of attorney and consent to service of process will continue in effect if any partner withdraws from or is admitted to the partnership, provided that the admission or withdrawal does not create a new partnership. If the partnership dissolves, this irrevocable power of

attorney and consent shall be in effect for any action brought against you or any of your former partners.

3. *Non-Resident* Investment Adviser Undertaking Regarding Books and Records

By signing this Form ADV, you also agree to provide, at your own expense, to the U.S. Securities and Exchange Commission at its principal office in Washington D.C., at any Regional or District Office of the Commission, or at any one of its offices in the United States, as specified by the Commission, correct, current, and complete copies of any or all records that you are required to maintain under Rule 204–2 under the Investment Advisers Act of 1940. This undertaking shall be binding upon you, your heirs, successors and assigns, and any person subject to your written irrevocable consents or powers of attorney or any of your general partners and *managing agents.*

Signature

I, the undersigned, sign this Form ADV on behalf of, and with the authority of, the *non-resident* investment adviser. The investment adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this ADV, including exhibits and any other information submitted, are true and correct, and that I am signing this Form ADV Execution Page as a free and voluntary act.

I certify that the adviser's books and records will be preserved and available for inspection as required by law. Finally, I authorize any *person* having custody or possession of these books and records to make them available to federal and state regulatory representatives.

Signature: _____
Date: _____
Printed Name: _____
Title: _____
Adviser *CRD* Number: _____

APPENDIX B

Form ADV–W (Paper Version); Notice of Withdrawal From Registration as an Investment Adviser

Instructions for Form ADV–W

NOTE: Unless the context clearly indicates otherwise, all terms used in the Form have the same meaning as in the Investment Advisers Act of 1940 and in the General Rules and Regulations of the Commission thereunder (17 Code of Federal Regulations 275).

1. We would like to withdraw from registration as an investment adviser. What do we need to do?

You must determine whether you are filing for partial withdrawal or full withdrawal.

A *partial withdrawal* is when you are withdrawing from investment adviser registration with some, but not all, of the jurisdictions where you are registered (or have an application for registration pending). For example, you would file for partial withdrawal if you are switching from state registration to SEC registration (or vice versa). Similarly, you would file for partial withdrawal if you are a state-registered adviser and are withdrawing from some, but not all, of the states with which you are registered (or have an application for registration pending).

A *full withdrawal* is when you are withdrawing from all of the jurisdictions with which you are registered (or have an application pending).

If you are filing for partial withdrawal and switching from SEC to state registration, you must complete the Status Section, Items 1A through 1D, and the Execution Section. You do not need to complete Items 1E through 8 of Form ADV–W.

If you are filing for partial withdrawal and switching from state to SEC registration, you must complete the entire Form ADV–W.

If you are registered only with the state securities authorities and withdrawing from some, but not all, of the states where you are registered, you must complete the entire Form ADV–W.

If you are filing for full withdrawal, you must complete the entire Form ADV–W.

2. We are going out of business. Does this change how we would answer particular questions on the Form ADV–W?

Yes. The purpose of Item 1D is so that we can contact you if the Form ADV–W is deficient or if we have questions. If you are going out of business, make sure you list in Item 1D an address and phone number at which we can reach the contact employee.

3. I am filing for partial withdrawal. How do I complete Item 2?

If you are ceasing advisory business in any of the jurisdictions from which you are withdrawing, check "yes." On the next line, provide the date on which you are ceasing advisory business in these jurisdictions (however, if you cease conducting advisory business on different dates in different jurisdictions, you must complete a separate Form ADV–W for each different date). The date you provide in this blank must be on or before the date you file Form ADV–W. Then, provide the reasons you are filing for withdrawal (regardless of whether you are filing for partial or complete withdrawal).

You are permitted to "post-date" the Form ADV–W to December 31 anytime between November 1 and December 31. You are permitted to enter a cease date of December 31 to avoid being charged state renewal fees in jurisdictions form which you are withdrawing (the IARD does not operate during the last week of each year and you are unable to make any filings during that time). However, you cannot enter any date other than December 31, and you can only enter a December 31 cease date after November 1.

4. I have completed Form ADV–W and filed it with the SEC. When will it become effective?

Your Form ADV–W will become effective when it is filed with the SEC. However, your Form ADV–W will not be deemed "filed" until the SEC receives it and determines that it is not deficient. The effective date of a Form ADV–W filed with the *state securities authorities* may be different.

5. How should I file my Form ADV–W?

You are required to file Form ADV–W electronically on the IARD.

In the event you are unable to submit an electronic filing, you must apply for a temporary or continuing hardship exemption pursuant to rule 203–3. If you can rely on a temporary or continuing hardship exemption, you must mail one manually signed Form ADV–W and one copy to: IARD Document Processing, NASD Regulation, Inc., P.O. Box 9495, Gaithersburg, MD 20898–9495.

Whether you file on the IARD or are permitted to submit paper filings, you must preserve in your records a copy of the Form ADV–W that you file with the SEC.

6. What are the Schedules to Form ADV–W?

Form ADV–W contains two Schedules, Schedule W1 and W2. Your answers to Form ADV–W will determine whether you are required to complete both Schedules, or only Schedule W1.

Schedule W1 is a "continuing page" for Item 5 and a "response page" for Item 8. The names of individuals listed on Schedule W1 must be given in full. If you have assigned advisory contracts to another person (as indicated on Item 5 of Form ADV–W), you must complete Section 5 of Schedule W1. If you are filing for full withdrawal or you are a state-registered investment adviser, you must provide the name of each person who has or will have custody or possession of your books and records, and each location where the records are or will be kept (Item 8). You may have to complete multiple Schedule W1s, depending on the number of persons who have or will have custody or possession of your books and records and/or the number of locations where your records are or will be kept. Instruction number seven, below, provides several examples that should help you properly respond to Item 8 to Form ADV–W.

Schedule W2 requires basic financial information relating to your investment advisory business. If you check "yes" to Items 3, 4, or 6, you are required to complete Schedule W2.

7. Questions about Item 8. The following examples are intended to assist you in completing Section 8 of Schedule W1 for any *persons* who have or will have custody of your books and records, and the location(s) at which those records are or will be kept.

a. After I withdraw from registration, two persons (Persons A and B) will have custody of my books and records, but my books and records will be kept at a single location. How should I complete the Schedule W1?

You would complete two Schedules W1. The first would list *Person* A, and the location at which your books and records will be kept. You would complete a second Schedule W1 that would list *Person* B, and would list (again) the location at which your books and records will be kept.

b. After I withdraw from registration, only one *person* will have custody of my books and records, but they will be kept at three locations (Locations X, Y and Z). How should I complete the Schedule W1?

You would complete three Schedules W1. The first would list the *person* that will have custody of your books and records, and Location X. The second Schedule W1 would list (again) the *person* that has or will have custody of your books and records, and Location Y. The third Schedule W1 would list (again) the *person* that has or will have custody of your books and records, and Location Z.

c. After I withdraw from registration, two people (*Persons* A and B) will have custody of my books and records, and my books and records will be kept at two locations (Locations Y and Z). Each *person* would have custody of the books and records that are kept at both locations. how should I complete the Schedule W1?

You would complete four Schedule W1. The first would list *Person* A and Location Y. The second Schedule W1 would list (again) *Person* A, and would list location Z. The third Schedule W1 would list *Person* B and Location Y, and fourth Schedule W1 would list *Person* B and Location Z. On each Schedule W1, you should briefly describe the records that are kept at each location (*e.g.*, business and trading records from 1996 through 1999).

8. Who should sign the Form ADV–W

Copies of the Form ADV–W you file with the SEC must be executed by a *person* you have authorized to file the Form. If you are a sole proprietor, you must sign the Form; if you are a partnership, a general partner must sign the Form in the name of the partnership; if you are an unincorporated organization or association that is not a partnership, the managing agent (an authorized *person* who directs or manages or who participates in the directing or managing of its affairs) must sign the Form in the name of the organization or association; if you are a corporation, a principal officer duly authorized must sign the Form in the name of the corporation. If an officer of any entity is signing the Form, the officer's title must be given.

9. What if I need more space to provide additional information?

If you are electronically, add any additional information in the text box asking you to "describe the books and records kept at this location." If you are filing on paper, use the reverse side of Schedule W1 to provide any additional information.

10. What if I do not follow these instructions when completing the Form ADV–W?

If you do not prepare and execute the Form ADV–W as required by these instructions, SEC staff may return the form to you for correction. The SEC's acceptance of the Form, however, is not a finding that you have filed the Form ADV–W as required or that the information submitted is true, correct or complete.

SEC's COLLECTION OF INFORMATION. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Section 203(h) of the Advisers Act authorizes the Commission to collect the information on this Form from applicants. *See* 15 U.S.C. §§ 80b–3(h). Filing of this Form is mandatory for an investment adviser to withdraw from registration. The principal purpose of this collection of information is to enable the Commission to verify that the activities of an investment adviser seeking to withdraw from registration do not require the investment adviser to be registered and to determine whether terms and conditions should be imposed upon a registrant's withdrawal. The Commission will maintain files of the information on Form ADV–W, and will make the information publicly available. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate on page one of Form ADV–W, and any suggestions for reducing this burden. This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. § 3507. The applicable Privacy Act system of records is SEC–2, and the routine uses of the records are set forth at 40 Federal Register 39255 (Aug. 27, 1975) and 41 FR 5318 (Feb. 5, 1976).

BILLING CODE 8010–01–U

FORM ADV-W (Paper Version)
NOTICE OF WITHDRAWAL FROM REGISTRATION AS AN INVESTMENT ADVISER

Form ADV-W

You must complete this Form ADV-W to withdraw your investment adviser registration with the SEC or one or more state securities administrators. We use the term "you" to refer to the investment adviser withdrawing from registration, regardless of whether the adviser is a sole proprietor, a partnership, a corporation, or another form of organization.

