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WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, April 4, 2006
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 71, No. 61
Thursday, March 30, 2006

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV05–985–2 FIR A]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for the 2005–2006 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, the provisions of two interim final rules that increased the quantity of Class 1 (Scotch) and Class 3 (Native) spearmint oil that handlers may purchase from, or handle for, producers during the 2005–2006 marketing year. This rule continues in effect the actions that increased the Scotch spearmint oil salable quantity by an additional 385,489 pounds from 677,409 pounds to 1,062,898 pounds, and the allotment percentage by an additional 20 percent from 35 percent to 55 percent. In addition, this rule continues in effect the actions that increased the Native spearmint oil salable quantity by an additional 303,497 pounds from 867,958 pounds to 1,171,455 pounds, and the allotment percentage by an additional 14 percent from 40 percent to 54 percent. The marketing order regulates the handling of spearmint oil produced in the Far West and is administered locally by the Spearmint Oil Administrative Committee (Committee). The Committee recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices and to help maintain stability in the Far West spearmint oil market.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: Susan M. Hiller, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The initial salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2005–2006 marketing year was recommended by the Committee at its October 6, 2004, meeting. The Committee recommended salable quantities of 677,409 pounds and 867,958 pounds, and allotment percentages of 35 percent and 40 percent, respectively, for Scotch and Native spearmint oil. A proposed rule was published in the **Federal Register** on January 12, 2005 (70 FR 2027). Comments on the proposed rule were solicited from interested persons until February 11, 2005. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2005–2006 marketing year was published in the **Federal Register** on March 24, 2005 (70 FR 14969).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, the Committee has made recommendations to increase the quantity of Scotch and Native spearmint oil that handlers may purchase from, or handle for, producers during the 2005–2006 marketing year, which ends on May 31, 2006. The first revision was published as an interim final rule in the **Federal Register** on September 23, 2005 (70 FR 55713), which increased the 2005–2006 marketing year salable quantities and allotment percentages for Scotch and Native spearmint oil to 1,062,898 pounds and 55 percent, and 1,019,600 pounds and 47 percent, respectively. The second revision was published as an amended interim final rule in the **Federal Register** on December 5, 2005 (70 FR 72355), which further increased the Native spearmint oil salable quantity by an additional 151,855 pounds from 1,019,600 pounds to 1,171,455 pounds and the allotment percentage by an additional 7 percent from 47 percent to 54 percent. The Committee did not make a recommendation to increase the Scotch

spearmint oil salable quantity or allotment percentage by an additional amount due to stable market conditions.

Thus, taking into consideration the following discussion on adjustments, the 2005–2006 marketing year salable quantity and allotment percentage for Scotch spearmint oil is increased to 1,062,898 pounds and 55 percent, respectively. The 2005–2006 marketing year salable quantity and allotment percentage for Native spearmint oil is increased to 1,171,455 pounds and 54 percent, respectively.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during the marketing year. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's individual allotment base for the applicable class of spearmint oil.

The total industry allotment base for Scotch spearmint oil for the 2005–2006 marketing year was estimated by the Committee at the October 6, 2004, meeting at 1,935,455 pounds. This was later revised at the beginning of the 2005–2006 marketing year to 1,932,542 pounds to reflect a 2004–2005 marketing year loss of 2,913 pounds of base due to non-production of some producers' total annual allotments. When the revised total allotment base of 1,932,542 pounds is applied to the originally established allotment percentage of 35 percent, the initially established 2005–2006 marketing year salable quantity of 677,409 pounds is effectively modified to 676,390 pounds.

The same situation applies to Native spearmint oil where the Committee estimated that the total industry allotment base for the 2005–2006 marketing year was 2,169,894 pounds, and was revised at the beginning of the 2005–2006 marketing year to 2,169,362 pounds to reflect a 2004–2005 marketing year loss of 532 pounds of base due to non-production of some producers' total annual allotments. When the revised total allotment base of 2,169,362 pounds is applied to the originally established allotment percentage of 40 percent, the initially established 2005–2006 marketing year salable quantity of 867,958 pounds is effectively modified to 867,745 pounds.

By increasing the salable quantity and allotment percentage, this final rule adopts the provisions of two interim final rules that made an additional amount of Scotch and Native spearmint oil available by releasing oil from the reserve pool. When applied to each individual producer, this allotment percentage increase allows each producer to take up to an amount equal to their allotment base from their respective oil reserve. In addition, pursuant to §§ 985.56 and 985.156, producers with excess oil are not able to transfer such excess oil to other producers to fill deficiencies in annual allotments after October 31 of each marketing year.

The following table summarizes the Committee recommendation:

Scotch Spearmint Oil Recommendation

(A) Estimated 2005–2006 Allotment Base—1,935,455 pounds. This is the estimate on which the original 2005–2006 Scotch spearmint oil salable quantity and allotment percentage was based.

(B) Revised 2005–2006 Allotment Base—1,932,542 pounds. This is 2,913 pounds less than the estimated allotment base of 1,935,455 pounds. This is less because some producers failed to produce all of their 2004–2005 allotment.

(C) Initial 2005–2006 Allotment Percentage—35 percent. This was recommended by the Committee on October 6, 2004.

(D) Initial 2005–2006 Salable Quantity—677,409. This figure is 35 percent of 1,935,455 pounds.

(E) Initial Adjustment to the 2005–2006 Salable Quantity—676,390 pounds. This figure reflects the salable quantity initially available after the beginning of the 2005–2006 marketing year due to the 2,913 pound reduction in the industry allotment base to 1,932,542 pounds.

(F) First Revision to the 2005–2006 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—20 percent. The Committee recommended a 20 percent increase at its August 24, 2005, meeting.

(2) 2005–2006 Allotment Percentage—55 percent. This figure is derived by adding the increase of 20 percent to the initial 2005–2006 allotment percentage of 35 percent.

(3) Calculated Revised 2005–2006 Salable Quantity—1,062,898 pounds. This figure is 55 percent of the revised 2005–2006 allotment base of 1,932,542 pounds.

(4) Computed Increase in the 2005–2006 Salable Quantity—386,508 pounds. This figure is 20 percent of the revised 2005–2006 allotment base of 1,932,542 pounds.

(G) No Second Revision to the 2005–2006 Salable quantity and Allotment Percentage.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and reports given by the Committee manager from handlers who were not in attendance. The 2005–2006 marketing year began on June 1, 2005. Handlers have reported purchases and committed sales of 861,579 pounds of Scotch spearmint oil for the period of June 1, 2005, through February 21, 2006. This amount is 117 percent of the total sales for the five-year average of 736,991 pounds. Handlers estimated the total demand for the 2005–2006 marketing year could be between 917,745 pounds to 937,745 pounds. These amounts exceed the five-year average for an entire marketing year by 180,754 pounds to 200,754 pounds. Therefore, based on past history, the industry may not be able to meet market demand without this increase. When the Committee made its initial recommendation for the establishment of the Scotch spearmint oil salable quantity and allotment percentage for the 2005–2006 marketing year, it had anticipated that the year would end with an ample available supply.

Native Spearmint Oil Recommendation

(A) Estimated 2005–2006 Allotment Base—2,169,894 pounds. This is the estimate on which the original 2005–2006 Native spearmint oil salable quantity and allotment percentage was based.

(B) Revised 2005–2006 Allotment Base—2,169,362 pounds. This is 532 pounds less than the estimated allotment base of 2,169,894 pounds. This is less because some producers failed to produce all of their 2004–2005 allotment.

(C) Initial 2005–2006 Allotment Percentage—40 percent. This was recommended by the Committee on October 6, 2004.

(D) Initial 2005–2006 Salable Quantity—867,958. This figure is 40 percent of 2,169,894 pounds.

(E) Initial Adjustment to the 2005–2006 Salable Quantity—867,745 pounds. This figure reflects the salable quantity initially available after the beginning of the 2005–2006 marketing year due to the 532 pound reduction in the industry allotment base to 2,169,362 pounds.

(F) First Revision to the 2005–2006 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—7 percent. The Committee

recommended a 7 percent increase at its August 24, 2005, meeting.

(2) 2005–2006 Allotment Percentage—47 percent. This figure is derived by adding the increase of 7 percent to the initial 2005–2006 allotment percentage of 40 percent.

(3) Calculated Revised 2005–2006 Salable Quantity—1,019,600 pounds. This figure is 47 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

(4) Computed Increase in the 2005–2006 Salable Quantity—151,855 pounds. This figure is 7 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

(G) Second Revision to the 2005–2006 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—7 percent. The Committee recommended a 7 percent increase at its October 5, 2005, meeting.

(2) 2005–2006 Allotment Percentage—54 percent. This figure is derived by adding the increase of 7 percent to the first revised 2005–2006 allotment percentage of 47 percent.

(3) Calculated Revised 2005–2006 Salable Quantity—1,171,455 pounds. This figure is 54 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

(4) Computed Increase in the 2005–2006 Salable Quantity—151,855 pounds. This figure is 7 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and reports given by the Committee manager from handlers who were not in attendance. The 2005–2006 marketing year began on June 1, 2005. Handlers have reported purchases and committed sales of 1,060,441 pounds of Native spearmint oil for the period of June 1, 2005, through February 21, 2006. This amount is 110 percent of the total sales for the five-year average of 962,377 pounds. Handlers estimated the total demand for the 2005–2006 marketing year could be between 1,100,000 pounds to 1,300,000 pounds. These amounts exceed the five-year average for an entire marketing year by 137,623 pounds to 337,623 pounds. Therefore, based on past history, the industry may not be able to meet market demand without these increases. When the Committee made its initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 2005–2006 marketing year, it had anticipated that the year would end with an ample available supply.

Based on its analysis of available information, USDA has determined that the salable quantity and allotment percentage for Scotch spearmint oil for the 2005–2006 marketing year should be increased to 1,062,898 pounds and 55 percent, respectively. In addition, USDA has determined that the salable quantity and allotment percentage for Native spearmint oil for the 2005–2006 marketing year should be increased to 1,171,455 pounds and 54 percent, respectively.

This rule finalizes two interim final rules that relaxed the regulation of Scotch and Native spearmint oil and will allow producers to meet market needs and improve returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 2005–2006 marketing year has been reviewed by USDA. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of § 985.50 of the order. During its discussion of revising the 2005–2006 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" has also been reviewed and confirmed.

The increases in the Scotch and Native spearmint oil salable quantities and allotment percentages allows for anticipated market needs for both classes of oil. In determining anticipated market needs, consideration by the Committee included historical sales, and changes and trends in production and demand.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are eight spearmint oil handlers subject to regulation under the order, and approximately 59 producers of Scotch spearmint oil and approximately 91 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on the SBA's definition of small entities, the Committee estimates that 2 of the 8 handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 19 of the 59 Scotch spearmint oil producers and 21 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most

spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk to market fluctuations. Such small producers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternative crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This final rule adopts, without change, the provisions of the interim final rule published in the **Federal Register** on September 23, 2005 (70 FR 55713) and amended on December 5, 2005 (70 FR 72355). Specifically, the rule published on September 23, 2005, increased the 2005–2006 marketing year salable quantities and allotment percentages for Scotch and Native spearmint oil to 1,062,898 pounds and 55 percent, and 1,019,600 pounds and 47 percent, respectively. The rule that subsequently amended the interim final rule was published on December 5, 2005, increased the Native spearmint oil salable quantity by an additional 151,855 pounds from 1,019,600 pounds to 1,171,455 pounds, and the allotment percentage by an additional 7 percent from 47 percent to 54 percent. The Committee did not make a recommendation to further increase the Scotch spearmint oil salable quantity or allotment percentage due to stable market conditions. This rule finalizes two interim final rules that relaxed the Scotch and Native spearmint oil volume regulations and allows producers to meet market needs and improve returns.

An econometric model was used to assess the impact that volume control has on the prices producers receive for their commodity. Without volume control, spearmint oil markets would likely be over-supplied, resulting in low producer prices and a large volume of oil stored and carried over to the next crop year. The model estimates how much lower producer prices would likely be in the absence of volume controls.

The recommended allotment percentages, upon which 2005–2006 producer allotments are based, are 55 percent for Scotch (a 20 percentage point increase from the original allotment percentage of 35 percent) and 54 percent for Native (a 14 percentage point increase from the original salable percentage of 40 percent). Without volume controls, producers would not be limited to these allotment levels, and could produce and sell additional spearmint oil. The econometric model estimated a $1.32 decline in the season average producer price per pound (for both classes of spearmint oil) resulting from the higher quantities that would be produced and marketed if volume controls were not used (*i.e.*, if the salable percentages were set at 100 percent).

Loosening the volume control restriction by increasing the allotment percentages resulted in this revised price decline estimate of $1.32 per pound if volume controls were not used. The initial price decline estimate of $1.60 per pound was based on the 2005–2006 allotment percentages (35 percent for Scotch and 40 percent for Native) published in the **Federal Register** on March 24, 2005 (70 FR 14969). The 2004 Far West producer price for both classes of spearmint oil was $9.48 per pound.

The surplus situation for the spearmint oil market that would exist without volume controls in 2005–2006 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume controls allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume controls is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

Based on projections available at the meetings, the Committee considered alternatives to each of the increases finalized herein. The Committee not only considered leaving the salable quantity and allotment percentage unchanged, but also looked at various increases ranging from 0 percent to 100 percent. The Committee reached each of its recommendations to increase the salable quantity and allotment percentage for Scotch and Native spearmint oil after careful consideration of all available information, and believes that the levels recommended will achieve the objectives sought. Without the increases, the Committee believes the industry would not be able to meet market needs.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate in Committee deliberations. Like all Committee meetings, the August 24, 2005, and October 5, 2005, meetings were public meetings and all entities, both large and small, were able to express their views on modification of the 2005–2006 salable quantities and allotment percentages.

The first revision was published as an interim final rule in the **Federal Register** on September 23, 2005. Comments on the interim final rule were solicited from interested persons until November 22, 2005. No comments were received. The second revision was published as an amended interim final rule in the **Federal Register** on December 5, 2005. Comments on the amended interim final rule were solicited from interested persons until February 3, 2006. No comments were received. Copies of each of these rules were mailed by the Committee's staff to all committee members, producers, handlers, and other interested persons. In addition, each of these rules was made available through the Internet by USDA and the Office of the Federal Register.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that

finalizing the interim final rules, without change, as published in the **Federal Register** (70 FR 55713, September 23, 2005, and 70 FR 72355, December 5, 2005) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ Accordingly, the interim final rules amending 7 CFR part 985, which were published at 70 FR 55713 on September 23, 2005 and 70 FR 72355 on December 5, 2005, are adopted as a final rule without change.

Dated: March 27, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–3080 Filed 3–29–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20110; Directorate Identifier 2004–NM–114–AD; Amendment 39–14531; AD 2006–07–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD requires repetitive general visual inspections for dirt, debris, and drain blockage and cleaning of the aft fairing cavities of the engine struts; and modification of the aft fairings, which terminates the repetitive general visual inspections. This AD results from a report indicating that water had accumulated in the cavities of the engine strut aft fairings. We are issuing this AD to prevent drain blockage by debris that, when combined with leaking, flammable fluid lines passing through the engine strut aft fairing, could allow flammable fluids to build up in the cavity of the aft fairing, and consequently could be ignited by the engine exhaust nozzle located below the engine strut, resulting in an explosion or uncontrolled fire.