WARNING: Complete this form truthfully. False statements or omissions may result in administrative, civil or criminal action against you.

Status

Check the box that indicates what you would like to do:

(i) ☐ Withdraw from registration in all of the jurisdictions with which you are registered (or have an application for registration pending) (a "full withdrawal").

(ii) ☐ Withdraw from registration in some, but not all, of the jurisdictions with which you are registered (or have an application for registration pending) (a "partial withdrawal").

If you are filing for full withdrawal, you must complete all items of this Form ADV-W. If you are filing for partial withdrawal, follow the instructions below for the type of partial withdrawal you are filing.

If you are filing for partial withdrawal, indicate the jurisdictions from which you are withdrawing your investment adviser registration (or application for registration):

(a) ☐ The SEC;

Check this box if you are withdrawing your SEC registration and switching to state registration, or if you are withdrawing your application for SEC registration. If you check this box (a), you must complete only this Status Section, Items 1A through 1D, and the Execution Section. Do not complete Item 1E and Items 2 through 8.

(b) ☐ The state(s) for which the box(es) below are checked:

☐ AL	☐ DC	☐ IA	☐ MN	☐ NM	☐ PR	☐ VA
☐ AK	☐ FL	☐ KS	☐ MS	☐ NY	☐ RI	☐ WA
☐ AZ	☐ GA	☐ KY	☐ MO	☐ NC	☐ SC	☐ WV
☐ AR	☐ GU	☐ LA	☐ MT	☐ ND	☐ SD	☐ WI
☐ CA	☐ HI	☐ ME	☐ NE	☐ OH	☐ TN	
☐ CO	☐ ID	☐ MD	☐ NV	☐ OK	☐ TX	
☐ CT	☐ IL	☐ MA	☐ NH	☐ OR	☐ UT	
☐ DE	☐ IN	☐ MI	☐ NJ	☐ PA	☐ VT	

If you check this box (b), you must complete all items of this Form ADV-W.

Item 1 Identifying Information

A. Your full legal name (if you are a sole proprietor, your last, first, and middle names):

_____

The name you enter here must be the same as the name you entered on your last amended Form ADV. Do not report a name change on this Form ADV-W.

B. Your SEC file number (if you are registered with the SEC as an investment adviser):
801- _____

C. Your *CRD* number (if you have a number ("*CRD* number") assigned by the *NASD's CRD* system):

_____

If you do not have a CRD number, skip this Item 1C. Do not provide the CRD number of one of your officers, employees, or affiliates.

D. Name and business address of contact employee:

_____
(name) (title)

_____
(number and street)

_____
(city) (state) (country) (zip+4/postal code)

_____
(area code) (telephone number)

_____
(electronic mail (e-mail) address, if contact employee has one)

The contact employee should be an employee (not outside counsel) who is authorized to receive information and respond to questions about this Form ADV-W.

E. *Principal Office and Place of Business*:

Address (do not use a P.O. Box):

_____
(number and street)

_____
(city) (state) (country) (zip+4/postal code)

_____
(area code) (telephone number)

If this address is a private residence, check this box: ☐

Item 2 Status of Advisory Business

A. Have you ceased conducting advisory business in the jurisdictions from which you are withdrawing? Yes ☐ No ☐

If yes, provide the date you ceased conducting advisory business in the jurisdictions checked in the status section, above:

_____
MM / DD / YYYY

If you ceased conducting advisory business in these jurisdictions on different dates, you must submit a different Form ADV-W for each different date on which you ceased conducting advisory business.

B. Reasons for withdrawal: _____

_____

Item 3 Custody

Do you or a *related person* have *custody* of *client* assets? Yes ☐ No ☐

If yes, provide the following information:

A. Number of *clients* for whom you have *custody* of cash or securities: _____
B. Amount of *clients'* cash for which you have *custody*: $_____.00
C. Market value of *clients'* securities for which you have *custody*: $_____.00
D. Market value of assets other than cash or securities for which you have *custody*: $_____.00

Item 4 Money Owed to Clients

Have you (i) received any advisory fees for investment advisory services or publications that you have not rendered or delivered; or (ii) borrowed any money from *clients* that you have not repaid? Yes ☐ No ☐

Do not include in your response to this Item 4 any client funds for which you have custody and that you included in your response to Item 3.

If yes, provide the following information:

A. Amount of money owed to *clients* for prepaid fees or subscriptions: $_____.00
B. Amount of money owed to *clients* for borrowed funds: $_____.00

Item 5 Advisory Contracts

A. Have you assigned any of your investment advisory contracts to another person? Yes ☐ No ☐

If yes, provide the following information:

B. Did you obtain the consent of each *client* prior to the assignment of the *client's* contract? Yes ☐ No ☐

Client consent can be obtained through an actual consent, or can be inferred through the use of a negative consent.

If you answered "yes" to Item 5A, list on Section 5 of Schedule W1 each person to whom you have assigned any of your investment advisory contracts. You must complete a separate Schedule W1 for each person to whom you have assigned any of your advisory contracts.

Item 6 Judgments and Liens

Are there any unsatisfied judgments or liens against you? Yes ☐ No ☐

Item 7 Statement of Financial Condition

If you answered yes to Items 3, 4, or 6, you must complete Schedule W2, disclosing the nature and amount of your assets and liabilities and your net worth as of the last day of the month prior to the filing of this Form ADV-W.

Item 8 Books and Records

This item requires you to list (i) the name and address of each person who has or will have custody or possession of your books and records; and (ii) each location at which any of your books and records are or will be kept. You must list this information on Schedule W1, and you must complete a separate Schedule W1 for each person who has or will have custody of your books and records at each location. The instructions to Form ADV-W contain additional information and examples to assist you in responding to Item 8.

NOTE: Section 204 of the Advisers Act, or similar state law, requires you to preserve your books and records after you have withdrawn from registration.

Execution

I, the undersigned, have signed this Form ADV-W on behalf of, and with the authority of, the adviser withdrawing its registration. The adviser and I both certify, under penalty of perjury under the laws of the United States of America, that the information and statements made in this Form ADV-W, including exhibits and any other information submitted, are true. I further certify that the adviser's books and records will be preserved and available for inspection as required by law, and that all information previously submitted on Form ADV is accurate and complete as of this date. I understand that if I changed any information on items 1D or 1E of this Form ADV, this information will replace the corresponding entry on the adviser's Form ADV composite available through IARD. Finally, I authorize any person having *custody* or possession of these books and records to make them available to authorized regulatory representatives.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

FORM ADV-W
Schedule W1
(Paper Version)

Your Name: _____ SEC File No.: _____
Date: _____ CRD No.: _____

Certain items in Form ADV-W may require additional information on this Schedule W1. Use this Schedule W1 to report details for items listed below. Report only new information or changes/updates to previously submitted information. Do not repeat previously submitted information.

SECTION 5 Other Investment Advisory Contract Assignments
Check here if you are completing this section: ☐

Complete the following information for each *person* to whom you have assigned any advisory contract. You must complete a separate Schedule W1 for each *person* to whom you have assigned an advisory contract.

Name and business address of the *person* to whom advisory contracts were assigned:

_____
(name)

_____
(number and street)

_____
(city) (state) (country) (zip+4/postal code)

_____
(area code) (telephone number)

If this address is a private residence, check this box: ☐

SECTION 8

Persons With Custody or Possession of the Books and Records Kept at the Location Described Below.

Complete the following information for the *person* that has or will have custody or possession of the books and records kept at the location described in this Section 8 of this Schedule. You must complete a separate Schedule W1 for each *person* that has or will have custody of any of your books and records. If the *person* you list below has or will have custody of any of your books and records at any other location, you must complete separate Schedule(s) W1 listing this *person* and each other location of your books and records.

_____
(name)

_____
(number and street)

_____
(city) (state) (country) (zip+4/postal code)

_____
(area code) (telephone number)

If this address is a private residence, check this box: ☐

Location of the Books and Records of Which the *Person* Listed in this Schedule W1 Has Custody or Possession.

Complete the following information for the location where the books and records of which the *person* listed in this Section 8 of this Schedule has or will have custody or possession. You must complete a separate Schedule W1 for each location at which your records are or will be kept. If any other *person* has or will have custody or possession of any of the books and records at the location described below, you must complete separate Schedule(s) W1 listing this location and each other *person* that has or will have custody of your books and records.

_____
(name)

_____
(number and street)

_____
(city) (state) (country) (zip+4/postal code)

_____
(area code) (telephone number)

If this address is a private residence, check this box: ☐

Briefly describe the books and records kept at this location. _____

FORM ADV-W
Schedule W2
(Paper Version)

Your Name: _____ SEC File No.: _____
Date: _____ CRD No.: _____

If you answered "yes" to Items 3, 4, or 6 of Form ADV-W, you are required to complete this Schedule W2. This balance sheet must be prepared in accordance with generally accepted accounting principles, but need not be audited.

ASSETS

Current Assets

Cash	_____
Securities at Market	_____
Non-Marketable Securities	_____
Other Current Assets	_____
Total Current Assets	**$** _____

Fixed Assets

Total Fixed Assets	**$** _____

TOTAL ASSETS	$ _____

LIABILITIES & SHAREHOLDERS' EQUITY

Current Liabilities

Prepaid Advisory Fees	_____
Short-Term Loans from Clients	_____
Other Short-Term Loans	_____
Other Current Liabilities	_____
Total Current Liabilities	$ _____

Fixed Liabilities

Long-Term Debt Owed to Clients	_____
Other Long-Term Debt	_____
Other Long-Term Liabilities	_____
Total Fixed Liabilities	$ _____

Shareholders' Equity

Total Shareholders' Equity (or Deficit)	**$** _____

TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ _____

APPENDIX C

OMB APPROVAL	
OMB Number:	3235-0538
Expires:	June 30, 2003
Estimated average burden hours per response	1.00

Form ADV-H
APPLICATION FOR A TEMPORARY OR CONTINUING HARDSHIP EXEMPTION

Item 1 Type of Exemption

You are (check one):

- ☐ Requesting a Temporary Hardship Exemption; or
- ☐ Applying for a Continuing Hardship Exemption

A. If you are requesting a temporary hardship exemption, this Form ADV-H is for your (check one)

- ☐ Initial SEC Application
- ☐ Annual Updating Amendment to SEC Registration
- ☐ Other-Than-Annual Amendment to SEC Registration

B. If you are applying for a continuing hardship exemption, this Form ADV-H is for all filings between the date you file this form and _____.
MM / DD / YYYY

Only an adviser that is a "small business" (as defined by SEC rule 0-7) is eligible for a continuing hardship exemption. To determine whether you are eligible for a continuing hardship exemption, review Item 12 of the Form ADV that you filed most recently with the SEC to answer the following questions:

Were you required to answer Item 12 of Form ADV? Yes ☐ No ☐

Did you check "yes" to any question on Item 12 of Form ADV? Yes ☐ No ☐

If you were not required to answer Item 12 or checked "yes" to any question on Item 12, you are not eligible for a continuing hardship exemption and must submit electronic filings to the IARD system.

Item 2 Identifying Information

SEC File number: 801 - _____ CRD Number (if you have one) _____

A. Your full legal name (if you are a sole proprietor, state your last, first, and middle names):

_____

B. *Principal Office and Place of Business*
Address (do not use a P.O. Box):

_____
(number and street)

_____
(city) (state) (country) (zip+4/postal code)

If this address is a private residence, check this box: ☐

C. Name and telephone number of the individual filing this Form ADV-H:

_____
(name) (title) (area code) (telephone number)

Item 3 Information Relating to the Hardship

A. If you are filing to request a temporary hardship exemption, attach a separate page that:

1. Describes the nature and extent of the temporary technical difficulties when you attempt to submit the filing in electronic format.

2. Describes the extent to which you previously have submitted documents in electronic format with the same hardware and software that you are unable to use to submit this filing.

3. Describes the burden and expense of employing alternative means (*e.g.* public library, service provider) to submit the filing in electronic format in a timely manner.

4. Provides any other reasons why a temporary hardship exemption is warranted.

B. If you are applying for a continuing hardship exemption, your application will be granted or denied based on the following items. You should attach a separate page to this Form ADV-H that:

1. Explains the reason(s) that the necessary hardware and software are not available without unreasonable burden and expense.

2. Describes the burden and expense of employing alternative means (*e.g.* public library, service provider) to submit your filings in electronic format in a timely manner.

3. Justifies the time period requested in Item 1 of this Form ADV-H.

4. Provides any other reasons why a continuing hardship exemption is warranted.

Item 4 How to Submit Your Form ADV-H

Sign this Form ADV-H. You must preserve in your records a copy of the Form ADV-H that you file. Mail one manually signed Form ADV-H and one copy to IARD Document Processing, NASD Regulation, Inc., P.O. Box 9495, Gaithersburg, MD 20898-9495.

Item 5 Execution

I, the undersigned, have signed this Form ADV-H on behalf of, and with the authority of, the adviser requesting a temporary hardship exemption or applying for a continuing hardship exemption. The undersigned and the adviser represent that the information and statements made in this ADV-H, including any other information submitted, are true. The undersigned and the adviser further agree to waive any claim against the administrator of the IARD for errors made in good faith that may occur when converting to electronic format this Form ADV-H or any paper filing made in reliance of a continuing hardship exemption.

Signature: _____ Date: _____

Printed Name: _____ Title: _____

SEC'S COLLECTION OF INFORMATION. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Section 203(c)(1) of the Advisers Act authorizes the Commission to collect the information on this Form from applicants. *See* 15 U.S.C. §§ 80b-3(c)(1). Filing of this Form is mandatory for an investment adviser to request an exemption from the electronic filing requirements. The principal purpose of this collection of information is to enable the Commission to process requests for temporary hardship exemptions and to determine whether to grant a continuing hardship exemption. The Commission will maintain files of the information on Form ADV-H and will make the information publicly available. Any member of the public may direct to the Commission any comments concerning the accuracy of the burden estimate on page one of Form ADV-H, and any suggestions for reducing this burden. This collection of information has been reviewed by the Office of Management and Budget in accordance with the clearance requirements of 44 U.S.C. §3507. The applicable Privacy Act system of records is SEC-2, and the routine uses of the records are set forth at 40 Federal Register 39255 (Aug. 27, 1975) and 41 FR 5318 (Feb. 5, 1976).

APPENDIX D

OMB APPROVAL	
OMB Number:	3235-0240
Expires:	June 30, 2003
Estimated average burden hours per response	1.00

Form ADV-NR

APPOINTMENT OF AGENT FOR SERVICE OF PROCESS BY NON-RESIDENT GENERAL PARTNER AND NON-RESIDENT MANAGING AGENT OF AN INVESTMENT ADVISER

You must submit this Form ADV-NR if you are a *non-resident* general partner or a *non-resident managing agent* of any investment adviser (domestic or non-resident). Form ADV-NR must be signed and submitted in connection with the adviser's initial application. If the mailing address you list below changes, you must file an amended Form ADV-NR to provide the current address. If you become a *non-resident* general partner or a *non-resident managing agent* after the date the adviser files its initial application, you must file Form ADV-NR with the Commission within 30 days. If you serve as a general partner or *managing agent* for multiple advisers, you must submit a separate Form ADV-NR for each adviser.

1. Appointment of Agent for Service of Process

By signing this Form ADV-NR, you, the undersigned *non-resident* general partner or *non-resident managing agent* irrevocably appoint each of the Secretary of the SEC, and the Secretary of State, or equivalent officer, of the state in which the adviser referred to in this form maintains its principal office and place of business, if applicable, and any other state in which the adviser is applying for registration, amending its registration, or submitting a *notice filing*, as your agents to receive service, and agree that such persons may accept service on your behalf, of any notice, subpoena, summons, order instituting proceedings, demand for arbitration, or other process or papers, and you further agree that such service may be made by registered or certified mail, in any federal or state action, administrative proceeding or arbitration brought against you in any place subject to the jurisdiction of the United States, if the action, proceeding or arbitration: (a) arises out of any activity in connection with the investment adviser's business that is subject to the jurisdiction of the United States, and (b) is founded, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these acts, or (ii) the laws of the state in which the adviser referred to in this Form maintains its principal office and place of business, if applicable, or of any state in which the adviser is applying for registration, amending its registration, or submitting a *notice filing*.

2. Appointment and Consent: Effect on Partnerships

If you are organized as a partnership, this irrevocable power of attorney and consent to service of process will continue in effect if any partner withdraws from or is admitted to the partnership, provided that the admission or withdrawal does not create a new partnership. If the partnership dissolves, this irrevocable power of attorney and consent shall be in effect for any action brought against you or any of your former partners.

Signature

I, the undersigned *non-resident* general partner or *non-resident managing agent,* certify, under penalty of perjury under the laws of the United States of America, that the information contained in this Form ADV-NR is true and correct and that I am signing this Form ADV-NR as a free and voluntary act.

Signature of Partner or Agent:

_____ Date: _____

Printed Name: _____ Title: _____

Mailing Address of Partner or Agent (no P.O. Boxes):

_____

_____

_____

_____

_____

Signature of Investment Adviser:

_____ Date: _____

Printed Name: _____ Title: _____

Adviser CRD Number: _____

Adviser Name: _____

[FR Doc. 00–23888 Filed 9–21–00; 8:45 am]
BILLING CODE 8010–01–U

Federal Register

Friday,
September 22, 2000

Part III

Department of Housing and Urban Development

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4401–N–04]

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document designates "Difficult Development Areas" for purposes of the Low-Income Housing Tax Credit ("LIHTC") under section 42 of the Internal Revenue Code of 1986 ("the Code"). The United States Department of Housing and Urban Development ("HUD") makes new Difficult Development Area designations annually.

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions: Steven Ehrlich, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–0426, e-mail Steven_R._Ehrlich@hud.gov. For specific legal questions pertaining to section 42 and this notice: Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–3260, e-mail JERRY_GROSS@hud.gov. A text telephone is available for persons with hearing or speech impairments at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at (800) 245–2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about Difficult Development Areas and Qualified Census Tracts are available electronically on the Internet (World Wide Web) at http://www.huduser.org/datasets/qct.html.

SUPPLEMENTARY INFORMATION:

This Document

The designations of Difficult Development Areas in this notice are based on fiscal year ("FY") 2000 Fair Market Rents ("FMRs"), FY 2000 income limits and 1990 census population counts as explained below. The corrected designations of Qualified Census Tracts published on May 1, 1995 (60 FR 21246), as amended by the supplemental designations of Qualified Census tracts published on June 25, 1998 (63 FR 34748), December 9, 1998 (63 FR 68115) and September 15, 1999 (64 FR 50233) are not affected by this notice.

Background

The U.S. Treasury Department and the Internal Revenue Service ("IRS") thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the "Code"), including the Low-Income Housing Tax Credit ("LIHTC") found at section 42 of the Code (26 U.S.C. 42) as amended. The Secretary of HUD is required to designate Difficult Development Areas by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Difficult Development Areas for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD, as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low-income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the "credit ceiling") is limited by population. Each state is allocated credit based on $1.25 per resident. States may carry forward unused or returned credit derived from the credit ceiling for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit. Besides Section 42 credits derived from the credit ceiling, States may also provide Section 42 credits to owners of buildings based upon the percentage of certain building costs financed by tax-exempt bond proceeds. Credits provided under the tax-exempt bond "volume cap" do not reduce the credit available from the credit ceiling.