DATES: This AD becomes effective May 4, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 4, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6504; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. That NPRM was published in the **Federal Register** on January 24, 2005 (70 FR 3320). That NPRM proposed to require repetitive general visual inspections for dirt, debris, and drain blockage and cleaning of the aft fairing cavities of the engine struts; and modification of the aft fairings, which would terminate the repetitive general visual inspections.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Support for NPRM

Southwest Airlines and AirTran Airways support the NPRM.

Request To Revise Dimension Between Certain Fastener Holes

Alaska Airlines requests that we revise the dimension between certain fastener holes specified in Figures 3, 4, 5, and 6 of Boeing Special Attention Service Bulletin 737–54–1041, dated January 22, 2004. Alaska Airlines states that the dimension between an existing fastener hole and the new fastener hole is called out in the ten-thousandths (1.6772 inches); any deviation from this exact measurement would require approval of an alternative method of compliance (AMOC). Alaska Airlines suggests dimensions of 1.67 or 1.68 inches with a standard tolerance of ±0.03 inch. If we cannot revise the dimension, the commenter instead requests that we clarify why such a tight tolerance would be required.

We agree with Alaska Airlines' request, since there is no technical justification for requiring such a tight tolerance between fastener holes. Since issuance of the NPRM, Boeing has published Service Bulletin 737–54–1041, Revision 1, dated December 1, 2005. The procedures in Revision 1 of the service bulletin are essentially the same as those in the original issue, dated January 22, 2004, which we referenced in the NPRM as the appropriate source of service information. Revision 1 allows a dimension of 1.647 inches to 1.707 inches between fastener holes. Therefore, we have revised this AD to also allow use of Revision 1 for accomplishing the actions specified in this AD. We have also revised paragraph (c) of this AD to reference Revision 1. Since the effectivity of Revision 1 is the same as the effectivity of the original issue, the applicability of this AD has not changed.

Clarification of AMOC Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 1,406 airplanes worldwide and about 549 U.S.-registered airplanes. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle.	2	$65	None	$130, per inspection cycle.	549	$71,370, per inspection cycle.
Modification	5	65	$294	$619	549	$339,831.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–07–04 Boeing: Amendment 39–14531. Docket No. FAA–2005–20110; Directorate Identifier 2004–NM–114–AD.

Effective Date

(a) This AD becomes effective May 4, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category; as listed in Boeing Service Bulletin 737–54–1041, Revision 1, dated December 1, 2005.

Unsafe Condition

(d) This AD was prompted by a report indicating that water had accumulated in the cavities of the engine strut aft fairings. We are issuing this AD to prevent drain blockage by debris that, when combined with leaking, flammable fluid lines passing through the engine strut aft fairing, could allow flammable fluids to build up in the cavity of the aft fairing, and consequently could be ignited by the engine exhaust nozzle located below the engine strut, resulting in an explosion or uncontrolled fire.

Compliance

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

Service Bulletin Reference

(f) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–54–1041, dated January 22, 2004; or Boeing Service Bulletin 737–54–1041, Revision 1, dated December 1, 2005.

Repetitive Inspections of the Engine Strut Aft Fairings

(g) Within 4,000 flight cycles or within 30 months after the effective date of this AD, whichever occurs first: Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a general visual inspection for dirt, debris, and drain blockage and clean the aft fairing cavity of the left engine strut, in accordance with Part I of the service bulletin, except as provided by paragraph (h) of this AD. Thereafter at intervals not to exceed 4,000 flight cycles or 30 months, whichever occurs first: Repeat the inspection until the aft fairing of the left engine strut has been modified in accordance with paragraph (i)(1) of this AD.

(2) Do a general visual inspection for dirt, debris, and drain blockage and clean the aft fairing cavity of the right engine strut, in accordance with Part II of the service bulletin, except as provided by paragraph (h) of this AD. Thereafter at intervals not to exceed 4,000 flight cycles or 30 months, whichever occurs first: Repeat the inspection until the aft fairing of the right engine strut has been modified in accordance with paragraph (i)(2) of this AD.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Approved Equivalent Procedure

(h) If the service bulletin specifies that the general visual inspection and cleaning of the aft fairing cavity of the left or right engine strut may be accomplished per an "approved equivalent procedure": The general visual inspection or cleaning must be accomplished in accordance with the chapter of the Boeing 737–600/700/800/900 Airplane Maintenance Manual specified in the service bulletin.

Modification of the Engine Strut Aft Fairings

(i) Within 9,000 flight cycles after the effective date of this AD, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) Modify the aft fairing of the left engine strut, in accordance with Part III of the service bulletin; and after accomplishing the modification but before further flight, inspect and clean the drain system of the aft fairing in accordance with Part I of the service bulletin. This modification terminates the repetitive inspections required by paragraph (g)(1) of this AD.

(2) Modify the aft fairing of the right engine strut, in accordance with Part IV of the service bulletin; and after accomplishing the modification but before further flight, inspect and clean the drain system of the aft fairing in accordance with Part II of the service bulletin. This modification terminates the repetitive inspections required by paragraph (g)(2) of this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Material Incorporated by Reference

(k) You must use Boeing Special Attention Service Bulletin 737–54–1041, dated January 22, 2004; or Boeing Service Bulletin 737–54–1041, Revision 1, dated December 1, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2958 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22456; Directorate Identifier 2005–NM–128–AD; Amendment 39–14530; AD 2006–07–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A321–100 and –200 Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A321–100 and –200 series airplanes. This AD requires replacing the crashworthiness pins on the side-stay of the main landing gear (MLG) with new pins having an increased internal notch diameter. This AD results from testing on the side-stay crashworthiness pins on the MLG, which revealed that, in the case of an emergency landing, the crashworthiness pins installed will not ensure a correct MLG collapse. We are issuing this AD to prevent a punctured fuel tank, which could cause damage to the airplane or injury to passengers.

DATES: This AD becomes effective May 4, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 4, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A321–100 and –200 series airplanes. That NPRM was published in the **Federal Register** on September 19, 2005 (70 FR 54854). That NPRM proposed to require replacing the crashworthiness pins on the side-stay of the main landing gear (MLG) with new pins having an increased internal notch diameter.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Refer to Parts Manufacturer Approval (PMA) Parts

One commenter requests that we change the language in the proposed AD to permit installation of PMA equivalent parts. The commenter notes that it is possible that a new and improved PMA version of the defective original part may already exist in the marketplace. The commenter states that the mandated installation of a certain part number "places the AD in conflict with existing law (FAR 21.303)," which permits the installation of other (PMA) parts.

We infer that the commenter would like the AD to permit installation of any equivalent PMA parts so that it would not be necessary for an operator to request approval of an alternative method of compliance (AMOC) in order to install an "equivalent" PMA part. Whether an alternative part is "equivalent" in adequately resolving the unsafe condition can be determined only on a case-by-case basis based on a complete understanding of the unsafe condition. We are not currently aware of any such parts. According to our policy, in order for operators to replace a part with one that is not specified in the AD, they must request an AMOC. This is necessary so that we can make a specific determination that an alternative part is

or is not susceptible to the same unsafe condition.

The commenter's statement regarding a "conflict with existing law (FAR 21.303)," under which the FAA issues PMAs, appears to reflect a misunderstanding of the relationship between ADs and the certification procedural regulations of part 21 of the Federal Aviation Regulations (14 CFR part 21). Those regulations, including section 21.303 of the Federal Aviation Regulations (14 CFR 21.303), are intended to ensure that aeronautical products and parts are safe. But ADs are issued when, notwithstanding those procedures, we become aware of unsafe conditions in these products or parts. Therefore, an AD takes precedence over other "approvals" when we identify an unsafe condition, and mandating installation of a certain part number in an AD does not conflict with section § 21.303.

The AD provides a means of compliance for operators to ensure that the identified unsafe condition is addressed appropriately. For an unsafe condition attributable to a part, the AD normally identifies the replacement parts necessary to obtain that compliance. As stated in section 39.7 of the Federal Aviation Regulations (14 CFR 39.7), "Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section." Unless an operator obtains approval for an AMOC, replacing a part with one not specified by the AD would make the operator subject to an enforcement action and result in a civil penalty. We have not changed this final rule regarding this issue.

Request To Address Defective PMA Parts

The same commenter also requests that the proposed AD be revised to cover potentially defective PMA alternative parts, rather than just a single part number, so that those defective PMA parts also are subject to the proposed AD.

We concur with the commenter's general request that, if we know that an unsafe condition might exist in PMA parts, the AD should address those parts, as well as the original parts. The commenter's remarks are timely in that the Transport Airplane Directorate is in the process of reviewing this issue as it applies to transport category airplanes. We acknowledge that there may be other ways of addressing this issue to ensure that unsafe PMA parts are identified and addressed. Once we have thoroughly examined all aspects of this issue, including input from industry, and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. We have determined that an unsafe condition exists and that certain parts must be replaced to ensure continued safety, so we consider delaying this AD action inappropriate. We have not changed this final rule regarding this issue.

Comment Regarding Fleet Status

The manufacturer reports that the sole affected U.S. airplane, and 83 out of 108 airplanes worldwide, have been retrofitted with the new crashworthiness pins—mitigating the impact of this AD on the fleet.

Clarification of AMOC Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the change described previously. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

As stated previously, the manufacturer advises that the sole U.S.-registered airplane is in compliance with the requirements of this AD. Therefore, this AD currently imposes no additional financial burden on any U.S. operator.

The following table provides the estimated costs that would be incurred by any unmodified airplane imported and placed on the U.S. Register in the future:

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane
Pin replacement	2	$65	$0	$130

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–07–03 Airbus: Amendment 39–14530. Docket No. FAA–2005–22456; Directorate Identifier 2005–NM–128–AD.

Effective Date

(a) This AD becomes effective May 4, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A321–111, –112, and –131 airplanes; and Model A321–211 and –231 airplanes; certificated in any category; including airplanes modified in production by Airbus Modification 24982, but excluding airplanes modified in production by Airbus Modification 30046.

Unsafe Condition

(d) This AD results from testing on the side-stay crashworthiness pins on the main landing gear (MLG), which revealed that, in the case of an emergency landing, the crashworthiness pins installed will not ensure a correct MLG collapse. We are issuing this AD to prevent a punctured fuel tank, which could cause damage to the airplane or injury to passengers.

Compliance

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

Pin Replacement

(f) Within 27 months after the effective date of this AD, replace any crashworthiness pin having part number 201525620 with part number 201525621, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–32–1229, dated August 9, 2001.

Note 1: Airbus Service Bulletin A320–32–1229 refers to Messier-Dowty Service Bulletin 201–32–26, dated July 20, 2001, as an additional source of service information for replacing the crashworthiness pins.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(h) French airworthiness directive 2002–074(B) R1, dated March 20, 2002, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A320–32–1229, dated August 9, 2001, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2959 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20628; Directorate Identifier 2004–NM–51–AD; Amendment 39–14529; AD 2006–07–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–301, –311, and –315 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier Model DHC–8–301, –311, and –315 airplanes. This AD requires replacing the pressure control valve of the Type 1 emergency door. This AD results from reports that the pressure control valve of the Type 1 emergency door is susceptible to freezing. We are issuing this AD to ensure that the pressure control valve does not freeze and prevent the door seal from deflating, which could result in the inability to open the door in an emergency.

DATES: This AD becomes effective May 4, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 4, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC.

Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Bombardier Model DHC–8–301, –311, and –315 airplanes. That NPRM was published in the **Federal Register** on March 17, 2005 (70 FR 12981). That NPRM proposed to require replacing the pressure control valve of the Type 1 emergency door.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments from the single commenter that have been received on the NPRM.

Request To Reference Parts Manufacturer Approval (PMA) Parts

The commenter, Modification and Replacement Parts Association (MARPA), requests that the language in the NPRM be changed to permit installation of PMA equivalent parts.

We infer that MARPA would like the AD to permit installation of any equivalent PMA parts so that it is not necessary for an operator to request approval of an alternative method of compliance (AMOC) in order to install an "equivalent" PMA part. Whether an alternative part is "equivalent" in adequately resolving the unsafe condition can only be determined on a case-by-case basis based on a complete understanding of the unsafe condition. We are not currently aware of any such parts. Our policy is that, in order for operators to replace a part with one that is not specified in the AD, they must request an AMOC. This is necessary so that we can make a specific determination that an alternative part is or is not susceptible to the same unsafe condition.

The AD provides a means of compliance for operators to ensure that the identified unsafe condition is addressed appropriately. For an unsafe condition attributable to a part, the AD normally identifies the replacement parts necessary to obtain that compliance. As stated in section 39.7 of the Federal Aviation Regulations (14 CFR 39.7), "Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section." Unless an operator obtains approval for an AMOC, replacing a part with one not specified by the AD would make the operator subject to an enforcement action and result in a civil penalty. No change to the final rule is necessary in this regard.

Request To Address Defective PMA Parts

MARPA also requests that the NPRM be changed to identify affected defective parts by manufacturer name and part number, as well as by Bombardier part number, so that defective PMA parts are also subject to the proposed AD. MARPA notes that "it is possible that alternative parts approved under Canadian MOT PDA provisions or FAA PMA (14 CFR 21.303(a)) provisions may exist." MARPA states that PMA manufacturers are encouraged to identify PMA parts by alternative designations different from the original equipment manufacturer (OEM) parts for which they are approved replacements. Therefore, MARPA asserts that a regulatory loophole is created if a "defective" PMA part is installed, because only the OEM part will be identified in the manufacturer service information.

We concur with the MARPA's general request that, if we know that an unsafe condition also exists in PMA parts, the AD should address those parts, as well as the original parts. However, as we stated previously, we are not aware of any such parts relating to this AD. MARPA's remarks are timely in that the Transport Airplane Directorate currently is in the process of reviewing this issue as it applies to transport category airplanes. We acknowledge that there may be other ways of addressing this issue to ensure that unsafe PMA parts are identified and addressed. Once we have thoroughly examined all aspects of this issue, including input from industry, and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety. Therefore, no change has been made to the final rule in this regard.

Addition of New Service Information

Since we issued the NPRM, we have received Revision A of Bombardier Service Bulletin 8–52–60, dated April 28, 2003. This service bulletin was issued to update Material—Price and Availability information and to inform operators that Bombardier Drawing 8Z4036, listed as a reference, was revised to show a new orientation of one bracket and clamp on View C–C. We have revised paragraph (f) of the final rule to reference Revision A of the service bulletin, added a new paragraph (g) to give operators credit for accomplishing the required actions before the effective date of the AD, and re-identified subsequent paragraphs accordingly.

Clarification of AMOC Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD will affect about 13 airplanes of U.S. registry. The required actions will take about 6 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will cost about $700 per airplane. Based on these figures, the estimated cost of the AD for U.S. operators is $14,170, or $1,090 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–07–02 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–14529. Docket No. FAA–2005–20628; Directorate Identifier 2004–NM–51–AD.

Effective Date

(a) This AD becomes effective May 4, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–301, –311, and –315 airplanes, certificated in any category, serial numbers 100 through 593 inclusive.

Unsafe Condition

(d) This AD results from reports that the pressure control valve of the Type 1 emergency door is susceptible to freezing. We are issuing this AD to ensure that the pressure control valve does not freeze and prevent the door seal from deflating, which could result in the inability to open the door in an emergency.

Compliance

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

Replace Pressure Control Valve

(f) Within 30 months after the effective date of this AD, replace the pressure control valve of the Type 1 emergency door by incorporating ModSum 8Q101159 in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–52–60, Revision A, dated April 28, 2003.