The credit allocated to a building is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20 percent of units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income ("AMGI"), or 40 percent of units must be rent restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term "rent-restricted" means that gross rent, including an allowance for utilities, cannot exceed 30 percent of the tenant's imputed income limitation (*i.e.*, 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the "qualified basis" for new construction or substantial rehabilitation expenditures that are not federally subsidized (*i.e.*, financed with tax-exempt bonds or below-market federal loans), or (2) 30 percent of the qualified basis for the cost of acquiring certain existing projects or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6 percent maximum marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also deduct the losses from the project.

The qualified basis represents the product of the "applicable fraction" of the building and the "eligible basis" of the building. The applicable fraction is based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space of residential units in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of

buildings located in designated Qualified Census Tracts or designated Difficult Development Areas, eligible basis can be increased up to 130 percent of what it would otherwise be. This means that the available credit also can be increased by up to 30 percent. For example, if the 70 percent credit is available, it effectively could be increased up to 91 percent.

Section 42 of the Code defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20 percent of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all non-metropolitan counties.

Explanation of HUD Designation Methodology

A. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 1990 Census data and the MSA/PMSA definitions as published by the Office of Management and Budget in OMB Bulletin No. 99–04 on June 30, 1999, *with the exceptions described in section C., below.* The basis for these comparisons was the FY 2000 HUD income limits for Very Low Income households and Fair Market Rents ("FMRs") used for the section 8 Housing Assistance Payments Program. The procedure used in making these calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 2000 two-bedroom FMR and the FY 2000 four-person VLIL. The numerator of the ratio was the area's FY 2000 FMR. The denominator of the ratio was the monthly LIHTC income-based rent limit calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where 120 percent of the VLIL was rounded to the nearest $50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent of AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for MSAs/PMSAs and for non-metropolitan counties.

3. The Difficult Development Areas are those with the highest ratios cumulative to 20 percent of the 1990 population of all metropolitan areas and of all non-metropolitan counties.

B. Application of Population Caps to Difficult Development Area Determinations

In identifying Difficult Development Areas and Qualified Census Tracts, HUD applied various caps, or limitations, as noted above. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all metropolitan areas and the cumulative population of nonmetropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all nonmetropolitan counties.

In applying these caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains the procedure. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio as described above was identical (to four decimal places) to the last area selected, *and* its inclusion resulted in only a minor overrun of the cap. Thus for both the designated metropolitan and nonmetropolitan Difficult Development Areas there may be a minimal overrun of the cap. HUD believes the designation of these additional areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to determine whether the 20 percent cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting *small* variances above the 20 percent limit.

C. Exceptions to OMB Definitions of MSAs/PMSAs and Other Geographic Matters

As stated in OMB Bulletin 99–04 defining metropolitan areas:

> OMB establishes and maintains the definitions of the [Metropolitan Areas] solely for statistical purposes * * * OMB does not take into account or attempt to anticipate any nonstatistical uses that may be made of the definitions. * * * We recognize that some legislation specifies the use of metropolitan areas for programmatic purposes, including allocating Federal funds.

HUD makes exceptions to OMB definitions in calculating FMRs by deleting counties from metropolitan areas whose OMB definitions are determined by HUD to be larger than their housing market areas.

The following counties are assigned their own FMRs and VLILs and evaluated as if they were separate metropolitan areas for purposes of designating Difficult Development Areas.

Metropolitan Area and Counties Deleted

Chicago, IL: DeKalb, Grundy, and Kendall Counties.

Cincinnati-Hamilton, OH–KY–IN: Brown County, Ohio; Gallatin, Grant, and Pendleton Counties, Kentucky; and Ohio County, Indiana.

Dallas, TX: Henderson County.

Flagstaff, AZ–UT: Kane County, Utah.

New Orleans, LA: St. James Parish.

Washington, DC–MD–VA–WV: Clarke, Culpeper, King George, and Warren Counties, Virginia; and Berkely and Jefferson Counties, West Virginia.

Affected MSAs/PMSAs are assigned the indicator "(part)" in the list of Metropolitan Difficult Development Areas. Any of the excluded counties designated as difficult development areas separately from their metropolitan areas are designated by the county name.

Finally, in the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) OMB defines MSAs/PMSAs according to county subdivisions or Minor Civil Divisions ("MCDs") rather than county boundaries. Thus, when a New England county is designated as a Nonmetropolitan Difficult Development Area, only that part of the county (the group of MCDs) not included in any MSA/PMSA is the Nonmetropolitan Difficult Development Area. Affected counties are assigned the indicator "(part)" in the list of Nonmetropolitan Difficult Development Areas.

For the convenience of readers of this notice, the geographic definitions of designated Metropolitan Difficult Development Areas and the MCDs included in Nonmetropolitan Difficult Development Areas in the New England states are included in the list of Difficult Development Areas.

Future Designations

Difficult Development Areas are designated annually as updated income

and FMR data become available. Qualified Census Tracts will not be redesignated until data from the 2000 census become available unless changes in MSA/PMSA definitions are made by OMB in the interim.

Effective Date

The list of Difficult Development Areas and the supplemental list of Qualified Census Tracts is effective for allocations of credit made after December 31, 2000. In the case of a building described in section 42(h)(4)(B) of the Code, the list is effective if the bonds are issued and the building is placed in service after December 31, 2000. The corrected designations of Qualified Census Tracts published on May 1, 1995 (60 FR 21246), as amended by the supplemental designations of Qualified Census tracts published on June 25, 1998 (63 FR 34748), December 9, 1998 (63 FR 68115), and September 15, 1999 (64 FR 50233) are not affected by this notice.

Interpretive Examples for Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose Difficult Development Area status with respect to projects described in section 42(h)(4)(B) of the Code. The examples are equally applicable to Qualified Census Tract designations.

(Case A) Project "A" is located in a newly-designated 2001 Difficult Development Area. Bonds are issued for Project "A" on November 1, 2000, and Project "A" is placed in service March 1, 2001. Project "A" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the bonds were issued BEFORE January 1, 2001.

(Case B) Project "B" is located in a newly-designated 2001 Difficult Development Area. Project "B" is placed in service November 15, 2000. The bonds which will support the permanent financing of Project "B" are issued January 15, 2001. Project "B" IS NOT eligible for the increase in basis otherwise accorded a project in this location because the project was placed in service BEFORE January 1, 2001.

(Case C) Project "C" is located in an area which is a Difficult Development Area in 2000, but IS NOT a Difficult Development Area in 2001. Bonds are issued for Project "C" on October 30, 2000, but Project "C" is not placed in service until March 30, 2001. Project "C" is eligible for the increase in basis available to projects located in 2000 Difficult Development Areas because the first of the two events necessary for triggering the effective date for buildings described in section 42(h)(4)(B) of the Code (the two events being bonds issued and buildings placed in service) took place on October 30, 2000, a time when project "C" was located in a Difficult Development Area.

Findings and Certifications

Environmental Impact

In accordance with 24 CFR 50.19(c)(6) of the Department's regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites. Therefore, this notice is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this notice and in so doing certifies that this notice will not have a significant economic impact on a substantial number of small entities. The notice involves the designation of "Difficult Development Areas" as required by section 42 of the Code, as amended, for use by political subdivisions of the States in allocating the LIHTC. This notice places no new requirements on small entities.

Executive Order 13132, Federalism Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating policies that have federalism implications and either impose substantial direct compliance costs on State and local governments and are not required by statute, or preempt State law, unless the relevant requirements of section 6 of the Executive Order are met. This notice does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Dated: September 15, 2000.

Andrew Cuomo,

Secretary.

BILLING CODE 4210–62–P

2001 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
AZ	YUMA, AZ Yuma County		
CA	CHICO-PARADISE, CA Butte County	LOS ANGELES-LONG BEACH, CA Los Angeles County	MERCED, CA Merced County
	SAN DIEGO, CA San Diego County	SAN FRANCISCO, CA San Francisco County Marin County San Mateo County	SAN JOSE, CA Santa Clara County
	SANTA BARBARA-SANTA MARIA-LOMPOC, CA Santa Barbara County	SANTA CRUZ-WATSONVILLE, CA Santa Cruz County	SANTA ROSA, CA Sonoma County
FL	MIAMI, FL Dade County	PUNTA GORDA, FL Charlotte County	

METROPOLITAN AREA and Components
SALINAS, CA Monterey County
SAN LUIS OBISPO-ATASCADERO-PASO ROBLES, CA San Luis Obispo County
VALLEJO-FAIRFIELD-NAPA, CA Napa County Solano County