Replacement According to Previous Issue of Service Bulletin

(g) Replacing the pressure control valve of the Type 1 emergency door is also acceptable for compliance with the requirements of paragraph (f) of this AD if done before the effective date of this AD in accordance the Accomplishment Instructions of Bombardier Service Bulletin 8–52–60, dated August 28, 2002.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) Canadian airworthiness directive CF–2003–04, dated February 3, 2003, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Bombardier Service Bulletin 8–52–60, Revision A, dated April 28, 2003, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2960 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23142; Directorate Identifier 2005–NM–154–AD; Amendment 39–14532; AD 2006–07–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–131, –132, and –133; A320–232 and –233; and A321–131, –231, and –232 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A319–131, –132, and –133; A320–232 and –233; and A321–131, –231, and –232 airplanes. This AD requires inspecting for cracks or failure of the primary load path components of the engine forward mount, and corrective action if necessary. This AD also requires removing, re-installing, and re-torquing the attachment bolts for the secondary load path. This AD results from a report that, during modification of certain engine forward mount assemblies of the left and right engines done at an engine shop visit, an incorrect torque was applied to the attachment bolts. We are issuing this AD to prevent structural failure of the secondary load path of the forward engine mount, which, if combined with failure of the primary load path, could result in separation of the engine from the airplane.

DATES: This AD becomes effective May 4, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 4, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 to include an AD that would apply to certain Airbus Model A319–131, –132, and –133; A320–232 and –233; and A321–131 and –231 airplanes. That NPRM was published in the **Federal Register** on December 1, 2005 (70 FR 72088). That NPRM proposed to require inspecting for cracks or failure of the primary load path components of the engine forward mount, and corrective action if necessary. That NPRM also proposed to require removing, re-installing, and re-torquing the attachment bolts for the secondary load path.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received from one commenter.

Clarification of Applicability

The commenter states that Airbus Model A321–232 airplanes are not identified in the applicability of the AD. The commenter notes that there have been nine of these airplanes delivered that are not U.S.-registered.

We infer that the commenter wants us to include Airbus Model A321–232 airplanes in the applicability of the AD. We agree with the commenter. The proposed AD is applicable to Airbus Model A319–131, –132, and –133; A320–232 and –233; and A321–131 and –231 airplanes. Model A321–232 airplanes have been approved, but are not yet identified in the type certificate data sheet (TCDS). Considering this approval, we have changed the applicability throughout the AD accordingly. Additionally, no Model A321–232 airplane is currently on the U.S. Register so no additional work is required for U.S. operators.

Clarification of Applicability in Paragraph (f) of the NPRM

We note that paragraph (f) of the NPRM contains an error in referencing the airplane models on which the detailed inspection must be done. Our intent was to specify all of the airplane models identified in Airbus All Operators Telex A320–71A1036, Revision 1, dated June 28, 2005, as referenced in the applicability section; however, we inadvertently excluded Model A320–232 and –233 airplanes in paragraph (f). We have verified that the inspection has been accomplished on all affected models. Therefore, no additional work is required for U.S. operators. Adding these models to paragraph (f) will ensure that any affected airplane that is imported into the U.S. after the effective date of this AD is inspected, as required by this AD. We have added a new paragraph (f)(3) to the AD to include these models.

Conclusion

We have carefully reviewed the available data, including the comment that has been received, and determined that air safety and the public interest require adopting the AD with the changes described previously. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

This AD affects about 131 airplanes of U.S. registry.

The inspection takes about 2 work hours per airplane (1 work hour per engine), at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the inspection for U.S. operators is $17,030, or $130 per airplane.

The removal, re-installation, and re-torquing takes about 8 work hours per airplane (4 work hours per engine), at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the adjustments for U.S. operators is $68,120, or $520 per airplane.

If any Model A321–232 airplane is imported and placed on the U.S. Register in the future, it will take about 2 work hours per airplane for the inspection and 8 work hours per airplane for the removal, re-installation, and re-torquing, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD will be $750 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866;

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–07–05 Airbus: Amendment 39–14532. Docket No. FAA–2005–23142; Directorate Identifier 2005–NM–154–AD.

Effective Date

(a) This AD becomes effective May 4, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A319–131, –132, and –133 airplanes; Model A320–232 and –233 airplanes; and Model A321–131, –231, and –232 airplanes; certificated in any category; as identified in Airbus All Operators Telex (AOT) A320–71A1036, Revision 1, dated June 28, 2005.

Unsafe Condition

(d) This AD results from a report that, during modification of certain engine forward mount assemblies of the left and right engines done at an engine shop visit, an incorrect torque was applied to the attachment bolts. We are issuing this AD to prevent structural failure of the secondary load path of the forward engine mount, which, if combined with failure of the primary load path, could result in separation of the engine from the airplane.

Compliance

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

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

Inspection and Corrective Action

(f) Perform a detailed inspection for cracks or failure of the primary load path components of the engine forward mount by doing all the applicable actions in accordance with the procedures in Airbus AOT A320–71A1036, Revision 1, dated June 28, 2005. Perform the actions at the time specified in paragraph (f)(1), (f)(2), or (f)(3) of this AD, as applicable. Do any corrective action before further flight in accordance with the procedures in the AOT.

(1) For Model A321–131, –231, and –232 airplanes: Do the inspection within 5 days after the effective date of this AD.

(2) For Model A319–131, –132, and –133 airplanes: Do the inspection within 10 days after the effective date of this AD.

(3) For Model A320–232 and –233 airplanes: Do the inspection within 10 days after the effective date of this AD.

(g) For all airplanes: At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, remove, re-install, and re-torque each of the attachment bolts of the engine forward mount assembly in accordance with the procedures in Airbus AOT A320–71A1036, Revision 1, dated June 28, 2005.

(1) If the inspection specified in paragraph (f) of this AD was accomplished after the effective date of this AD: Do the actions within 2,250 flight cycles after accomplishing the inspection.

(2) If the inspection specified in paragraph (f) of this AD was accomplished before the effective date of this AD: Do the actions within 2,250 flight cycles after the effective date of this AD.

Actions Accomplished Previously

(h) Inspections, adjustments or repairs done before the effective date of this AD in accordance with the procedures in Airbus AOT A320–71A1036, dated June 27, 2005, are acceptable for compliance with the corresponding actions required by this AD.

No Reporting Required

(i) Although Airbus AOT A320–71A1036, Revision 1, dated June 28, 2005, recommends that inspection results be reported to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(k) French emergency airworthiness directive UF–2005–117, dated June 29, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must use Airbus All Operators Telex A320–71A1036, Revision 1, dated June 28, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. (Only page 1 of the all operators telex contains the document number, revision number, and date of the document; no other page of the document contains this information.) The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2961 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23023; Directorate Identifier 2005–CE–49–AD; Amendment 39–14533; AD 2006–07–06]

RIN 2120–AA64

Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Cirrus Design Corporation (CDC) Models SR20 and SR22 airplanes. This AD requires you to inspect the fuel line and wire bundles for any chafing damage; replace any damaged fuel line and repair any damaged wires or sheathing of the wire harness if any chafing damage is found; and install (to prevent any chafing damage to the fuel line and wire bundles) the forward loop clamp, fuel line shield, aft loop clamp, and anti-chafe tubing. This AD results from reports of fuel line leaks resulting from wire chafing on the fuel lines. We are issuing this AD to detect, correct, and prevent damage to the fuel line and wire bundles, which could result in fuel leaks. This failure could lead to unsafe fuel vapor within the cockpit and possible fire.

DATES: This AD becomes effective on May 11, 2006.

As of May 11, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737, or on the Internet at *http://www.cirrusdesign.com*.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–23023; Directorate Identifier 2005–CE–49–AD.

FOR FURTHER INFORMATION CONTACT: Wess Rouse, Aerospace Engineer, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received two reports of fuel line leaks within a compartment in the center console of Model SR22 airplanes. This compartment is drained to the belly of the aircraft. Investigation found that the leaks resulted from wire chafing on the fuel lines.

This condition, if not corrected, could result in unsafe fuel vapor within the cockpit and possible fire.

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Cirrus Design Corporation (CDC) Models SR20 and SR22 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 8, 2005 (70 FR 72945). The NPRM proposed to require you to inspect the fuel line and wire bundles for any chafing damage; replace any damaged fuel line and repair any damaged wires or sheathing of the wire harness if any chafing damage is found; and install the forward loop clamp, fuel line shield, aft loop clamp, and anti-chafe tubing.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and FAA's response to the comment:

Comment Issue: Revision Date for Cirrus Design Corporation Service Bulletin

The commenter notes that throughout the NPRM the date of Service Bulletin SB 2X–28–04 R1, Issued: November 1, 2005, Revised: November 8, 2005, should read, "Revised: November 14, 2005."

The FAA agrees with the commenter. We will change the final rule to include the correct revised date for the service bulletin.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

We estimate that this AD affects 2,135 airplanes in the U.S. registry.

We estimate the following costs to do the inspection of the fuel line and wire harness for any chafing damage:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × $80 = $80	Not Applicable	$80	2,135 × $80 = $170,800

We estimate the following costs to do necessary replacements of any damaged fuel line or repair any damaged wires or sheathing of the wire harness that would be required based on the results of this inspection. We have no way of determining the number of airplanes that may need these repairs or replacements:

Labor cost	Parts cost	Total cost per airplane
6 work hours × $80 = $480	$67	$547

We estimate the following costs to do the installation of the forward loop clamp, fuel line shield, aft loop clamp, and anti-chafe tubing:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × $80 = $80	$146	$226	2,135 × $246 = $482,510

Warranty credit for parts and labor costs is referenced in the service bulletin.

Authority for This Rulemaking

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

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

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States,

or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2005–23023; Directorate Identifier 2005–CE–49–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the 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. FAA amends § 39.13 by adding a new AD to read as follows:

2006–07–06 Cirrus Design Corporation: Amendment 39–14533; Docket No. FAA–2005–23023; Directorate Identifier 2005–CE–49–AD.

Effective Date

(a) This AD becomes effective on May 11, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
SR20	1005 through 1581.
SR22	0002 through 1643 and 1645 through 1662.

Unsafe Condition

(d) This AD is the result of reports of fuel line leaks resulting from wire chafing on the fuel lines. The actions specified in this AD are intended to detect, correct, and prevent damage to the fuel line and wire bundles, which could result in fuel leaks. This failure could lead to unsafe fuel vapor within the cockpit and possible fire.

Compliance

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect the fuel line and wire harness for any chafing damage.	Within the next 50 hours time-in-service (TIS) after May 11, 2006 (the effective date of this AD).	Follow Cirrus Design Corporation Service Bulletin SB 2X–28–04 R1, Issued: November 1, 2005, Revised: November 14, 2005.
(2) If any chafing damage is found as a result of the inspection required by paragraph (e)(1) of this AD: (i) Replace any damaged fuel line; and (ii) Repair any damaged wires or sheathing of the wire harness	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow Cirrus Design Corporation Service Bulletin SB 2X–28–04 R1, Issued: November 1, 2005, Revised: November 14, 2005.
(3) Install the following: (i) Forward loop clamp; (ii) Fuel line shield; (iii) Aft loop clamp; and (iv) Anti-chafe tubing	Within the next 50 hours time-in-service (TIS) after May 11, 2006 (the effective date of this AD).	Follow Cirrus Design Corporation Service Bulletin SB 2X–28–04 R1, Issued: November 1, 2005, Revised: November 14, 2005.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Chicago Aircraft Certification Office (ACO), FAA, ATTN: Wess Rouse, Aerospace Engineer, ACE–117C, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–8113; fax: (847) 294–7834, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(g) You must do the actions required by this AD following the instructions in Cirrus Design Corporation Service Bulletin SB 2X–28–04 R1, Issued: November 1, 2005, Revised: November 14, 2005. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Cirrus Design Corporation, 4515 Taylor Circle, Duluth, Minnesota 55811; telephone: (218) 727–2737 or on the Internet at *http://www.cirrusdesign.com*. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–23023; Directorate Identifier 2005–CE–49–AD.

Issued in Kansas City, Missouri, on March 20, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–2982 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24288; Directorate Identifier 2006–NM–068–AD; Amendment 39–14540; AD 2006–07–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Airplanes, Model A300 B4–600 Series Airplanes, Model A300 B4–600R Series Airplanes, Model A300 F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A310 airplanes, Model A300 B4–600 series airplanes, Model A300 B4–600R series airplanes, Model A300 F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes. This AD requires inspections of the rudder for discrepancies and corrective action if necessary. This AD also requires reporting all inspection results to the airplane manufacturer and the FAA. This AD results from two separate findings of inner skin disbonding discovered while undergoing unrelated repair and maintenance procedures. We are issuing this AD to detect discrepancies of the rudder, which could result in reduced structural integrity of the rudder.

DATES: This AD becomes effective March 30, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 30, 2006.

We must receive comments on this AD by May 30, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA) notified us that an unsafe condition may exist on certain Airbus Model A310 airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes); equipped with a carbon fiber reinforced plastic (CFRP) rudder, any series of part number (P/N) A55471500. The EASA advises that, during maintenance on a Model A300–600 series airplane, a CFRP rudder was damaged at the trailing edge during a rudder swing test. During damage assessment following this event, unrelated disbonding of the inner skin to the honeycomb core was detected at the lower skin, close to the front spar. Further examination revealed traces of hydraulic fluid in the disbonded area. During an inspection performed as part of the repair process, damage was found on the inner skin starting at the junction between the rudder spar and the lower rib. The EASA also advises that, in a separate incident, disbonding of the rudder inner skin also was detected on a Model A310 airplane undergoing paint removal. Discrepancies of the rudder, if not detected, could result in reduced structural integrity of the rudder.

Relevant Service Information

Airbus has issued All Operators Telex (AOT) A310–55A2043 and AOT A300–55A6042, both dated March 2, 2006. The AOTs describe doing the following procedures:

- Checking the drainage at the lower edge of the rudder spar for the correct condition. If the aft edge sides of the leading edge butt strap at rib 0 are not clean, the AOTs specify restoring the drainage to the correct condition.
- Doing a visual examination of the rudder external surfaces for the presence of contaminant hydraulic fluids. If any contaminant hydraulic fluid is found, the AOTs specify cleaning the rudder external surfaces.
- Cleaning the inner surface of the rudder panels.
- Doing a manual tap test inspection, or an automatic tap test inspection using Woodpecker tool WP632, at the inner side of the rudder panels for any disbond. If any disbond is found using the manual tap test, the AOTs recommend doing a confirmation test using Woodpecker tool WP632 of the disbond. If any disbond is found using Woodpecker tool WP632, the AOTs specify marking the perimeter of any damaged area and documenting the location and size of the finding.
- Depending on the number of disbonds found and size of a disbond found, the AOTs specify taking the following corrective actions: Reinspecting the damaged area or doing a permanent repair, within 2,500 flight cycles; doing a permanent repair before further flight, or doing a temporary repair before further flight and then the permanent repair within 1,500 flight cycles; contacting the manufacturer for further instructions before further flight; or extending the inspection area to find all the damage.
- Reporting all inspection findings to the manufacturer.

The EASA mandated the AOTs and issued airworthiness directive 2006–0066, dated March 24, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

AOT A310–55A2043 refers to Chapter 55–42–11 of the Airbus A310 Structural Repair Manual (SRM) as an additional source of service information for restoring the drainage to the correct condition. AOT A310–55A2043 refers to Chapter 51–78–20 of the A310 SRM as an additional source of service information for cleaning hydraulic fluids from the rudder external surfaces. AOT A310–55A2043 refers to Chapter 55–41–12 of the A310 SRM as an additional source of service information for accomplishing the temporary or permanent repair.

AOT A300–55A6042 refers to Chapter 55–42–11 of the Airbus A300–600 SRM as an additional source of service information for restoring the drainage to the correct condition. AOT A300–55A6042 refers to Chapter 51–78–20 of the A300–600 SRM as an additional source of service information for cleaning hydraulic fluids from the rudder external surfaces. AOT A300–55A6042 refers to Chapter 55–41–12 of the A300–600 SRM as an additional source of service information for accomplishing the temporary or permanent repair.

FAA's Determination and Requirements of This AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to FAA Order 8100.14A, "Interim Procedures for Working with the European Community on Airworthiness Certification and Continued Airworthiness," dated August 12, 2005, the EASA has kept the FAA informed of the situation described above. We have examined the EASA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to detect discrepancies of the rudder, which could result in reduced structural integrity of the rudder. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the AD and the EASA's Airworthiness Directive." The AD also requires sending all inspection results to Airbus and the FAA.

Differences Between the AD and the EASA's Airworthiness Directive

The EASA's airworthiness directive 2006–0066 requires accomplishing any corrective actions in accordance with AOT A310–55A2043 and AOT A300–55A6042, as applicable. For the condition where one disbond area per panel with a diameter of less than 130mm is found, the AOTs recommend either reinspecting or doing a permanent repair within 2,500 flight cycles after the inspection. However, we have determined that the safety of the fleet would be better addressed by repair of the damaged area. This AD requires accomplishing either a temporary or permanent repair within 6 months. If the temporary repair is accomplished, this AD further requires accomplishing the permanent repair within 1,500 flight cycles after the temporary repair.

The EASA's airworthiness directive 2006–0066 describes procedures for submitting all inspection results to the manufacturer. This AD also requires that action, as well as submitting all inspection findings to the FAA.

The EASA's airworthiness directive 2006–0066 (in accordance with the referenced Airbus AOTs) requires contacting the manufacturer for instructions on how to repair certain conditions. This AD requires repairing those conditions using a method that we approve.

Clarification of Inspection Terminology

The "check" and "visual examination" specified in the Airbus AOTs are referred to as "general visual inspections" in this AD. We have included the definition for a general visual inspection in a note in this AD.

Interim Action

This is considered to be interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the damage, and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include "Docket No. FAA–2006–24288; Directorate Identifier 2006–NM–068–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2006–07–13 Airbus: Amendment 39–14540. Docket No. FAA–2006–24288; Directorate Identifier 2006–NM–068–AD.

Effective Date

(a) This AD becomes effective March 30, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A310 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes; certificated in any category; equipped with a carbon fiber reinforced plastic (CFRP) rudder having any series of part number (P/N) A55471500; except for those airplanes on which Airbus Modification 8827 has been incorporated in production.

Unsafe Condition

(d) This AD results from two separate findings of inner skin disbonding discovered while undergoing unrelated repair and maintenance procedures. We are issuing this AD to detect discrepancies of the rudder, which could result in reduced structural integrity of the rudder.

Compliance

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

Inspections and Corrective Actions

(f) Within 500 flight cycles or 120 days after the effective date of this AD, whichever occurs first: Do the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, in accordance with paragraph 4.2.2 of Airbus All Operators Telex (AOT) A310–55A2043 (for Model A310 airplanes) or AOT A300–55A6042 (for Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes), both dated March 2, 2006, as applicable.

(1) Do a general visual inspection of the drainage at the lower edge of the rudder spar to determine if the aft edges of the leading edge butt strap at rib 0 are clean. If any aft edge side of the leading edge butt strap at rib 0 is not clean, before further flight, restore the drainage to the correct condition.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Note 2: AOT A310–55A2043 refers to Chapter 55–42–11 of the Airbus A310 Structural Repair Manual (SRM) as an additional source of service information for restoring the drainage to the correct condition. AOT A300–55A6042 refers to Chapter 55–42–11 of the Airbus A300–600 SRM as an additional source of service information for restoring the drainage to the correct condition.

(2) Do a general visual inspection of the rear spar of the rudder external surfaces below the rudder actuators for the presence of hydraulic fluid. If any hydraulic fluid is found, before further flight, clean the contaminated rudder external surfaces.

Note 3: AOT A310–55A2043 refers to Chapter 51–78–20 of the Airbus A310 SRM as an additional source of service information for cleaning hydraulic fluids from the rudder external surfaces. AOT A300–55A6042 refers to Chapter 51–78–20 of the Airbus A300–600 SRM as an additional source of service information for cleaning hydraulic fluids from the rudder external surfaces.

(3) Clean the inner surface of the rudder panels and do a manual tap test inspection, or an automatic tap test inspection using Woodpecker tool WP632, at the inner side of the rudder panels for any disbonding in the inspection areas defined in Airbus Technical Disposition 943.0046/06, dated March 2, 2006. If any disbond area is found during a manual tap test inspection, as an option, an automatic tap test inspection using Woodpecker tool WP632 may be accomplished before further flight to verify the finding. If any disbond area crosses the perimeter of any inspection zone defined in Airbus Technical Disposition 943.0046/06, before further flight, repeat the tap test inspection in the applicable area outside of the defined inspection zone to obtain the size of the entire disbond area.

(i) If one disbond area per panel with a diameter of less than 130mm is found during the inspection required by paragraph (f)(3) of this AD: Within 6 months, do a temporary or permanent repair of the disbond area using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Chapter 55–41–12 of the Airbus A310 SRM is one approved method for accomplishing the temporary or permanent repair on Model A310 airplanes. Chapter 55–41–12 of the Airbus A300–600 SRM is one approved method for accomplishing the temporary or permanent repair on Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes. If a temporary repair is accomplished, within 1,500 flight cycles after accomplishing the temporary repair, do a permanent repair of the disbond area in accordance with this paragraph.

(ii) If one disbond area per panel with a diameter of 130mm or greater, but less than 200mm, is found during the inspection required by paragraph (f)(3) of this AD: Before further flight after the inspection, do a temporary or permanent repair of the disbond area using a method approved by the Manager, International Branch, ANM–116, FAA. Chapter 55–41–12 of the Airbus A310 SRM is one approved method for accomplishing the temporary or permanent repair on Model A310 airplanes. Chapter 55–41–12 of the Airbus A300–600 SRM is one approved method for accomplishing the temporary or permanent repair on Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A300 C4–605R Variant F airplanes. If a temporary repair is accomplished, within 1,500 flight cycles after accomplishing the temporary repair, do a permanent repair of the disbond area in accordance with this paragraph.

(iii) If one disbond area per panel with a diameter of 200mm or greater is found during the inspection required by paragraph (f)(3) of this AD: Before further flight after the inspection, repair the disbond area using a method approved by the Manager, International Branch, ANM–116, FAA.

(iv) If more than one disbond area of any diameter is found on a single panel during the inspection required by paragraph (f)(3) of this AD: Before further flight, repair the disbond areas using a method approved by the Manager, International Branch, ANM–116, FAA.

Reporting Requirement

(g) At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, submit a report of all findings (both positive and negative) of the inspection required by paragraph (f)(3) of this AD to M. Xavier Jolivet, Dept. SEE83; fax +33(0) 5 61–93–36–14; e-mail *Xavier.Jolivet@airbus.com*, and to Thomas Stafford, International Branch, ANM–116, FAA; fax (425) 227–1149; e-mail *Thomas.Stafford@faa.gov*. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has

approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection is accomplished after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) If the inspection was accomplished before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Parts Installation

(h) As of the effective date of this AD, no person may install a CFRP rudder, any series of P/N A55471500, on any airplane, unless the CFRP rudder has been inspected and any applicable corrective action has been accomplished in accordance with paragraphs (f)(2) and (f)(3) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(j) The European Aviation Safety Agency's airworthiness directive 2006–0066, dated March 24, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Airbus All Operators Telex A310–55A2043, dated March 2, 2006, or Airbus All Operators Telex A300–55A6042, dated March 2, 2006, as applicable; and Airbus Technical Disposition 943.0046/06, dated March 2, 2006; to perform the actions that are required by this AD, unless the AD specifies otherwise. (Only page 1 of Airbus All Operators Telex A310–55A2043 and Airbus All Operators Telex A300–55A6042 contains the document number and date of the document; no other page of the document contains this information.) The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA).

For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 24, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–3119 Filed 3–28–06; 12:45 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 3

Change of Telephone Number; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to reflect a change in telephone number for the Office of Combination Products (OCP). This action is editorial in nature and is intended to improve the accuracy of the agency's regulations.

DATES: March 30, 2006.

FOR FURTHER INFORMATION CONTACT: Leigh Hayes, Office of Combination Products (HFG–3), Food and Drug Administration, 15800 Crabbs Branch Way, suite 200, Rockville, MD 20855, 301–427–1934.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations in 21 CFR part 3 to reflect a change in the telephone number for the OCP.

Publication of this document constitutes final action on this change under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedures are unnecessary because FDA is merely correcting a nonsubstantive error.

List of Subjects in 21 CFR Part 3

Administrative practice and procedure, Biologics, Drugs, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 3 is amended as follows:

PART 3—PRODUCT JURISDICTION

■ 1. The authority citation for 21 CFR part 17 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 353, 355, 360, 360c–360f, 360h–360j, 360gg–360ss, 360bbb–2, 371(a), 379e, 381, 394; 42 U.S.C. 216, 262, 264.

§ 3.6 [Amended]

■ 2. Section 3.6 is amended by removing "301–827–9229" and by adding in its place "301–427–1934".

Dated: March 23, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–3046 Filed 3–29–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 251

RIN 1010–AC81

Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)—Geological and Geophysical (G&G) Explorations of the OCS—Proprietary Terms and Data Disclosure

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule expands the circumstances under which MMS allows inspection of G&G data and information. The rule also modifies the start dates of proprietary terms for geophysical data and information and any derivatives of these data and information that MMS acquires. In addition, the rule clarifies the proprietary terms of geological data and information MMS acquires pursuant to a permit.

DATES: *Effective Date:* May 1, 2006.

FOR FURTHER INFORMATION CONTACT: George Dellagiarino or David Zinzer at (703) 787–1628.

SUPPLEMENTARY INFORMATION: This final rule implements changes put forward by our notice of proposed rulemaking (NPR) published July 17, 2002 (67 FR 46942). The comment period ended September 16, 2002. MMS received 10 sets of written comments and recommendations in response to the NPR. Two sets of comments and recommendations were from industry associations, and eight were from permitttees and third party users of G&G data and information collected on the OCS. We have carefully considered each of these comments and recommendations. We did not adopt recommendations that did not appear to be in the public's best interest.

Discussion and Analysis of Comments

MMS has decided to proceed with the final rule after carefully considering all written comments on the proposed

rulemaking. MMS appreciates the candor and scope of the many comments put forth, and the concerns of industry. However, MMS believes that specific concerns with the proposed rulemaking have been addressed properly, and that where MMS and industry disagree, MMS is acting appropriately, balancing the needs of industry and the public interest.

Section-by-Section Analysis

Section 250.196 Data and Information To Be Made Available to the Public or for Limited Inspection

MMS is extending the circumstances under which MMS selectively allows persons with a direct and pertinent interest to inspect proprietary G&G data and information that are used by MMS in certain decisions. MMS currently allows limited inspection of data and information related to unitization determinations on two or more leases, competitive reservoir determinations, proper plans of development for competitive reservoirs, operational safety, and the environment. Under this final rule, MMS will also allow limited inspection of G&G data and information related to field determinations and eligibility for royalty relief. It has become necessary to include these circumstances to properly explain related MMS decisions.

Comment: One commenter requested that MMS withdraw, and other commenters suggested changes to, the proposed language. One of the commenters noted that there was a possibility that MMS could release highly confidential data and other information to competitors or other groups, which would impede the flow of information between MMS and lessees.

Other commenters cited increased opportunities for a competitor to determine, at no cost, what data a company sought to keep confidential. These same commenters argued also that the proposed language gives competitors the opportunity to look at, work, and analyze a submitting party's data and information without obtaining a license, thereby depriving the data owner of the economic benefits of obtaining the data.

Response: MMS is proceeding with the proposed language. The additional circumstances under which certain data and information may be disclosed are necessary to properly explain decisions related to field determinations and eligibility for royalty relief. However, in meetings where MMS discloses certain data and information to persons with a direct interest in specific MMS decisions and related issues, MMS will not allow these persons to work or analyze data or information submitted by any party. MMS will not release data or information at these meetings.

Comment: Several commenters stated that the proposed criteria for determining limited access to the confidential data and information are vague and overbroad.

One commenter suggested language directly adapted from an industry model data licensing contract. The suggested language would limit disclosure of geophysical data and information to persons with a direct interest in related MMS decisions and issues; and would limit disclosure to such portions of the data and information directly pertaining to the decisions in question. Further, inspection would be done on MMS premises, in a secure environment under direct control of MMS. MMS would not provide copies of data and information, nor allow viewing parties to make, retain, or remove any copy thereof. Another commenter suggested that participants in the meeting agree in writing prior to inspection to maintain the confidentiality of the G&G data and information disclosed or discussed.

A third commenter suggested that these persons should be given only passive access to the portions of the geophysical information related to the specific geographic areas that are the subject of consultation. The commenter also suggested that persons inspecting the data and information should be prevented from summarizing, transcribing, reproducing, or photocopying the geophysical information; operating a computer workstation on which geophysical information is displayed; and altering or generating displays, interpretations, or processing of geophysical information. They also should be prevented from departing the MMS premises with any geophysical information, or any summary, description, or knowledge thereof that is comparable to having a copy thereof. Furthermore, under no circumstances should MMS allow inspection by any person of non-public G&G data or information covering any leased or unleased acreage not directly associated with a specific MMS decision. This includes, but is not limited to, regional studies or geological trend analysis partly or wholly based on non-public data or information.

Response: In response to these industry concerns, MMS is adding language to the rule to further ensure and clarify that proprietary G&G data and information are disclosed only to persons directly associated with specific MMS decisions affecting specific geographic areas, and who agree in writing to confidentiality of the data and information. While most disclosures of the data and information will take place at MMS offices, MMS retains the prerogative of disclosing the data and information at non-MMS sites, if required by circumstances. However, MMS will disclose proprietary data and information only when necessary to explain these types of decisions, and will minimize the opportunity of meeting participants to inspect the data and information. MMS will determine the data and information that will be disclosed, the location of and participants in meetings with MMS, and the conditions of disclosure during and after the meeting. MMS will not allow participants to operate a computer or reproduce or transcribe information during a meeting, or remove data or information from the premises.

Comment: One commenter suggested that, if MMS is experiencing a substantial problem in release of confidential G&G data and information, MMS resolve the problem through the use of some type of form protective order that controls the individuals who will see and have access to data or information, and which controls the conditions surrounding use after disclosure. The commenter also suggested use of an expert not associated with the competitor company.

Response: MMS does not believe that a form protective order or use of an outside expert is necessary to properly protect confidential G&G data and information, and will not make the recommended changes. MMS limits access to data and information disclosed at meetings to persons with a direct interest in MMS decisions, and controls the conditions surrounding use after disclosure.