2001 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

MA	BARNSTABLE-YARMOUTH, MA		BOSTON, MA-NH					
	Barnstable city	Harwich town	Berkley town	Bedford town	Waltham city	Weymouth town		
	Brewster town	Mashpee town	Dighton town	Belmont town	Watertown city	Wrentham town		
	Chatham town	Orleans town	Mansfield town	Boxborough town	Wayland town	Carver town		
	Dennis town	Sandwich town	Norton town	Burlington town	Weston town	Duxbury town		
	Eastham town	Yarmouth town	Taunton city	Cambridge city	Wilmington town	Hanover town		
			Amesbury town	Carlisle town	Winchester town	Hingham town		
			Beverly city	Concord town	Woburn city	Hull town		
			Danvers town	Everett city	Bellingham town	Kingston town		
			Essex town	Framingham town	Braintree town	Marshfield town		
			Gloucester city	Holliston town	Brookline town	Norwell town		
			Hamilton town	Hopkinton town	Canton town	Pembroke town		
			Ipswich town	Hudson town	Cohasset town	Plymouth town		
			Lynn city	Lexington town	Dedham town	Rockland town		
			Lynnfield town	Lincoln town	Dover town	Scituate town		
			Manchester-by-the-Sea	Littleton town	Foxborough town	Wareham town		
			Marblehead town	Malden city	Franklin city	Boston city		
			Middleton town	Marlborough city	Holbrook town	Chelsea city		
			Nahant town	Maynard town	Medfield town	Revere city		
			Newbury town	Medford city	Medway town	Winthrop town		
			Newburyport city	Melrose city	Millis town	Berlin town		
			Peabody city	Natick town	Milton town	Blackstone town		
			Rockport town	Newton city	Needham town	Bolton town		
			Rowley town	North Reading town	Norfolk town	Harvard town		
			Salem city	Reading town	Norwood town	Hopedale town		
			Salisbury town	Sherborn town	Plainville town	Lancaster town		
			Saugus town	Shirley town	Quincy city	Mendon town		
			Swampscott town	Somerville city	Randolph town	Milford town		
			Topsfield town	Stoneham town	Sharon town	Millville town		
			Wenham town	Stow town	Stoughton town	Southborough town		
			Acton town	Sudbury town	Walpole town	Upton town		
			Arlington town	Townsend town	Wellesley town	Seabrook town, NH		
			Ashland town	Wakefield town	Westwood town	South Hampton town, NH		
			Ayer town					
NH	PORTSMOUTH-ROCHESTER, NH-ME							
	Brentwood town	Greenland town	New Castle town	North Hampton town	Barrington town	Lee town	Rollinsford town	Kittery town, ME
	East Kingston town	Hampton town	Newfields town	Portsmouth city	Dover city	Madbury town	Somersworth city	South Berwick town, ME
	Epping town	Hampton Falls town	Newington town	Rye town	Durham town	Milton town	Berwick town, ME	York town, ME
	Exeter town	Kensington town	Newmarket town	Stratham town	Farmington town	Rochester city	Eliot town, ME	
NJ	ATLANTIC-CAPE MAY, NJ		JERSEY CITY, NJ		MONMOUTH-OCEAN, NJ		VINELAND-MILLVILLE-BRIDGETON, NJ	
	Atlantic County	Cape May County	Hudson County		Monmouth County	Ocean County	Cumberland County	

2001 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

NY	DUTCHESS COUNTY, NY Duchess County	NASSAU-SUFFOLK, NY Nassau County Suffolk County	NEW YORK, NY Bronx County Kings County	 New York County Putnam County	 Queens County Richmond County	 Rockland County Westchester County
OR	EUGENE-SPRINGFIELD, OR Lane County	MEDFORD-ASHLAND, OR Jackson County				
PA	STATE COLLEGE, PA Centre County					
PR	AGUADILLA, PR Aguada Municipio Aguadilla Municipio Moca Municipio	CAGUAS, PR Caguas Municipio Gurabo Municipio Cayey Municipio San Lorenzo Mun. Cidra Municipio	MAYAGUEZ, PR Anasco Municipio Cabo Rojo Mun. Hormigueros Mun.	 Mayaguez Municipio Sabana Grande Mu San German Mun.	SAN JUAN-BAYAMON, PR Aguas Buenas Mu. Barceloneta Mun. Bayamon Mun. Canovanas Mun. Carolina Municipio San Juan Mun. Toa Alta Municipio Toa Baja Mun. Trujillo Alto Mun. Vega Alta Mun. Vega Baja Mun. Yabucoa Municipio Catano Municipio Ceiba Municipio Comerio Municipio	 Corozal Municipio Dorado Municipio Fajardo Municipio Florida Municipio Guaynabo Municipio Humacao Municipio Juncos Municipio Las Piedras Mun. Loiza Municipio Luquillo Municipio Manati Municipio Morovis Municipio Naguabo Municipio Naranjito Municipio Rio Grande Municipio
TX	BROWNSVILLE-HARLINGEN-SAN BENITO, TX Cameron County		EL PASO, TX El Paso County		LAREDO, TX Webb County	
WA	BELLINGHAM, WA Whatcom County	RICHLAND-KENNEWIXK-PASCO, WA Benton County Franklin County	YAKAMA, WA Yakima County			

2001 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

STATE	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT	COUNTY OR COUNTY EQUIVALENT
PI	PACIFIC ISLANDS			
AK	ALEUTIANS EAST BOROUGH	BETHEL CENSUS AREA	DILLINGHAM CENSUS AREA	FAIRBANKS NORTH STAR BOROUGH
	HAINES BOROUGH	JUNEAU BOROUGH	KENAI PENINSULA BOROUGH	KETCHIKAN GATEWAY BOROUGH
	KODIAK ISLAND BOROUGH	LAKE AND PENINSULA BOROUGH	MATANUSKA-SUSITNA BOROUGH	NOME CENSUS AREA
	NORTH SLOPE BOROUGH	NORTHWEST ARCTIC BOROUGH	PRINCE OF WALES-OUTER KETCHIKAN CENSUS AREA	SITKA BOROUGH
	VALDEZ-CORDOVA CENSUS AREA	WADE HAMPTON CENSUS AREA	WRANGELL-PETERSBURG CENSUS AREA	YUKON-KOYUKUK CENSUS AREA
AZ	APACHE COUNTY	COCHISE COUNTY	GILA COUNTY	GRAHAM COUNTY
	LA PAZ COUNTY	NAVAJO COUNTY	SANTA CRUZ COUNTY	YAVAPAI COUNTY
AR	BAXTER COUNTY	DREW COUNTY		
CA	ALPINE COUNTY	AMADOR COUNTY	CALAVERAS COUNTY	COLUSA COUNTY
	DEL NORTE COUNTY	GLENN COUNTY	HUMBOLDT COUNTY	IMPERIAL COUNTY
	INYO COUNTY	KINGS COUNTY	LAKE COUNTY	LASSEN COUNTY
	MARIPOSA COUNTY	MENDOCINO COUNTY	MODOC COUNTY	MONO COUNTY
	NEVADA COUNTY	PLUMAS COUNTY	SAN BENITO COUNTY	SIERRA COUNTY
	SISKIYOU COUNTY	TEHAMA COUNTY	TRINITY COUNTY	TUOLUMNE COUNTY
CO	ARCHULETA COUNTY	GARFIELD COUNTY	GRAND COUNTY	LA PLATA COUNTY
	MONTROSE COUNTY	PARK COUNTY	PITKIN COUNTY	SAN MIGUEL COUNTY
CT	LITCHFIELD COUNTY (part) Canaan town Colebrook town Cornwall town Goshen town Kent town Litchfield town Morris town Norfolk town North Canaan town Salisbury town Sharon town Torrington town Warren town		MIDDLESEX COUNTY (part) Chester town Deep River town Essex town Westbrook town	NEW LONDON COUNTY (part) Lyme town Old Lyme town
	TOLLAND COUNTY (part) Union town		WINDHAM COUNTY (part) Brooklyn town Eastford town Hampton town Killingly town Pomfret town Putnam town Scotland town Sterling town Woodstock town	
DE	SUSSEX COUNTY			
FL	CALHOUN COUNTY	CITRUS COUNTY	COLUMBIA COUNTY	DESOTO COUNTY
	DIXIE COUNTY	FRANKLIN COUNTY	GILCHRIST COUNTY	GLADES COUNTY
	GULF COUNTY	HAMILTON COUNTY	HARDEE COUNTY	HENDRY COUNTY
	HIGHLANDS COUNTY	HOLMES COUNTY	INDIAN RIVER COUNTY	JACKSON COUNTY
	JEFFERSON COUNTY	LAFAYETTE COUNTY	LEVY COUNTY	LIBERTY COUNTY
	MADISON COUNTY	MONROE COUNTY	OKEECHOBEE COUNTY	PUTNAM COUNTY
	SUMTER COUNTY	SUWANNEE COUNTY	TAYLOR COUNTY	WAKULLA COUNTY
	WASHINGTON COUNTY			
GA	BUTTS COUNTY			
HI	HAWAII COUNTY	KAUAI COUNTY	MAUI COUNTY	
ID	BONNER COUNTY	KOOTENAI COUNTY		

2001 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

KY

HARLAN COUNTY

KNOX COUNTY

LAUREL COUNTY

LA

NATCHITOCHES PARISH

WEST FELICIANA PARISH

ME

ANDROSCOGGIN COUNTY (part)

- Durham town
- Leeds town
- Livermore town
- Livermore Falls town
- Minot town

AROOSTOOK COUNTY

CUMBERLAND COUNTY (part)

- Baldwin town
- Bridgton town
- Brunswick town
- Harpswell town
- Harrison town
- Naples town
- New Gloucester town
- Pownal town
- Sebago town

FRANKLIN COUNTY

HANCOCK COUNTY

KENNEBEC COUNTY

KNOX COUNTY

LINCOLN COUNTY

OXFORD COUNTY

PISCATAQUIS COUNTY

SAGADAHOC COUNTY

SOMERSET COUNTY

PENOBSCOT COUNTY (part)