Section 251.14 Protecting and Disclosing Data and Information Submitted to MMS Under a Permit

MMS is changing the start date of the proprietary terms for geophysical data and information from the date that the data and information are submitted to MMS to the date that the permit under which the originating data were acquired was issued. The start date of the proprietary term for geological data and information currently is also the date that the permit was issued. Although the lengths of the proprietary terms do not change, the net result is that the total length of time for which geophysical data and information are held by MMS before public release will be shorter than under the current rule.

Since MMS may select and retain geophysical data and information numerous times from a single permit, under the existing regulations there is a separate start and release date for each submission of geophysical data and information. This has resulted in substantial and complex recordkeeping for submitted data and information. This change is being made to relieve the administrative recordkeeping burden by using a single date (the permit issue date) to manage the release of the geophysical data and information following expiration of the proprietary term.

Comment: One commenter asked that MMS reconsider the proposed rule, and that MMS meet with geophysical contractors to modify the proposal in a manner that will allow the MMS to achieve its recordkeeping goals while not destroying the existence of the geophysical contractor and Gulf of Mexico (GOM) exploration.

Response: After carefully considering all comments, including suggested options, MMS is proceeding with the proposed rule. MMS believes that changing the start date of proprietary terms for geophysical data and information to the date the permit was issued is necessary, and is the only viable option to efficiently and properly manage the release of the data and information.

Comment: One commenter noted that, in 2000, geophysical contractors in the GOM invested $214 million in data acquisition and initial data processing, and $62 million in reprocessing existing data. Similarly, in 2001, the industry invested $281 million in data acquisition and initial processing, and $92 million in reprocessing existing data.

Another commenter stated that the economic value of privileged and proprietary information received by the Secretary of the Interior from permittees and lessees is emphasized by the requirement in the OCS Lands Act for the Secretary of the Interior to secure the agreement of permittees or licensees before releasing data to states under certain circumstances.

One commenter stated that shortening the proprietary time period associated with all geophysical data and information previously submitted, and submitted in the future, regardless of the terms of the original permit, is financially detrimental to the data owners. Two commenters stated that resetting the start date [of the proprietary term] to the date the permit is issued reduces the economic life of new geophysical information, and in effect reduces the return on investment in future non-exclusive seismic programs, hence stifling healthy competition and investment in new technologies and innovation.

Another commenter further stated that investment in new non-exclusive seismic programs will be reduced and employment will be adversely affected. Another commenter asserted that competition and exploration in the GOM will be limited to a few majors, eliminating small to medium exploration entities, eliminating a large portion of the MMS leases in the GOM, and eliminating even more geophysical companies.

One commenter stated that since the collection and possession of G&G data is a valuable property right, MMS should reconsider promulgation of a rule which reduces or destroys the value of that property right by earlier release through promulgation of a regulation retroactive to June 1976.

Response: MMS recognizes the significant investment that the geophysical service industry and the oil and gas industry make in acquiring, licensing, processing, and reprocessing geophysical data and information; and that the competitive and economic value of these data and information continues during the proprietary period. However, only data and information that are selected and retained by MMS will be released to the public. Data and information that are selected for inspection but not retained by MMS, or which are not selected for inspection, are not subject to release by MMS. Data owners and licensees may hold geophysical data and information that are not acquired by MMS confidential for as long as allowed by, for example, copyright or intellectual property law.

MMS rarely acquires geophysical data (e.g., raw field tapes). Moreover, since most of the geophysical information that MMS retains was acquired within 2 to 3 years of the date the permit was issued, only a small amount of geophysical information would be released more than 3 years sooner by using the permit date than is currently the case when using the date of submission to MMS.

Furthermore, as stated in the preamble of the proposed rulemaking, in 1988 MMS extended the proprietary term for geophysical data from 10 years after the date of issuance of the permit to 50 years after the date of submission of the data to MMS, and for geophysical information from 10 years to 25 years after the date of submission of the information. Those changes, also made retroactive to June 1976, substantially increased the value to companies of data and information submitted to MMS.

MMS does not believe that the proposed rule destroys or significantly reduces the value of property rights by earlier release through promulgation of a retroactive regulation.

Comment: One commenter stated that computing power and imaging algorithms have been improving and developing more rapidly than data acquisition technology. Data owners have applied these computing technologies to existing geophysical data which has helped to open up exploration in areas with subsalt structures, gas clouds, and amplitude plays, and to illuminate deep gas on the continental shelf. New play ideas get tested; new technologies get developed; and a cycle of new processing begins. The proposed rule eliminates incentives for data owners to invest in new geophysical information derived from existing geophysical data.

Another commenter stated that very few oil and gas companies are willing to pay the necessary fees for new seismic data to be acquired in the GOM. Reprocessing will continue to be the key enhancement related to seismic data.

Response: MMS recognizes that increased computer capacity and the application of advanced algorithms to older raw data, or previously processed information, have improved imaging of sub-bottom geology. However, the use of modern computing techniques to process new seismic data acquired with advanced recording methods and instrumentation usually yields results that are superior to those obtained by reprocessing older data or information. Modern seismic data are acquired with more sensitive and reliable instruments; denser sampling of the sub-bottom; and superior navigation, positioning, and on-board data recording and processing techniques. MMS' experience is that industry continues to acquire seismic data in areas of dense coverage (*e.g.*, GOM shallow shelf) with deeper seismic targets, and in areas of relatively sparse or no data coverage (*e.g.*, deep water).

Comment: One commenter stated that in some areas crowded production facilities provide obstacles to new data being acquired, leaving holes in the data which can be filled in by undershooting, but at a higher cost, or by reprocessing legacy geophysical data to create value-added derivative products.

Response: MMS acknowledges that undershooting production facilities is usually more costly than shooting in unobstructed areas or reprocessing legacy data. However, in practice, acquiring new data is usually preferable to reprocessing older data in these areas.

Comment: One commenter noted that the seismic industry is experiencing

increasing scrutiny from MMS and the National Oceanic and Atmospheric Administration (NOAA) Fisheries over the impacts of acoustic pulses and other emissions [from seismic surveys] on the health and well being of marine mammals, particularly the sperm whale which is listed as an endangered species. There are new restrictions on data acquisition operations, and some are suggesting that prime producing areas of the GOM should be designated as critical habitat which would make access more difficult.

Response: MMS is funding a collaborative, international effort to study sperm whales in the GOM and determine what, if any, potential impacts there may be to sperm whales as a result of seismic survey activity. MMS also prepared a programmatic environmental assessment on geological and geophysical exploration activities in the GOM. The assessment found no significant potentially adverse impacts to sperm whales from seismic survey activities. MMS, as a precaution, developed mitigation measures to avoid or minimize any potential incidental (accidental) take of certain marine mammals in the GOM, and petitioned NOAA Fisheries to promulgate incidental take regulations governing the conduct of seismic surveys in the GOM. Any designation of critical habitat for the sperm whale in the GOM would be the responsibility of NOAA Fisheries under established Endangered Species Act procedures.

Comment: One commenter noted that under the proposed changes, a company that reprocesses older data would enjoy a much shorter time period during which MMS would keep the reprocessed information confidential than under current regulations. Competitors could gain access to the reprocessed information in as few as 2 years after submittal of the information by the company.

Another commenter stated that, for the explorer who desires to reprocess older data in order to make a decision as to whether to bid on a lease or not, consideration must be given to the fact that such a bid may precipitate a request from MMS for the reprocessed data set with the probability that it will be available to others in the near future. This will have a negative effect on whether or not to reprocess data as the data ages.

Response: MMS acknowledges that it is possible that reprocessed information derived from data or information that is more than 20 years old could be made available in as few as 2 years after submittal. However, this would be a relatively rare occurrence.

Processed seismic information that has been retained by MMS and is more than 20 years old was acquired on widely spaced 2–D grids. Reprocessing this older information would not result in quality or data density comparable to more recently acquired 2–D or 3–D seismic data and processed information.

Also, most seismic information submitted to MMS was processed near or at the final stages of the processing sequence. Most reprocessing for or by licensees is conducted on information at earlier stages of processing, closer in the sequence to initial processing of edited field tapes. Thus, for the purposes of reprocessing publicly available seismic information, there would be little demand for the processed seismic information that MMS releases, following expiration of the proprietary term. Furthermore, very little seismic data would be available from MMS for processing as MMS rarely acquires seismic data which, if acquired, has a 50-year proprietary term.

Most of the geophysical information that MMS selects and retains under Part 251 is information that was initially processed/reprocessed within 3 years after the permit date. However, approximately 5 percent of the information that MMS has retained was initially processed/reprocessed more than 3 years after the permit date. For example, on occasion in areas of sparse data coverage, MMS will acquire geophysical information that was processed or reprocessed 15 years or more after the date of the permit under which the source data were collected. More commonly in these areas, MMS will acquire geophysical information that was processed shortly after data acquisition by a permittee, but was not selected and retained by MMS until 15 or more years after the data were processed.

Comment: One commenter noted that E&P [exploration and production] companies (third parties) which process geophysical data that they obtain under license from permittees usually do not request, nor are generally furnished, information relative to the permits associated with acquisition of the data. The third parties will not have permit information available without having to undertake a significant effort to collect that needed information. Also, data libraries which have been bought out and/or which merged with other libraries may not be able to determine missing permit dates.

Response: The great majority of geophysical information that MMS has acquired for retention under Part 251 is from permittees, which makes it easier to obtain the applicable permit dates associated with the information. MMS acquires a smaller, though increasing, amount of geophysical information from third parties who obtain licenses for, or acquire on an exclusive basis, data and information from permittees. When MMS acquires geophysical information from third parties, MMS is able to determine the associated permit date, albeit with more effort than from the original permittee.

Comment: Three commenters noted that legacy seismic information from contiguous surveys acquired under different permits over a period of years are sometimes reprocessed together using new computing technology to produce a seamless, single volume of seismic information used to target a new exploration objective, and to better correlate discoveries and improve images at the former edges of permit areas.

One of the commenters further noted that this single deliverable volume of seismic information derived from multiple permits would have to be separated into information sets, based on the original permit, before release to the public.

Response: When MMS acquires geophysical information that cannot be adequately separated by permit date from other information in the same area (coincident or contiguous to each other), the most recent permit date will be used to determine the start of the proprietary term for the whole volume of information.

Comment: One commenter stated that geophysical companies keep records of the dates non-exclusive geophysical information is available for license to exploration companies. The date the geophysical information first becomes available would be a logical change to the start time of the proprietary period during which MMS retains the information. Under this alternate solution, the geophysical data owners would submit to MMS the dates that the projects were first made available and certify that this information is accurate. Although under this alternate proposal the proprietary period for geophysical information would still be shortened for a great number of surveys that MMS has retained, it would be less onerous than using the permit date. This would also allow for each new investment in new geophysical information to have its own 25-year proprietary period.

Another commenter proposed that the owner of geophysical data and information should be given two alternatives for determining the confidentiality period for geophysical information: (1) Use the permit date, as in the proposed rule, or (2) start the 25-

year period on the date of completion of data processing or reprocessing, on the condition that the owner of the information make electronic application to MMS for a 25-year confidentiality period; identify the area and product name of the information, permit date, and date of completion of the processing or reprocessing of the information; and certify the accuracy of information.

Various grace periods to phase in the suggested alternatives to the proposed rule were offered by some commenters.

Response: MMS believes that these alternatives do not alleviate the burden and impracticality of determining the release dates for geophysical data and information submitted to, and retained by, MMS. The date that a particular set of information is available to exploration companies, or the date processing or reprocessing is completed, is not adequate. The date that MMS acquires geophysical information usually does not coincide with the date the geophysical information is available for commercial purposes. MMS usually acquires information at a separate time or stage of data processing and development. Thus, the geophysical information acquired by MMS would not coincide in time or content with the information offered to exploration companies. Regarding dates on which data processing is complete, there would be many instances when these dates may not be available or accurate. For example, records are often not available from permittees who have gone out of business or have merged with other companies. Also, many companies, including permittees and third parties, did/do not keep accurate records of the date processing was completed or the dates that information was submitted to MMS.

Comment: Two commenters suggested changing the proprietary term to a uniform period of 40 years from the date the permit is issued for G&G data and information acquired under Part 251 and submitted under Parts 203, 250, or 251.

Another commenter suggested eliminating the two-step proprietary period for geophysical data (50 years) and geophysical information (25 years) by standardizing all geophysical data and information to a 50-year period.

Another commenter suggested granting a new start date of a 25-year term for new geophysical information generated when a geophysical company creates a new and improved product by processing data acquired 5 years ago, or earlier.

Response: Extending the proprietary terms of G&G data and information is not in the public interest. The final rulemaking balances the need to properly protect data and information that MMS acquires from industry with the need to increase competition for oil and gas exploration and to provide academia and other parties with information that may be used to better understand the geology of the sub-bottom.

By comparison, G&G data and information acquired from lessees have much shorter proprietary terms than G&G data and information acquired from permitees. For example, most logs from wells drilled on GOM leases are released to the public 2 years after submittal. Geophysical data and information acquired from lessees are released 10 years after submittal, or when the lease expires, whichever is sooner. Also, proprietary terms for offshore geophysical exploration data and information in other countries are usually shorter than in the United States (U.S.). For example, for the continental shelves of Norway, United Kingdom, and Australia, the proprietary terms generally range from 2 to 10 years.

Comment: One commenter voiced concern over the amount of geophysical information that will become public in the next 10 years, and questioned how digital information would be handled when the rules were written with the concept of paper information in mind. The commenter noted that to date, the information that has become public all consists of paper copies and is distributed on CDs in the form of PDF files. Geophysical information that will become available in the future will be digital. The commenter stated that this adds many complications to the process, and asked who will distribute the information.

Response: MMS releases geophysical information on analog hard copy (paper and plastic transparencies) and on CDs. The information on CDs includes PDF files of seismic line and map images, TIFF files of seismic velocity panels, SEG–P1 navigation files for all seismic lines released, and digital seismic information in SEG–Y format. In the future, MMS may also release geophysical information on other digital media such as DVDs, DLT and LTO tapes, and/or on-line.

Comment: Two commenters stated that a huge amount of information will become available to the public in the coming 10 years and that management of this information will be a very costly endeavor. Meanwhile, data owners already have data storage distribution facilities in place. The commenters suggested that MMS consider a policy that when geophysical information becomes publicly available, MMS list the availability on its Web site, and direct interested parties to the owner(s) of the data and information for copying and distribution.

Response: MMS does not agree to suggestions that industry distribute publicly released data and information. MMS is responsible for a full, consistent, and timely distribution of data and information that are readily available to the public. Not all companies from which MMS acquired geophysical data and information still exist or, after mergers, have the proper records available and/or the means to distribute the data and information when their proprietary terms expire.

Comment: Two commenters also noted that in other parts of the world the geophysical industry has experienced companies that access public information and use it for more than their own information purposes. Scanning and creating digital versions that can be altered and resold have occurred and are expected to continue to occur. If this takes place in the 50-year period of data exclusivity, then it would be very detrimental to the original data owner.

The commenters further suggested that MMS publish a notice of ownership and owner rights on all forms of information released to the public; or that such notice of ownership or owner rights be stated in an accompanying informational transmittal or cover letter. The notice would state, notwithstanding the release of geophysical information, that the geophysical information remains the intellectual property of the party or parties who originally acquired the data or created the information, and is subject to their copyright and ownership rights. The notice would further state that the rights of individuals or other entities to use this geophysical information for their own use upon its public release was a condition of their securing the original right to acquire the data, either through their lease or by permit, and that everyone using publicly released data or information for any purpose other than their own use contact its owner.

Response: In 2001, MMS started releasing to the public seismic information for which the 25-year proprietary terms have expired. MMS will continue to release, and will announce on its Web site the availability to the public of G&G information without stating restrictions on further use of the information. MMS is not in a position to affirm or endorse the existence or validity of specific intellectual property rights in any particular released information. However, there may be some type of

intellectual property right that attaches to some types of G&G information. Users should be aware that some of the information may be copyright protected, and that it is up to the user to determine what rights, if any, may apply to particular information. This is not an agreement, explicit or otherwise, that MMS is policing the use of released information. It is the intellectual property right owner's responsibility to diligently protect its rights.

Procedural Matters

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. MMS takes all actions that result from the change in the start dates of the proprietary terms, with no costs to outside parties. Similarly, there would be no costs associated to industry concerning our disclosing permitted geophysical information for ensuring proper development of fields or reservoirs.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. There are no other Federal agencies involved in this process, because it relates to release or disclosure of geophysical data and information.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or rights or obligations of their recipients. This rule has no effect on these programs or such rights.

(4) This rule changes the basis for the start of proprietary terms for geophysical data and geophysical information acquired under a permit, retroactive to June 11, 1976. This rule does not raise novel legal or policy issues, although we recognize that this change in the start date may be controversial. Some geophysical companies have concerns that their data and information may be released by MMS earlier than under current regulations.

However, any data to be released will be at least 50 years old, and any information to be released will be at least 25 years old. As previously stated, the intent of this rule is to alleviate administrative recordkeeping burdens and to ensure proper development of fields or reservoirs.

Regulatory Flexibility Act (RFA)

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This revised rule would modify the start of the proprietary terms for geophysical data and information and add language to ensure proper development of fields or reservoirs under 30 CFR 251.14 and 250.196. The only entities affected by this rule change are certain geophysical companies, if still in existence, whose data and information being held by MMS may be released earlier than under current regulations. The Small Business Administration classifies geophysical surveying and mapping services companies under the North American Industry Classification System Code 541360. These changes will have no economic impact on these constituents, as MMS takes all of the actions with no cost to our customers.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under the SBREFA, 5 U.S.C. 804(2). This rule:

(1) Does not have an annual effect on the economy of $100 million or more. This rule would modify the proprietary terms for geophysical data and information for consistency with those for geological data and information, and allow for possible limited disclosure of certain permitted information for assuring proper development of a field or competitive reservoir. This rule will not impose any costs on industry.

(2) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic areas. The modification to the proprietary term and change in language regarding disclosure of information for proper development of fields or reservoirs will not cause a burden in terms of finance or time for any outside parties.

(3) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises as the information to be released will be 25 years old, and any data to be released will be 50 years old.

Paperwork Reduction Act (PRA) of 1995

The proposed revisions to 30 CFR parts 250 and 251 refer to, but do not change, information collection requirements in current regulations. The rule proposes no new reporting or recordkeeping requirements, and an OMB form 83–I submission to OMB under the PRA, section 3507(d) is not required. The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information and assigns a control number, you are not required to respond. OMB approved the referenced information collection requirements for 30 CFR 250 under OMB control number 1010–0114 (22,288 burden hours, expiration October 31, 2007; and for 30 CFR 251 under OMB control number 1010–0048 (8,272 burden hours), expiration July 31, 2006.

Federalism (Executive Order 13132)

According to E. O. 13132, this rule does not have Federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State Governments. The modification to the proprietary terms affects only our own methods of doing business, and the added language regarding data disclosure would only be of interest to industry. There will be no financial costs to states.

Takings Implications Assessment (Executive Order 12630)

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required because the rule would not take away or restrict an operator's right to collect data and information and would have us maintain that data and information as proprietary under the terms of the permit.

Civil Justice Reform (Executive Order 12988)

According to E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of Sections 3(a) and 3(b)(2) of the Order. The rule would have little effect on the judicial system because it is an administrative action to modify the proprietary terms and support the MMS decision making process for proper development of fields or reservoirs.

National Environmental Policy Act (NEPA)

MMS has analyzed this rule according to the criteria of the NEPA and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment is not required.

Unfunded Mandates Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule does not create any kind of a mandate for state, local, or tribal governments or the private sector. A statement containing the information required by the UMRA, 2 U.S.C. 1501 *et seq.* is not required.

List of Subjects

30 CFR Part 250

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 251

Continental shelf, Freedom of information, Geological and geophysical data, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: March 14, 2006.

R.M. "Johnnie" Burton,

Acting Assistant Secretary, Land and Minerals Management.

■ For the reasons stated in the preamble, the Minerals Management Service (MMS) amends 30 CFR parts 250 and 251 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

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

Authority: 43 U.S.C. 1331 *et seq.*, 31 U.S.C. 9701.

■ 2. In § 250.196 the following changes are made:

■ A. Revise the section heading as set forth below.

■ B. Revise the introductory text as set forth below.

■ C. Revise paragraph (b) introductory text as set forth below.

■ D. Remove paragraph (b)(1); redesignate paragraphs (b)(2) through (10) as paragraphs (b)(1) through (9) respectively; and revise redesignated paragraph (b)(9) to read as set forth below.

■ E. Add new paragraph (c) to read as set forth below.

§ 250.196 Data and information to be made available to the public or for limited inspection.

MMS will protect data and information that you submit under this part, and part 203 of this chapter, as described in this section. Paragraphs (a) and (b) of this section describe what data and information will be made available to the public without the consent of the lessee, under what circumstances, and in what time period. Paragraph (c) of this section describes what data and information will be made available for limited inspection without the consent of the lessee, and under what circumstances.

* * * * *

(b) MMS will release lease and permit data and information that you submit and MMS retains, but that are not normally submitted on MMS forms, according to the following table:

If	MMS will release	At this time	Special provisions
*	*	*	*
(9) Except for high-resolution data and information released under paragraph (b)(2) of this section data and information acquired by a permit under part 251 are submitted by a lessee under 30 CFR part 203 or part 250.	G&G data, analyzed geological information, processed and interpreted G&G information.	Geological data and information; 10 years after MMS issues the permit; Geophysical data: 50 years after MMS issues the permit; Geophysical information: 25 years after MMS issues the permit.	None.

(c) MMS may allow limited inspection, but only by persons with a direct interest in related MMS decisions and issues in specific geographic areas, and who agree in writing to its confidentiality, of G&G data and information submitted under this part or part 203 of this chapter that MMS uses to:

(1) Make unitization determinations on two or more leases;

(2) Make competitive reservoir determinations;

(3) Ensure proper plans of development for competitive reservoirs;

(4) Promote operational safety;

(5) Protect the environment;

(6) Make field determinations; or

(7) Determine eligibility for royalty relief.

PART 251—GEOLOGICAL AND GEOPHYSICAL (G&G) EXPLORATIONS OF THE OUTER CONTINENTAL SHELF

■ 3. The authority citation for part 251 continues to read as follows:

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

■ 4. In § 251.14 paragraph (b) introductory text is revised, the table in paragraph (b)(1) is revised, and paragraph (b)(3) is added to read as follows:

§ 251.14 Protecting and disclosing data and information submitted to MMS under a permit.

* * * * *

(b) *Timetable for release of G&G data and information that MMS acquires.* Except for high-resolution data and information released under 30 CFR 250.196(b)(2), MMS will release or disclose data and information that you or a third party submit and MMS retains in accordance with paragraphs (b)(1), (b)(2), and (b)(3) of this section.

(1) * * *

If you or a third party submit and MMS retains * * *	The Regional Director will release them to the public * * *
(i) Geological data and information.	10 years after MMS issues the permit.
Geophysical data	50 years after MMS issues the permit.
Geophysical information.	25 years after MMS issues the permit.

* * * * *

(3) MMS may allow limited inspection, but only by persons with a direct interest in related MMS decisions and issues in specific geographic areas, and who agree in writing to its confidentiality, of G&G data and information submitted under this part that MMS uses to:

(i) Make unitization determinations on two or more leases;

(ii) Make competitive reservoir determinations;

(iii) Ensure proper plans of development for competitive reservoirs;

(iv) Promote operational safety;

(v) Protect the environment;

(vi) Make field determinations; or

(vii) Determine eligibility for royalty relief.

* * * * *

[FR Doc. 06–3009 Filed 3–29–06; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA29

Financial Crimes Enforcement Network; Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Final rule; extension of applicability dates.

SUMMARY: The Financial Crimes Enforcement Network ("FinCEN") is issuing this final rule extending, in part, the applicability dates of 31 CFR 103.176 and 103.178 for certain covered financial institutions. Those sections require covered financial institutions to establish due diligence procedures for correspondent accounts and private banking accounts that they maintain for non-U.S. persons. This final rule extends, from April 4, 2006 to July 5, 2006, the date on which covered financial institutions must begin to apply the due diligence provisions contained in those sections to new correspondent accounts and new private banking accounts.

DATES: This final rule is effective on March 30, 2006. The revised applicability dates for 31 CFR 103.176 and 103.178 are set forth at 31 CFR 103.176(e)(1) and 103.178(e)(1) of the final rule contained in this document.

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network at (800) 949–2732.

SUPPLEMENTARY INFORMATION:

I. Background

On January 4, 2006, we published a final rule [1] implementing section 312 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001,[2] which amended the Bank Secrecy Act [3] to add new subsection (i) to 31 U.S.C. 5318. This provision requires each U.S. financial institution that establishes, maintains, administers, or manages a correspondent account or a private banking account in the United States for a non-U.S. person to subject such accounts to certain anti-money laundering measures. In particular, financial institutions must establish appropriate, specific, and, where necessary, enhanced due diligence policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report instances of money laundering through these accounts.

In addition to the general due diligence requirements, which apply to all correspondent accounts for non-U.S. persons, section 5318(i)(2) specifies additional standards for correspondent accounts maintained for certain foreign banks. These additional standards apply to correspondent accounts maintained for a foreign bank operating under an offshore banking license, under a license issued by a country designated as being non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member and with which designation the United States concurs, or under a license issued by a country designated by the Secretary of the Treasury as warranting special measures due to money laundering concerns. A financial institution must take reasonable steps to: (1) Conduct enhanced scrutiny of a correspondent account maintained for or on behalf of such a foreign bank to guard against money laundering and to report suspicious activity; (2) ascertain whether such a foreign bank provides correspondent accounts to other foreign banks and, if so, ascertain the identity of those foreign banks and conduct due diligence as appropriate; and (3) identify the owners of such a foreign bank if its shares are not publicly traded.

Section 5318(i) also sets forth minimum due diligence requirements for private banking accounts for non-U.S. persons. Specifically, a covered financial institution must take reasonable steps to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, private banking accounts, as necessary to guard against money laundering and to report suspicious transactions. The institution must also conduct enhanced scrutiny of private banking accounts requested or maintained for or on behalf of senior foreign political figures, including their family members and their close associates. Such enhanced scrutiny must be reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

On February 23, 2006, the Investment Company Institute ("ICI"), the Securities Industry Association ("SIA"), and the Futures Industry Association ("FIA") [4] submitted letters expressing concern that it will be difficult for their members to implement the due diligence rules for correspondent accounts and private banking accounts by the compliance dates for new accounts in each rule. On March 10, 2006, The Clearing House Association L.L.C. ("The Clearing House") submitted a letter expressing the same concern on behalf of its member banks.[5] The associations have explained that additional time is needed for their

[1] Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts, 71 FR 496 (Jan. 4, 2006).

[2] Pub. L. 107–56.

[3] Pub. L. 91–508 (codified as amended at 12 U.S.C. 1829b, 12 U.S.C. 1957–1959, and 31 U.S.C. 5311–5314 and 5316–5332).

[4] The ICI is the national association of the U.S. investment company industry, including 8,554 open-end investment companies (mutual funds), 7,654 closed-end investment companies, 162 exchange-traded funds, and five sponsors of unit investment trusts. The SIA is a trade association whose membership includes more than 600 securities firms, including investment banks, broker-dealers, and mutual fund companies. The FIA describes itself as a principal spokesman for the commodity futures and options industry, with a regular membership composed of approximately 40 of the largest futures commission merchants and approximately 150 associate members representing all segments of the futures industry.

[5] The members of The Clearing House are Bank of America, N.A.; The Bank of New York; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, N.A.; JPMorgan Chase Bank, N.A.; LaSalle Bank National Association; UBS AG; U.S. Bank National Association; Wachovia Bank, N.A.; and Wells Fargo Bank, N.A.

members to design, develop, test, and implement procedures, forms, and systems under the new rules. They have requested an additional 90 days for their member organizations to begin applying the due diligence provisions of the final rules to new accounts.[6]

Though banks previously were required to apply the due diligence requirements of section 312 of the USA PATRIOT Act to both foreign correspondent accounts and private banking accounts pursuant to an interim final rule published in July 2002,[7] The Clearing House has explained that the expanded scope of the final rules require substantial systems, forms, and procedural changes by banks, necessitating their request for an additional 90 days.[8] Broker-dealers in securities, futures commission merchants, and introducing brokers in commodities have been required to apply the due diligence requirements of section 312 solely to private banking accounts according to the provisions of an interim final rule.[9] However, as the SIA and FIA explained in their extension request dated February 23, 2006 and further elaborated in a request for guidance dated March 3, 2006, compliance expectations contained in the preamble to the final rule fundamentally change the way that introducing and clearing brokers have been meeting their due diligence obligations, complicating their efforts to comply with even the private banking account provisions of the final rule by April 4, 2006.[10] Mutual funds were excepted from the provisions of the interim final rule, and need an additional 90 days to amend their written anti-money laundering compliance policies and procedures to reflect the new due diligence programs and secure the required board approvals for such amendments.

II. Extension of Applicability Dates for New Accounts

In light of these requests, we believe that it is appropriate to extend the applicability dates by which covered financial institutions must apply the provisions of 31 CFR 103.176 and 103.178 to new accounts. Therefore, according to the amendments set forth in this final rule, covered financial institutions now will have until July 5, 2006 to apply the due diligence provisions in 31 CFR 103.176 and 103.178 to each correspondent account and private banking account established on or after such date.[11] We do not anticipate granting a further extension beyond July 5, 2006 and expect that covered financial institutions thereafter will have established the due diligence programs necessary to comply in full with the final rules implementing section 312.

III. Regulatory Matters

Because this rule simply extends the time by which covered financial institutions must establish due diligence programs in accordance with the requirements of 31 CFR 103.176 and 103.178, we have determined that notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B) and that delayed effective dates are not required pursuant to 5 U.S.C. 553(d)(1).

We have also determined that this rule is not a significant regulatory action for purposes of Executive Order 12866. Given that no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act[12] do not apply.

List of Subjects in 31 CFR Part 103

Banks and banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 31 CFR part 103 is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

■ 2. Section 103.176 is amended by revising paragraph (e)(1) to read as follows:

§ 103.176 Due diligence programs for correspondent accounts for foreign financial institutions.

* * * * *

(e) * * *

(1) *General rules*—(i) Correspondent accounts established on or after July 5, 2006. Effective July 5, 2006, the requirements of this section shall apply to each correspondent account established on or after such date.

(ii) Correspondent accounts established before July 5, 2006. Effective October 2, 2006, the requirements of this section shall apply to each correspondent account established before July 5, 2006.

* * * * *

■ 3. Section 103.178 is amended by revising paragraph (e)(1) to read as follows:

§ 103.178 Due diligence programs for private banking accounts.