- Alton town
- Argyle unorg.
- Bradford town
- Bradley town
- Burlington town
- Carmel town
- Carroll plantation
- Charleston town
- Chester town
- Clifton town
- Corinna town
- Corinth town
- Dexter town
- Dixmont town
- Drew plantation
- East Central Penobscot unorg.
- East Millinocket town
- Edinburg town
- Enfield town
- Etna town
- Exeter town
- Garland town
- Greenbush town
- Greenfield town
- Howland town
- Hudson town
- Kingman unorg.
- Lagrange town
- Lakeville town
- Lee town
- Levant town
- Lincoln town
- Lowell town
- Mattawamkeag town
- Maxfield town
- Medway town
- Millinocket town
- Mount Chase town
- Newburgh town
- North Penobscot unorg
- Newport town
- Passadumkeag town
- Patten town
- Plymouth town
- Prentiss plantation
- Seboeis plantation
- Springfield town
- Stacyville town
- Stetson town
- Twombly unorg.
- Webster plantation
- Whitney unorg.
- Winn town
- Woodville town

WALDO COUNTY (part)

- Belfast city
- Belmont town
- Brooks town
- Burnham town
- Frankfort town
- Freedom town
- Islesboro town
- Jackson town
- Knox town
- Liberty town
- Lincolnville town
- Monroe town
- Montville town
- Morrill town
- Northport town
- Palermo town
- Prospect town
- Searsmont town
- Searsport town
- Stockton Springs town
- Swanville town
- Thorndike town
- Troy town
- Unity town
- Waldo town

YORK COUNTY (part)

- Acton town
- Alfred town
- Arundel town
- Biddeford city
- Cornish town
- Dayton town
- Kennebunk town
- Kennebunkport town
- Lebanon town
- Limerick town
- Lyman town
- Newfield town
- North Berwick town
- Ogunquit town
- Parsonsfield town
- Saco city
- Sanford town
- Shapleigh town
- Waterboro town
- Wells town

WASHINGTON COUNTY

MA

BARNSTABLE COUNTY (part)

- Bourne town
- Falmouth town
- Provincetown town
- Truro town
- Wellfleet town

DUKES COUNTY

FRANKLIN COUNTY (part)

- Ashfield town
- Bernardston town
- Buckland town
- Charlemont town
- Colrain town
- Conway town
- Deerfield town
- Erving town
- Gill town
- Greenfield town
- Hawley town
- Heath town
- Leverett town
- Leyden town
- Monroe town
- Montague town
- New Salem town
- Northfield town
- Orange town
- Rowe town
- Shelburne town
- Shutesbury town
- Warwick town
- Wendell town
- Whately town

HAMPDEN COUNTY (part)

- Blandford town
- Brimfield town
- Chester town
- Granville town
- Tolland town
- Wales town

HAMPSHIRE COUNTY (part)

- Chesterfield town
- Cummington town
- Goshen town
- Middlefield town
- Pelham town
- Plainfield town
- Westhampton town
- Worthington town

NANTUCKET COUNTY

WORCESTER COUNTY (part)

- Athol town
- Hardwick town
- Hubbardston town
- Petersham town
- New Braintree town
- Phillipston town
- Royalston town
- Warren town

MS

ISSAQUENA COUNTY

LAFAYETTE COUNTY

WASHINGTON COUNTY

2001 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

MT	BEAVERHEAD COUNTY	BIG HORN COUNTY	BLAINE COUNTY	BROADWATER COUNTY
	CARBON COUNTY	CARTER COUNTY	CHOUTEAU COUNTY	CUSTER COUNTY
	DANIELS COUNTY	DEER LODGE COUNTY	FERGUS COUNTY	GALLATIN COUNTY
	GARFIELD COUNTY	GLACIER COUNTY	GOLDEN VALLEY COUNTY	GRANITE COUNTY
	JUDITH BASIN COUNTY	LAKE COUNTY	LINCOLN COUNTY	MADISON COUNTY
	MCCONE COUNTY	MEAGHER COUNTY	MINERAL COUNTY	MUSSELSHELL COUNTY
	PARK COUNTY	PETROLEUM COUNTY	PHILLIPS COUNTY	POWDER RIVER COUNTY
	POWELL COUNTY	PRAIRIE COUNTY	RAVALLI COUNTY	RICHLAND COUNTY
	ROOSEVELT COUNTY	SANDERS COUNTY	SHERIDAN COUNTY	TETON COUNTY
	TREASURE COUNTY	VALLEY COUNTY	WHEATLAND COUNTY	WIBAUX COUNTY
NC	WATAUGA COUNTY			
NH	BELKNAP COUNTY	CARROLL COUNTY	CHESHIRE COUNTY	GRAFTON COUNTY
	HILLSBOROUGH COUNTY (part) Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town	MERRIMACK COUNTY (part) Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town	ROCKINGHAM COUNTY (part) Deerfield town, Nottingham town, Northwood town
	STRAFFORD COUNTY (part) Middleton town, Strafford town, New Durham town	SULLIVAN COUNTY	
NV	DOUGLAS COUNTY			
NM	CATRON COUNTY	CIBOLA COUNTY	CURRY COUNTY	DEBACA COUNTY
	GRANT COUNTY	GUADALUPE COUNTY	HARDING COUNTY	LINCOLN COUNTY
	LUNA COUNTY	MCKINLEY COUNTY	MORA COUNTY	QUAY COUNTY
	RIO ARRIBA COUNTY	ROOSEVELT COUNTY	SAN JUAN COUNTY	SAN MIGUEL COUNTY
	SIERRA COUNTY	TAOS COUNTY	UNION COUNTY	
NY	CLINTON COUNTY	COLUMBIA COUNTY	CORTLAND COUNTY	ESSEX COUNTY
	GREENE COUNTY	HAMILTON COUNTY	JEFFERSON COUNTY	SCHUYLER COUNTY
	SULLIVAN COUNTY	TOMPKINS COUNTY	ULSTER COUNTY	

2001 IRC Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

OR	BAKER COUNTY	CLATSOP COUNTY	COOS COUNTY	CROOK COUNTY
	CURRY COUNTY	DESCHUTES COUNTY	DOUGLAS COUNTY	GILLIAM COUNTY
	GRANT COUNTY	HARNEY COUNTY	HOOD RIVER COUNTY	JEFFERSON COUNTY
	JOSEPHINE COUNTY	KLAMATH COUNTY	LAKE COUNTY	LINCOLN COUNTY
	LINN COUNTY	MALHEUR COUNTY	MORROW COUNTY	SHERMAN COUNTY
	TILLAMOOK COUNTY	UMATILLA COUNTY	UNION COUNTY	WALLOWA COUNTY
	WASCO COUNTY	WHEELER COUNTY		
PA	MONROE COUNTY	NORTHUMBERLAND COUNTY	UNION COUNTY	WAYNE COUNTY
PR	All			
RI	NEWPORT COUNTY (part) Middleton town; Portsmouth town; Newport city	WASHINGTON COUNTY (part) New Shoreham town		
SD	BUTTE COUNTY	LAWRENCE COUNTY	MEADE COUNTY	
TX	ARANSAS COUNTY	CAMP COUNTY	HUDSPETH COUNTY	KIMBLE COUNTY
	LLANO COUNTY	REAGAN COUNTY	VAL VERDE COUNTY	WALKER COUNTY
UT	DAGGETT COUNTY	IRON COUNTY	WASHINGTON COUNTY	
VA	CAROLINE COUNTY	WESTMORELAND COUNTY		
VI	ST. CROIX	ST. JOHN'S/ST. THOMAS		
VT	ADDISON COUNTY	BENNINGTON COUNTY	CALEDONIA COUNTY	ESSEX COUNTY
	CHITTENDEN COUNTY (part) Bolton town; Underhill town; Buels gore; Westford town; Huntington town	FRANKLIN COUNTY (part) Bakersfield town; Fairfield town; Highgate town; Richford town; Berkshire town; Fletcher town; Montgomery town; Sheldon town; Enosburg town; Franklin town		GRAND ISLE COUNTY (part) Alburg town; North Hero town; Isle La Motte town
	LAMOILLE COUNTY	ORANGE COUNTY	ORLEANS COUNTY	RUTLAND COUNTY
	WASHINGTON COUNTY	WINDHAM COUNTY	WINDSOR COUNTY	
WA	ADAMS COUNTY	ASOTIN COUNTY	CHELAN COUNTY	CLALLAM COUNTY
	COLUMBIA COUNTY	COWLITZ COUNTY	FERRY COUNTY	GARFIELD COUNTY
	GRANT COUNTY	GRAYS HARBOR COUNTY	JEFFERSON COUNTY	KITTITAS COUNTY
	KLICKITAT COUNTY	LEWIS COUNTY	LINCOLN COUNTY	MASON COUNTY
	OKANOGAN COUNTY	PACIFIC COUNTY	PEND OREILLE COUNTY	SAN JUAN COUNTY
	SKAGIT COUNTY	SKAMANIA COUNTY	STEVENS COUNTY	WAHKIAKUM COUNTY
	WHITMAN COUNTY			
WV	RALEIGH COUNTY			

[FR Doc. 00–24286 Filed 9–21–00; 8:45 am]
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Federal Register

Vol. 65, No. 185

Friday, September 22, 2000

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Presidential Documents

Executive orders and proclamations — **523–5227**

The United States Government Manual — **523–5227**

Other Services

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TTY for the deaf-and-hard-of-hearing — **523–5229**

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

53157–53522 1
53523–53888 5
53889–54138 6
54139–54396 7
54397–54740 8
54741–54942 11
54943–55168 12
55169–55430 13
55431–55884 14
55885–56208 15
56209–56456 18
56457–56772 19
56773–57080 20
57081–57276 21
57277–57536 22

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Memorandums:
September 11, 2000 56209

Presidential Determinations:
Presidential Determination No. 99–36 of September 10, 1999
(see Presidential Determination No. 2000–29 of September 12, 2000)
No. 00–29 of September 12, 2000 55883

Proclamations:

7336 53887
7337 54397
7338 56457
7339 56459
7340 56761
7341 56767
7342 56769
7343 56771

Executive Orders:

5327 (Revoked in part by PLO 7461) 54297
13147 (Amended by EO 13167) 57079
13167 57079

5 CFR

532 55431
2635 55076

Proposed Rules:

2635 53650
2640 53942

7 CFR

246 53523
301 ..... 53528, 54139, 54741, 54943, 55431
457 56773
905 55885
920 54945
927 53531
929 55436
944 54945
1735 54399

Proposed Rules:

226 55102
319 56803
932 54818
983 53652
1218 57104
1940 55784
1945 54973

8 CFR

204 53889
214 56463
245 53889

9 CFR

94 56774
98 56775
318 53531
381 53531

Proposed Rules:

71 57106
75 56807
85 57106
206 53653
317 56262
381 56262
390 56503

10 CFR

1 54948
2 54948
19 54948
30 54948
40 54948
50 54948
51 54948
70 ..... 54948, 56211
72 53533
430 56740

12 CFR

612 54742
614 54742
702 55439
709 55439
747 57277
1710 55169

Proposed Rules:

32 57292
741 55464

13 CFR

121 53533

14 CFR

23 ..... 55848, 56779
25 ..... 55443, 55848
33 55848
39 ..... 53157, 53158, 53161, 53897, 54140, 54143, 54145, 54403, 54407, 54409, 54743, 55175, 55449, 55450, 55452, 55453, 55457, 55891, 56231, 56233, 56236, 56780, 56783, 56785, 57280, 57282
71 ..... 53558, 54950, 54952, 54953, 55076, 56239, 56240, 56466, 56468, 56788, 57081, 57285
95 54744
97 ..... 55458, 57081, 57087
121 56192
125 56192
135 56192
145 56192

400.....56618
401.....56618
404.....56618
405.....56618
406.....56618
413.....56618
415.....56618
431.....56618
433.....56618
435.....56618
450.....56670

Proposed Rules:
23.....56809
25.....56992
39.....53199, 53201, 53203, 53205, 53206, 54182, 54184, 54445, 54820, 54823, 54981, 55466, 55468, 55470, 56264, 56266, 56268, 56270, 56273, 56275, 56276, 56506, 56507, 56509, 56811, 56814, 56817, 56819, 57113, 57296, 57298
71.....54824, 54825, 57116, 57300
91.....56992
121.....56992
125.....56992
135.....56992

15 CFR

738.....55177
742.....55177
746.....55177
774.....55177
960.....56241

Proposed Rules:
801.....57117, 57119
806.....57121, 57123

16 CFR

305.....53163, 53165
1000.....53167

Proposed Rules:
313.....54186
436.....53946

17 CFR

146.....53559
200.....55180, 57438
240.....53560
275.....57438
279.....57438

Proposed Rules:
30.....53946
210.....54189
240.....54189

18 CFR

385.....57088

Proposed Rules:
1304.....56821

19 CFR

4.....56788
10.....53565
12.....53565
18.....53565
24.....53565, 56790
111.....53565
113.....53565
114.....53565
125.....53565
134.....53565
145.....53565
162.....53565
171.....53565
172.....53565
178.....56788

20 CFR

404.....54747
416.....54747
655.....57092

21 CFR

7.....56468
10.....56468
14.....56468
19.....56468
25.....56468
101.....54686, 56468
107.....56468
110.....56468
114.....56468
170.....56468
203.....56480
205.....56480
310.....56468
312.....56468
314.....56468
316.....56468
500.....56468
510.....54147, 55460
514.....56468
520.....53581
573.....53167
558.....53581, 53582, 53583, 54147, 54410, 54411, 55883
601.....56468
803.....56468
814.....56468
860.....56468

Proposed Rules:
101.....56835
201.....56511
868.....57301
896.....57303

22 CFR

22.....54148
40.....54412
42.....54412
203.....54790

24 CFR

5.....55134
401.....53899
903.....55134
982.....55134

25 CFR

Proposed Rules:
103.....53948
292.....55471

26 CFR

1.....53584, 53901, 57092
25.....53587
602.....53584, 56484, 57092

Proposed Rules:
1.....56835

28 CFR

Proposed Rules:
16.....53679
545.....56840
550.....56840, 57126

29 CFR

4022.....55894
4044.....55894

Proposed Rules:
5.....57270

30 CFR

218.....55187
917.....53909
931.....54791

Proposed Rules:
218.....55476
256.....55476
260.....55476
943.....54982

31 CFR

1.....56792
202.....55427
203.....55428
225.....55429
344.....55400
380.....55426

32 CFR

311.....53168
701.....53171
736.....53589
762.....53171
765.....53171
770.....53591

Proposed Rules:
326.....53902
651.....54348

33 CFR

100.....54150, 56484
117.....54795, 54954, 56484, 56793
162.....53593
165.....54152, 54153, 54795, 54797, 56484
167.....53911
401.....56488

Proposed Rules:
26.....56843
161.....56843
165.....56843

34 CFR

3.....57286
19.....57286

Proposed Rules:
303.....53808

36 CFR

51.....54155
242.....55190
1010.....55896

Proposed Rules:
7.....53208
293.....54190
800.....55928

37 CFR

Ch. 1.....56791
1.....54604, 56366, 56791, 57024
3.....54604
5.....54604, 57024
10.....54604

Proposed Rules:
201.....54984
256.....54984
401.....54826

38 CFR

8.....54798
19.....55461
21.....55192

39 CFR

20.....55462, 56242

Proposed Rules:
111.....53212, 56511

40 CFR

9.....55810
51.....56245
52.....53172, 53180, 53181, 53595, 53599, 53602, 54413, 55193, 55196, 55201, 55910, 56251, 56486, 56794, 56797
60.....56798
62.....53605
63.....54419, 55810, 56798
80.....53185, 54423
180.....55911, 55921, 56253
260.....56798
261.....54955, 56798
264.....56798
265.....567980
266.....56798
270.....56798
271.....56798, 57287
300.....56258

Proposed Rules:
50.....54828
51.....56844
52.....53214, 53680, 53962, 54820, 55205, 56278, 56284, 56856, 57127
62.....53680
63.....55332, 55489, 55491
80.....53215, 54447
81.....54828
85.....56844
141.....55362
146.....53218
148.....55684
152.....55929
174.....55929
260.....56287
261.....55684, 56287
268.....55684, 56287
271.....55684, 56287, 56288, 57307
300.....54190, 56288
302.....55684
372.....53681

41 CFR

101-16.....54965
102-5.....54965
Ch. 301.....53470

42 CFR

36.....53914
36a.....53914
447.....55076
457.....55076

Proposed Rules:
52h.....57132
405.....53963
410.....55078
414.....55078

43 CFR

Proposed Rules:
3600.....55864
3610.....55864
3620.....55864

44 CFR

Ch. I.....53914

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 22, 2000

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
South Atlantic snapper-grouper; published 8-23-00

EDUCATION DEPARTMENT
Official seal and national security information procedures; published 9-22-00

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
Ambient air quality standards, national—
Astaris-Idaho LLC elemental phosphorus facility, ID; Fort Hall PM-10 nonattainment area; published 8-23-00

FEDERAL COMMUNICATIONS COMMISSION
Freedom of Information Act; implementation:
Fee schedule; published 8-23-00

INTERIOR DEPARTMENT
Land Management Bureau
General management:
Public administrative procedures—
Local governments; financial assistance; Payments in Lieu of Taxes for entitlement lands; published 8-23-00

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Allison Engine Co.; published 9-7-00
Fairchild; published 9-1-00
Raytheon; published 9-7-00
Rolls-Royce plc; published 9-7-00

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Rulemaking procedures:
Global Technical Regulations, 1998 agreement implementation; agency policy goals and public participation; policy statement; published 8-23-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Oranges, grapefruit, tangerines, and tangelos grown in—
Florida; comments due by 9-25-00; published 9-15-00

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Land Remote Sensing Policy Act of 1992:
Private land remote-sensing space systems; licensing requirements; comments due by 9-29-00; published 7-31-00
Marine mammals:
Incidental taking—
North Pacific Acoustic Laboratory; low frequency sound source operation; comments due by 9-25-00; published 8-24-00

COMMODITY FUTURES TRADING COMMISSION
Commodity Exchange Act:
Futures commission merchants and introducing brokers; minimum financial requirements
Capital charge on unsecured receivables due from foreign brokers; comments due by 9-27-00; published 8-28-00

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Civilian Agency Acquisition Council and Defense Acquisition Regulations Council; definitions for classified acquisitions; comments due by 9-26-00; published 7-28-00
Final contract voucher submission; comments due by 9-25-00; published 7-27-00
North American Industry Classification System; comments due by 9-25-00; published 7-26-00

EDUCATION DEPARTMENT
Postsecondary education:
Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program; comments due by 9-25-00; published 8-10-00
Higher Education Act; Title IV programs; application, reapplication, and certification processes; streamlining, etc.; comments due by 9-25-00; published 8-10-00

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Polymers and resins—
Compliance date (Group IV); indefinite stay; comments due by 9-28-00; published 8-29-00
Compliance date (Group IV); indefinite stay; comments due by 9-28-00; published 8-29-00
Air quality implementation plans; approval and promulgation; various States:
California; comments due by 9-28-00; published 8-29-00
Indiana; comments due by 9-28-00; published 8-29-00
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Michigan; comments due by 9-29-00; published 8-30-00
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 9-25-00; published 7-27-00
National priorities list update; comments due by 9-28-00; published 8-28-00
National priorities list update; comments due by 9-28-00; published 8-28-00

FARM CREDIT ADMINISTRATION
Farm credit system:
Loan policies and operations—
Loan purchases and sales; definitions; comments due by 9-25-00; published 7-26-00