* * * * *

(e) * * *

(1) *General rules*—(i) Private banking accounts established on or after July 5, 2006. Effective July 5, 2006, the requirements of this section shall apply to each private banking account established on or after such date.

(ii) Private banking accounts established before July 5, 2006. Effective October 2, 2006, the requirements of this section shall apply to each private banking account established before July 5, 2006.

* * * * *

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[6] See Anti-Money Laundering Programs Special Due Diligence Programs for Certain Foreign Accounts, 71 FR 496 (Jan. 4, 2006) (requiring compliance with the due diligence provisions of the correspondent banking and private banking rules beginning April 4, 2006 for correspondent accounts and private banking accounts established by a U.S. financial institution on or after April 4, 2006).

[7] See Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts, 67 FR 48348 (July 23, 2002) (interim final rule subjecting depository institutions to the due diligence provisions of section 312 of the USA PATRIOT Act for correspondent accounts and private banking accounts, and subjecting broker-dealers, futures commission merchants, and introducing brokers in commodities to the private banking account provisions of section 312, until relevant final rules were adopted).

[8] The Clearing House wrote that the definition of "foreign financial institution" in the final rule will require banks to make substantial systems and program changes to capture, for example, certain foreign money services businesses, for which banks previously had not been required to establish due diligence programs under section 312. The Clearing House additionally noted that the adoption of the statutory definition of "correspondent account" in the final rule necessitates similar substantial changes. Finally, the Clearing House expressed that analysis and changes will be required to comply with the due diligence requirements of the private banking account rule, as requirements of that rule now have been clarified.

[9] See id. Broker-dealers in securities, futures commission merchants, introducing brokers in commodities, and mutual funds previously were not required to apply the due diligence requirements of section 312 of the USA PATRIOT Act to correspondent accounts.

[10] The ICI, SIA, and FIA additionally noted that elements of the final rules, as they specifically relate to the securities and futures industries, have caused confusion among those industries, complicating efforts to establish the required due diligence programs. For example, treatment of customers underlying omnibus and intermediated relationships under both the correspondent account and private banking rules is an issue that has been described as particularly complicated.

[11] In the interim, covered financial institutions are expected to comply with the special applicability rules in 31 CFR 103.176(e) and 178(e), which are intended to ensure consistency with the requirements of the interim final rule until the general applicability dates of the final rules are triggered.

[12] 5 U.S.C. 601 et seq.

Dated: March 24, 2006.

Robert W. Werner,

Director, Financial Crimes Enforcement Network.

[FR Doc. 06–3045 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 550, 590, and 591

Libyan Sanctions Regulations, Angola (UNITA) Sanctions Regulations, Rough Diamonds (Liberia) Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Treasury Department's Office of Foreign Assets Control is removing from the Code of Federal Regulations the Libyan Sanctions Regulations, the Angola (UNITA) Sanctions Regulations, and the Rough Diamonds (Liberia) Sanctions Regulations, as a result of the termination of the national emergencies, and revocation of the Executive orders, on which those regulations were based.

DATES: *Effective Date:* March 30, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Policy, Office of Foreign Assets Control, tel.: 202/622–4855, or Chief Counsel (Foreign Assets Control), Office of the General Counsel, Department of the Treasury, tel.: 202/622–2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This file is available for download without charge in ASCII and Adobe Acrobat readable (*.PDF) formats at GPO Access. GPO Access supports HTTP, FTP, and Telnet at *fedbbs.access.gpo.gov*. It may also be accessed by modem dialup at 202/512–1387 followed by typing "/GO/FAC." Paper copies of this document can be obtained by calling the Government Printing Office at 202/512–1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or via FTP at *ofacftp.treas.gov*. Facsimiles of information are available through the Office's 24-hour fax-on-demand service: Call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On May 6, 2003, the President issued Executive Order 13298 (68 FR 24857, May 8, 2003), terminating the national emergency declared in Executive Order 12865 of September 26, 1993, with respect to the actions and policies of the National Union for the Total Independence of Angola ("UNITA") and revoking Executive Orders 12865, 13069, and 13098. In terminating the national emergency, the President chose to end all blocking of any assets previously blocked under the Angola (UNITA) Sanctions Regulations.

On September 20, 2004, the President issued Executive Order 13357 (69 FR 56665, September 22, 2004), terminating the national emergency declared in Executive Order 12543 of January 7, 1986, with respect to the actions and policies of the Government of Libya and revoking Executive Orders 12543, 12544, 12801, and 12538. In terminating the national emergency, the President chose to end all blocking of any assets previously blocked under the Libyan Sanctions Regulations.

Executive Order 13357 superseded a series of general licenses and amendments thereof, effective February 26, 2004, April 2, 2004, April 23, 2004, and August 6, 2004, which had authorized certain travel-related and residence-related transactions, as well as certain new transactions with Libya. The text of these licenses is available on the Office of Foreign Assets Control Web site at: *http://www.treas.gov/offices/enforcement/ofac/sanctions/sanctguide-libya.shtml*.

Please note that certain transactions involving the Government of Libya, including entities owned or controlled by the Government of Libya, remain subject to the Terrorism List Governments Sanctions Regulations, 31 CFR part 596.

On January 15, 2004, the President issued Executive Order 13324 (69 FR 2823, January 20, 2004), terminating the national emergency declared with respect to the illicit trade in diamonds from Sierra Leone and Liberia and revoking Executive Orders 13194 and 13213. Please note that the President issued Executive Order 13448 on July 27, 2004, declaring a national emergency with respect to the actions and policies of former Liberian President Charles Taylor and other persons. This order, which remains in effect, blocks the assets of, and prohibits transactions with, these and other subsequently-designated persons.

In addition, on July 29, 2003, the President issued Executive Order 13312, implementing the Clean Diamond Trade Act, Pub. L. 108–19, and the Kimberly Process Certification Scheme for rough diamonds. Executive Order 13312 prohibits, subject to certain Presidential waiver authorities, the importation into, and exportation from, the United States of any rough diamonds, from whatever source, not controlled through the Kimberly Process Certification Scheme. To implement Executive Order 13312, the Office of Foreign Assets Control ("OFAC") issued interim regulations, effective July 30, 2003, under 31 CFR part 592, Rough Diamonds Control Regulations (68 Fed. Reg. 45777, August 4, 2003); on September 23, 2004, OFAC issued the final Rough Diamonds Control Regulations (69 Fed. Reg. 56936, September 23, 2004). As a result of these actions, all controls on rough diamonds are contained in 31 CFR part 592, Rough Diamonds Control Regulations.

Accordingly, OFAC is removing the Libyan Sanctions Regulations, 31 CFR part 550, the Angola (UNITA) Sanctions Regulations, 31 CFR part 590, and the Rough Diamonds (Liberia) Sanctions Regulations, 31 CFR part 591. Removal of these parts does not affect ongoing enforcement proceedings or prevent the initiation of enforcement proceedings where the relevant statute of limitations has not run.

Executive Order 12866, Administrative Procedure Act, Regulatory Flexibility Act, and Paperwork Reduction Act

Because the Libyan Sanctions Regulations, Angola (UNITA) Sanctions Regulations, and Rough Diamonds (Liberia) Sanctions Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects

31 CFR Part 550

Administrative practice and procedure, Banks, Banking, Currency, Foreign investments in United States, Foreign trade, Libya, Penalties, Reporting and recordkeeping requirements, Securities, Travel restrictions.

31 CFR Part 590

Administrative practice and procedure, Angola, Arms and munitions, Exports, Foreign trade, Penalties, Reporting and recordkeeping requirements, Transportation.

31 CFR Part 591

Administrative practice and procedure, Diamonds, Exports, Foreign trade, Imports, Liberia, Penalties, Reporting and recordkeeping requirements.

PARTS 550, 590 AND 591—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of 50 U.S.C. 1701 *et seq.* and Executive Orders 13298, 13324, and 13357, 31 CFR chapter V is amended by removing parts 550, 590, and 591.

Dated: March 6, 2006.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 06–3024 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–06–025]

Drawbridge Operation Regulations; Hutchinson River (Eastchester Creek), New York City, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the AMTRAK Pelham Bay railroad bridge, across the Hutchinson River at mile 0.5, at New York City, New York. This deviation allows the bridge to open on a limited daily schedule from March 27, 2006 through April 25, 2006. Vessels that can pass under the bridge without a bridge opening may do so at all times. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from March 27, 2006 through April 25, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York 10004, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District Bridge Branch Office maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The AMTRAK Pelham Bay railroad bridge, across the Hutchinson River at mile 0.5, has a vertical clearance in the closed position of 8 feet at mean high water and 15 feet at mean low water. The existing regulations are listed at 33 CFR 117.5 and 117.793.

The owner of the bridge, National Railroad Passenger Corporation (AMTRAK), requested a temporary deviation to facilitate scheduled electrical bridge repairs. In order to perform the above repairs the bridge must operate on a limited opening schedule.

Under this temporary deviation the AMTRAK Pelham Bay railroad bridge shall operate, from March 27, 2006 through April 25, 2006, as follows:

On Tuesday through Saturday of each week of the effective period of this temporary deviation, the draw shall open on signal only two times during the high tide predicted at Hell Gate, New York, between 6:30 a.m. and 6:30 p.m. The period during which the draw shall open is from 45 minutes before the predicted high tide at Hell Gate to three and one half hours after the predicted high tide.

On each Monday during the effective period of this temporary deviation, the draw shall open on signal only two times during each high tide, from 45 minutes before the predicted high tide at Hell Gate, New York, to three and one half hours after the predicted high tide.

On each Sunday during the effective period of this temporary deviation, the bridge need not open.

Vessels that can pass under the draw without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 22, 2006.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 06–3043 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Parcel Return Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule adopts new mailing standards to make Parcel Return Service a permanent classification. Parcel Return Service replaces the former Parcel Return Services experiment and is now open to all postal customers who meet the participation requirements.

DATES: *Effective Date:* April 2, 2006.

FOR FURTHER INFORMATION CONTACT: Michael F. Lee, 202–268–7263.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service published a final rule in the **Federal Register** on September 18, 2003 (68 FR 54664), introducing a new service called Parcel Return Services (PRS). This experimental service allowed authorized permit holders or their agents to pick up parcels returned by consumers at return bulk mail centers and return delivery units across the country.

We filed a Request for Recommended Decision with the Postal Rate Commission on October 17, 2005, to make the experimental classification permanent. On March 3, 2006, the Postal Rate Commission issued its Recommended Decision that PRS become a permanent service offering (Docket No. MC2006–1). The Governors of the Postal Service acted on the Recommended Decision in Resolution 06–3 on March 22, 2006, establishing PRS as a permanent mail classification. The Governors set April 2, 2006, as the effective date of the change.

Summary of Changes

We are changing the name of PRS from the plural "Parcel Return Services" to the singular "Parcel Return Service."

There are two major changes in the permanent PRS classification as compared with the experimental service offering. We are not offering Bound Printed Matter (BPM) Return Service as part of the permanent set of rates for PRS, because there was no reported BPM volume during the experiment. Consequently, only Parcel Select Return Service remains. At the request of PRS mailers, we will now offer Certificate of Mailing as an extra service for PRS parcels. A mailer returning a parcel using PRS can bring it to a local post office and purchase a Certificate of

Mailing as proof that the parcel was mailed.

We chose to retain the name "Parcel Select Return Service" for labeling, rating, and data collection purposes. This continuity will allow mailers to use their existing label stock; no label redesign is necessary. We will use a similar naming convention for any future service offerings under the PRS umbrella.

We provide the new standards, and how they are applied for Parcel Return Service, below.

We adopt the following amendments to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR Part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Revise the following sections of the Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

500 Additional Services

* * * * *

507 Mailer Services

* * * * *

[Remove mailing standards for the Parcel Return Services experiment in 709.5.0. Add new 507.11.0 to make Parcel Return Service a permanent classification as follows:]

11.0 PARCEL RETURN SERVICE

11.1 Basic Information

11.1.1 Description

The Parcel Return Service (PRS) standards in 11.0 apply to parcels that are retrieved in bulk by authorized permit holders or their agents. The permit holder guarantees payment of postage and retrieval of all PRS parcels mailed with a PRS label. When a merchant or other party provides an approved PRS label to its customers or others, the merchant or other party designates the permit holder identified on the label as their agent for receipt of mail bearing that label, and authorizes the USPS to provide that mail to the permit holder or its designee. The permit holder has the option of retrieving parcels at a designated return delivery unit (a postal facility designated as a pickup location for PRS parcels, also known for PRS purposes as an "RDU") or at the return bulk mail center (also known for PRS purposes as an "RBMC") that serves the post office where returned parcels are deposited by customers. Payment for parcels returned under PRS is deducted from a separate advance deposit (postage-due) account funded through the Centralized Account Processing System (CAPS).

11.1.2 Conditions for Mailing

Parcels may be mailed as PRS when all of the following conditions apply:

a. Parcels contain eligible matter as described in 153.3 and 153.4.

b. Parcels bear a PRS label that meets the standards in 11.4.

c. Parcels show the permit number, and the permit holder has paid the annual PRS permit fee and the annual PRS accounting fee.

11.1.3 Services

Pieces using PRS may not bear an ancillary service endorsement (see 102.4.0 and 507.1.5). Only a Certificate of Mailing, when the fee is paid by the mailer returning the parcel, is available as an extra service.

11.1.4 Customer Mailing Options

Returned parcels may be deposited as follows:

a. At any post office, station, or branch.

b. In any collection box (except an Express Mail box).

c. With any letter carrier.

d. As part of a collection run for other mail (special arrangements may be required).

e. At any place designated by the postmaster for the receipt of mail.

11.1.5 Application

Companies who wish to participate in PRS must send a request on company letterhead to the manager, Business Mailer Support (see 608.8.0 for address). The request must contain the following information:

a. Company name and address.

b. An individual's contact name, telephone number, fax number, and e-mail address.

c. The rate category or categories to be used, and the proposed retrieval locations (delivery units and bulk mail centers).

d. A description of the electronic returns manifesting system to be used to document returns listed by location and rate eligibility.

11.1.6 Approval

The manager, Business Mailer Support reviews each request and proceeds as follows:

a. If the applicant meets the criteria, the manager, Business Mailer Support approves the letter of request. The USPS will require the customer to enter into a Service Agreement, may require additional documentation, and may conduct periodic review and inspection of each participant's PRS processing and accounting operations.

b. If the application does not meet the criteria, the manager, Business Mailer Support denies the request and sends a written notice to the applicant with the reason for denial.

11.1.7 Cancellation

USPS may cancel a PRS permit for any of the following reasons:

a. The permit holder fails to pay the required postage and fees for returned parcels.

b. The permit holder does not maintain adequate available funds to cover postage and fees for returned parcels.

c. The permit holder does not fulfill the terms and conditions of the PRS permit authorization.

d. The return labels do not conform to the specifications in 11.4.

11.1.8 Reapplying After Cancellation

To receive a new PRS permit after cancellation under 11.1.7 the mailer must:

a. Submit a letter to the manager, Business Mailer Support requesting a permit and a new agreement.

b. Pay a new permit fee.

c. Provide evidence showing that the reasons for cancellation no longer exist.

d. Maintain adequate available funds to cover the expected number of returns.

11.1.9 Pickup Schedule

Permit holders or their agents must set up a recurring or standing appointment to retrieve PRS parcels. If the permit holder (or their agent) already has existing appointments to deliver Parcel Select parcels to a destination bulk mail center or to a destination delivery unit, those same appointments can be used for retrieving PRS parcels. Permit holders or their agents must retrieve parcels on a regular schedule as follows:

a. From RBMCs, at a minimum of every 48 hours, excluding Sundays and USPS holidays.

b. From RDUs, according to the Service Agreement.