FEDERAL COMMUNICATIONS COMMISSION
Digital television stations; table of assignments:
Maine; comments due by 9-25-00; published 8-7-00
Radio services, special:
Private land mobile services—
Public safety 700 MHz band; comments due by 9-25-00; published 8-25-00
Radio stations; table of assignments:
Vermont; comments due by 9-25-00; published 8-24-00
Television broadcasting:
Cable television systems—
Multichannel video and cable television service; 1998 biennial review; comments due by 9-26-00; published 9-5-00

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Civilian Agency Acquisition Council and Defense Acquisition Regulations Council; definitions for classified acquisitions; comments due by 9-26-00; published 7-28-00
Final contract voucher submission; comments due by 9-25-00; published 7-27-00
North American Industry Classification System; comments due by 9-25-00; published 7-26-00

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Biological products:
In vivo radiopharmaceuticals used for diagnosis and monitoring—
Medical imaging drugs and biologics, development; evaluation and approval; industry guidance; comments due by 9-29-00; published 7-31-00

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Spectacled eider and Steller's eider; comments due by 9-25-00; published 8-24-00

Southwestern Washington/ Columbia River coastal cutthroat trout; take prohibitions clarification; comments due by 9-29-00; published 9-6-00

INTERIOR DEPARTMENT

Hearings and Appeals Office, Interior Department

Hearings and appeals procedures:

Surface coal mining; award of costs and expenses; petitions; comments due by 9-26-00; published 7-28-00

JUSTICE DEPARTMENT

Drug Enforcement Administration

Prescriptions:

Facsimile transmission for patients enrolled in hospice programs; comments due by 9-25-00; published 7-25-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Civilian Agency Acquisition Council and Defense Acquisition Regulations Council; definitins for classified acquisitions; comments due by 9-26-00; published 7-28-00

Final contract voucher submission; comments due by 9-25-00; published 7-27-00

North American Industry Classification System; comments due by 9-25-00; published 7-26-00

NUCLEAR REGULATORY COMMISSION

Radioactive material packaging and transportation:

International Atomic Energy Agency transportation safety standards compatibility, etc.; comments due by 9-30-00; published 7-17-00

Rulemaking petitions:

Union of Concerned Scientists; comments due by 9-25-00; published 7-10-00

Spent nuclear fuel and high-level radoactive waste; independent storage; licening requirements:

FuelSolutions addition; comments due by 9-25-00; published 7-11-00

POSTAL SERVICE

International Mail Manual:

Priority Mail Global Guaranteed; enhanced expedited service from selected U.S.locations to selected European countries and China; amendment; comments due by 9-27-00; published 8-28-00

SECURITIES AND EXCHANGE COMMISSION

Securities, etc.:

Auditor independence requirements; comments due by 9-25-00; published 7-12-00

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Connecticut; comments due by 9-30-00; published 4-27-00

Louisiana; comments due by 9-27-00; published 8-28-00

Massachusetts; comments due by 9-30-00; published 4-27-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Airbus airplanes; digital flight data recorder requirements; revisions; comments due by 9-25-00; published 8-24-00

Airworthiness directives:

Aerospatiale; comments due by 9-28-00; published 8-29-00

Airbus; comments due by 9-25-00; published 8-24-00

Boeing; comments due by 9-25-00; published 7-25-00

British Aerospace; comments due by 9-28-00; published 8-29-00

Dornier; comments due by 9-28-00; published 8-29-00

Empresa Brasileira de Aeronautica, S.A.; comments due by 9-28-00; published 8-29-00

Empressa Brasileira de Aeronautica S.A.; comments due by 9-29-00; published 8-15-00

McDonnell Douglas; comments due by 9-25-00; published 7-27-00

Raytheon; comments due by 9-25-00; published 8-10-00

Class D and Class E airspace; comments due by 9-29-00; published 8-9-00

Class D and Class E airspace; correction; comments due by 9-29-00; published 8-21-00

Class D and Class E4 airspace; comments due by 9-28-00; published 8-29-00

Class E airspace; comments due by 9-29-00; published 8-23-00

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Transportation Equity Act for 21st Century;

Implementation:

Engineering services; State transportation departments; administrative costs eligibility; comments due by 9-25-00; published 7-26-00

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

School bus safety; small business impacts; comments due by 9-29-00; published 9-13-00

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Fair Play, El Dorado County, CA; comments due by 9-25-00; published 7-25-00

TREASURY DEPARTMENT

Currency and foreign transactions; financial reporting and recordkeeping requirements:

Bank Secrecy Act; implementation—

Currency transactions reporting requirement; exemptions; comments due by 9-26-00; published 7-28-00

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:

Signature by mark; comments due by 9-25-00; published 7-26-00

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H.R. 4040/P.L. 106–265

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, provide for the correction of retirement coverage errors under chapters 83 and 84 of such title, and for other purposes. (Sept. 19, 2000; 114 Stat. 762)

Last List August 23, 2000

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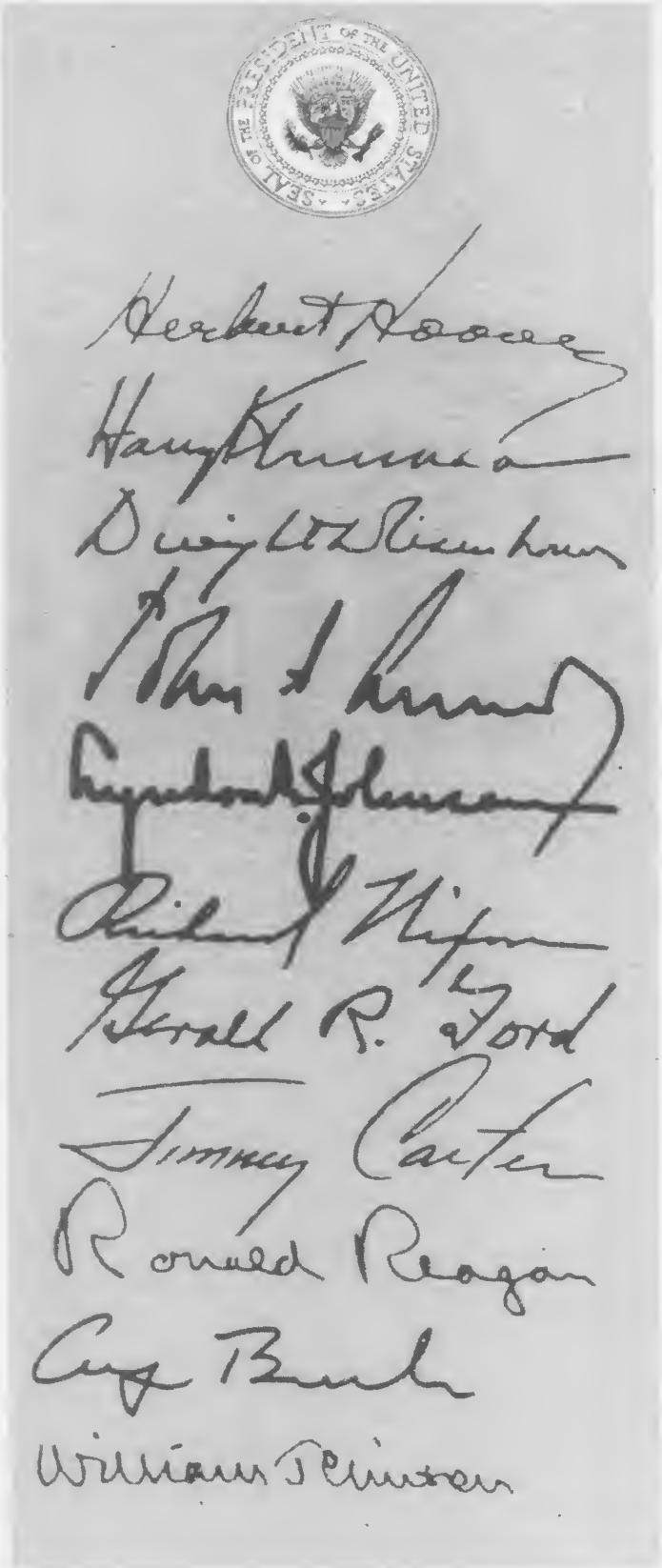

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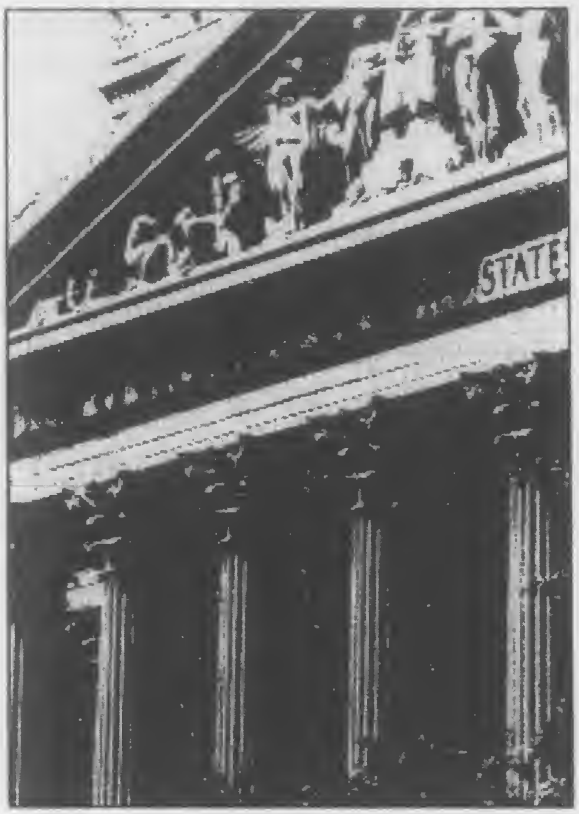

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