11.1.10 Parcels Endorsed Hold for Pickup

PRS participants must pay the appropriate Parcel Select RDU rate under 11.3 for any unclaimed, refused, undeliverable as addressed, or recalled parcels that are endorsed "Hold For Pickup" (under 455.4.6 and 508.1.3) and that bear the marking "PARCEL RETURN SERVICE REQUESTED" or "PRS REQUESTED" followed by a unique 569 prefix ZIP Code.

11.2 Postage and Fees

11.2.1 Postage

There are two PRS rate categories:

a. Parcel Select RDU. Parcels returned as Parcel Post to, and retrieved in bulk from, a designated delivery unit.

b. Parcel Select RBMC. Parcels returned as Parcel Post to, and retrieved in bulk from, a designated BMC.

11.2.2 Permit Fee

The participant must pay a $160.00 permit fee annually at the post office where the PRS permit is held.

11.2.3 Advance Deposit Account and Annual Accounting Fee

The participant must pay postage through an advance deposit account and must pay an annual accounting fee of $500.00.

11.3 Rates

11.3.1 Parcel Return Service—Return Delivery Unit

Regardless of weight (up to the maximum weight of 70 pounds), any parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Length plus girth	Rate
Not over 108 inches	$2.11
Oversized (Over 108 inches up to 130 inches)	7.92

11.3.2 Parcel Return Service—Return BMC Machinable

Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel.

See Exhibit 11.3.2, Parcel Return Service—Return BMC Machinable.

EXHIBIT 11.3.2.—PARCEL RETURN SERVICE—RETURN BMC MACHINABLE

Weight not over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.21	$2.25	$2.31	$2.40
2	2.81	2.85	2.92	3.04
3	3.39	3.43	3.52	3.65
4	3.60	3.96	4.07	4.22
5	3.78	4.38	4.52	4.73
6	3.95	4.76	4.90	5.21
7	4.11	5.09	5.25	5.64
8	4.71	5.40	5.57	6.05
9	4.85	5.65	5.89	6.42
10	5.03	5.98	6.20	6.77
11	5.16	6.20	6.47	7.08
12	5.32	6.41	6.75	7.39
13	5.46	6.58	7.00	7.66
14	5.59	6.70	7.26	7.93
15	5.70	6.88	7.48	8.18
16	5.82	7.06	7.69	8.41
17	5.96	7.23	7.93	8.63
18	6.05	7.39	8.13	8.83
19	6.18	7.55	8.32	9.03
20	6.28	7.69	8.48	9.21
21	6.38	7.84	8.64	9.39
22	6.49	7.97	8.79	9.55
23	6.58	8.14	8.94	9.71
24	6.67	8.26	9.06	9.87
25	6.76	8.39	9.19	10.00
26	6.86	8.51	9.33	10.14
27	6.95	8.64	9.44	10.27
28	7.02	8.77	9.54	10.39
29	7.11	8.90	9.65	10.51
30	7.20	9.00	9.76	10.61
31	7.28	9.09	9.85	10.73
32	7.38	9.21	9.96	10.82
33	7.44	9.32	10.04	10.93
34	7.53	9.40	10.13	11.01
35	7.59	9.52	10.21	11.11

11.3.3 Parcel Return Service—Return BMC Nonmachinable

Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel. Regardless of weight, any parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

See Exhibit 11.3.3, Parcel Return Service—Return BMC Nonmachinable.

EXHIBIT 11.3.3.—PARCEL RETURN SERVICE—RETURN BMC NONMACHINABLE

Weight not over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$3.63	$3.67	$3.73	$3.82
2	4.23	4.27	4.34	4.46
3	4.81	4.85	4.94	5.07
4	5.02	5.38	5.49	5.64
5	5.20	5.80	5.94	6.15
6	5.37	6.18	6.32	6.63
7	5.53	6.51	6.67	7.06
8	6.13	6.82	6.99	7.47
9	6.27	7.07	7.31	7.84
10	6.45	7.40	7.62	8.19
11	6.58	7.62	7.89	8.50
12	6.74	7.83	8.17	8.81
13	6.88	8.00	8.42	9.08
14	7.01	8.12	8.68	9.35
15	7.12	8.30	8.90	9.60
16	7.24	8.48	9.11	9.83
17	7.38	8.65	9.35	10.05
18	7.47	8.81	9.55	10.25
19	7.60	8.97	9.74	10.45
20	7.70	9.11	9.90	10.63
21	7.80	9.26	10.06	10.81
22	7.91	9.39	10.21	10.97
23	8.00	9.56	10.36	11.13
24	8.09	9.68	10.48	11.29
25	8.18	9.81	10.61	11.42
26	8.28	9.93	10.75	11.56
27	8.37	10.06	10.86	11.69
28	8.44	10.19	10.96	11.81
29	8.53	10.32	11.07	11.93
30	8.62	10.42	11.18	12.03
31	8.70	10.51	11.27	12.15
32	8.80	10.63	11.38	12.24
33	8.86	10.74	11.46	12.35
34	8.95	10.82	11.55	12.43
35	9.01	10.94	11.63	12.53
36	9.11	11.05	11.74	12.65
37	9.19	11.13	11.80	12.71
38	9.23	11.20	11.85	12.76
39	9.29	11.29	11.90	12.81
40	9.33	11.34	11.94	12.87
41	9.40	11.43	11.98	12.92
42	9.43	11.49	12.03	12.96
43	9.47	11.55	12.08	12.99
44	9.53	11.61	12.12	13.02
45	9.56	11.66	12.27	13.06
46	9.63	11.74	12.30	13.09
47	9.68	11.78	12.33	13.12
48	9.71	11.85	12.35	13.15
49	9.77	11.91	12.38	13.18
50	9.78	11.96	12.40	13.21
51	9.85	12.00	12.43	13.25
52	9.89	12.09	12.46	13.28
53	9.90	12.12	12.47	13.31
54	9.95	12.14	12.50	13.34
55	9.99	12.16	12.53	13.37
56	10.03	12.18	12.55	13.40
57	10.08	12.18	12.55	13.44
58	10.12	12.20	12.57	13.47
59	10.15	12.21	12.59	13.50
60	10.20	12.22	12.59	13.53
61	10.24	12.23	12.61	13.56
62	10.27	12.24	12.66	13.59
63	10.31	12.24	12.71	13.63
64	10.35	12.24	12.74	13.66
65	10.38	12.27	12.78	13.69
66	10.43	12.27	12.83	13.72
67	10.47	12.28	12.89	13.75
68	10.47	12.28	12.91	13.78
69	10.53	12.28	12.96	13.82
70	10.56	12.28	13.00	13.85
Oversized	27.39	27.73	28.46	29.56

11.4 Label Formats

11.4.1 Label Preparation

PRS labels must be certified by the USPS for use prior to distribution as defined in the Service Agreement. In addition, permit holders must obtain USPS certification for barcode symbologies. Any photographic, mechanical, or electronic process or any combination of these processes may be used to produce PRS labels. The background of the label may be any light color that allows the address, barcodes, and other required information to be easily distinguished. If labels are electronically transmitted to customers for their local printing, the permit holder must advise customers of these printing requirements as part of the instructions in 11.4.3.

11.4.2 Labeling Methods

If all applicable contents and formats are approved (including instructions to the user), permit holders or their agents may distribute a PRS label by any of the following methods:

a. As an enclosure with merchandise when initially shipped as part of the original invoice accompanying the merchandise, or as a separate label preprinted by the permit holder. If the reverse side of the label bears an adhesive, it must be strong enough to bond the label securely to the mailpiece.

b. As an electronic file created by the permit holder for local printing by the customer.

11.4.3 Instructions

Regardless of label distribution method, permit holders or their agents must always provide written instructions to the user of the PRS label that, at a minimum, direct the user to do the following:

a. "If your name and address are not already printed in the return address area, please print them neatly in that area or attach a return address label there."

b. "Attach the label provided by the merchant squarely onto the largest side of the mailpiece, unless you need to use another side to make the parcel more stable. Place the label at least 1 inch from the edge of the parcel, so that it does not fold over to another side. If you are using tape to attach the new label, do not put tape over any barcodes on the label, even if the tape is clear."

c. "If you are reusing the original container to return the merchandise; use the label to cover your original delivery address, barcodes, and any other postal information on the container. If it is not possible to cover all that information with the label, remove the old labels, mark them out completely with a permanent marker, or cover them completely with blank labels or paper that cannot be seen through. If that cannot be done, or if the original container is no longer sound, please use a new box to return the merchandise and attach the return label to the new box."

d. "Once repackaged and labeled, mail the parcel at a post office, deposit it in a collection box, or leave it with your letter carrier."

11.4.4 Label Format Elements

There is no minimum size for PRS labels; however, the label must be big enough to accommodate all of the label elements and standards in this section. All PRS label elements must be legible. Except where a specific type size is required, elements must be large enough to be legible from a normal reading distance and be separate from other elements on the label. See the PRS label format examples in 11.4.5a and 11.4.5b. The following elements are required:

a. *Postage guarantee.* The imprint "No Postage Necessary If Mailed in the United States" must appear in the upper right corner.

b. *Horizontal bars.* A minimum of three horizontal bars must appear directly below the imprint in the upper right corner. The bars must be uniform in length, at least 1 inch long, 1/16 inch thick, and evenly spaced.

c. *Parcel Return Service legend.* The legend must be placed directly above the address and must include:

1. Line 1: In capital letters at least 3/16" high, "PARCEL SELECT RETURN SERVICE" (or "PARCEL SELECT RTN SVC").

2. Line 2: In all capital letters, the permit holder's name, left justified, followed by "PERMIT NO.", followed by the actual permit number.

d. *Customer's return address.* The return address of the customer using the label to mail the parcel back to the permit holder must appear in the upper left corner. If it is not preprinted by the permit holder or merchant, space must be provided for the customer to enter the return address.

e. *Address for Parcel Return Service labels.* The address must contain the unique PRS ZIP Code (569 prefix) assigned by the USPS to the particular customer or agent. The address must consist of two or three lines in all capital letters, as specified below. The ZIP Code must be printed in at least 12-point type on a line directly below the Parcel Return Service line.

1. Line 1: PRS AGENT'S OR MERCHANT'S NAME.

2. Line 2: "PARCEL RETURN SERVICE" (or "PARCEL RETURN SVC").

3. Line 3: The unique PRS 569## ZIP Code assigned by the USPS in the service agreement. The unique ZIP Code may alternatively be located as part of the second line of the address.

f. *Parcel Return Service barcode.* A PRS barcode must be printed directly on the label. The barcode may appear in any location on the label except the upper left, upper right, and lower right corners. The barcode must meet the standards for barcodes in Publication 91, Confirmation Services Technical Guide, with the following exceptions:

1. The barcode must be produced using the UCC/EAN Code 128 barcode symbology.

2. The service type code (STC) contained in the barcode on PRS labels must contain the value "58."

3. Text above the barcode must read "USPS PARCEL RETURN SERVICE" (or "USPS PARCEL RTN SVC"). If the barcode is a single concatenated barcode with the postal routing code described in 11.4.4g, the text above the barcode must read "BMC ZIP—USPS PARCEL RETURN SERVICE" (or "BMC ZIP—USPS PARCEL RTN SVC"). In the text below the barcode, the leading application identifier ("420"), ZIP Code information, and subsequent numbers must be parsed as shown in 11.4.5b.

4. The clear zone between the barcode, the human-readable text, and the horizontal bar above and below the barcode must be at least 1/16 inch.

g. *Postal routing barcode.* If a single concatenated barcode is not used for the PRS barcode, a postal routing barcode also must be printed directly on the label. The barcode may appear in any location on the label, except the upper left, upper right, and lower right corners. Postal routing barcodes must meet the standards in 708.5.0, except that the text below the barcode must read "BMC ZIP–," followed by the unique PRS ZIP Code assigned by USPS in the service agreement.

h. *Mailer identification (ID).* The permit holder assigns a mailer ID to each individual client (merchant). An individual mailer ID must appear in the lower right corner as follows:

1. The mailer ID must consist of a single, uppercase alpha character followed by a two-, three-, or four-digit number, with no spaces or dashes. For example: X0123.

2. The mailer ID must be at least 3/16 inch high and be surrounded by a box, with a clearance of at least 3/16 inch between the mailer ID characters and the edges of the box.

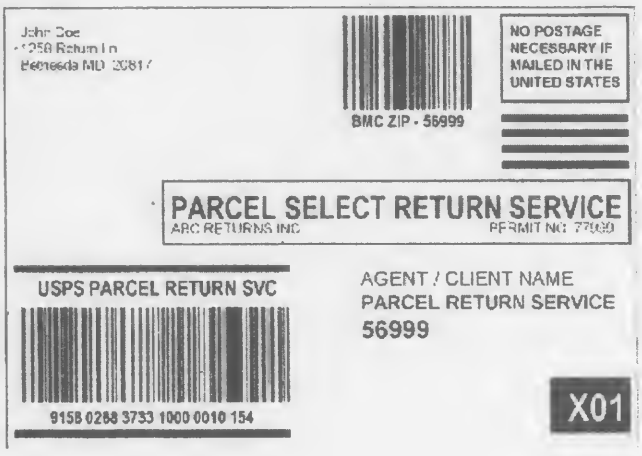
3. The mailer ID may be reverse-printed.

i. *Additional information.* Additional information (*e.g.*, company logo, return authorization number, inventory barcode) is permitted on the PRS label if it does not interfere with any required format elements. Inventory barcodes must not resemble the barcodes described in 708.5.0, Barcoding Standards for Parcels.

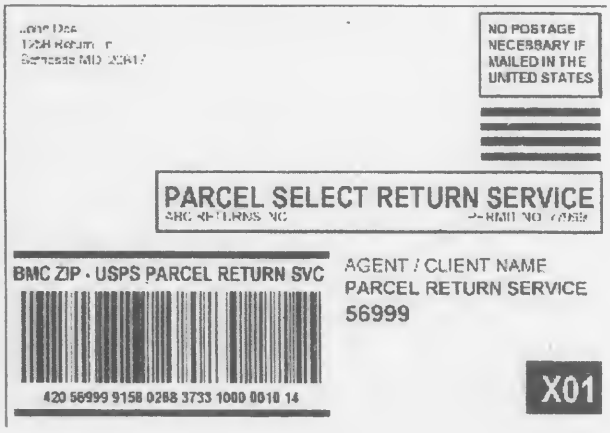
11.4.5 PRS Label Format Examples

The following are PRS label format examples. **Note:** The ZIP Code 56999 appears in each example for demonstration purposes only.

a. Parcel Select Return Service label using a separate PRS barcode and postal routing barcode.



b. Parcel Select Return Service label using a concatenated barcode.



* * * * *

700 Special Standards

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709 Experimental Classifications and Rates

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[Delete 709.5.0, Parcel Return Services, and renumber sections 709.6.0 through 709.8.0 accordingly.]

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 06–3117 Filed 3–29–06; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2005–0482; FRL–8050–2]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing a revision to the State Implementation Plan (SIP) submitted by the state of Iowa. The purpose of this revision is to approve the 2005 update to the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. These revisions will help to ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

DATES: This direct final rule will be effective May 30, 2006, without further notice, unless EPA receives adverse comment by May 1, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR–2005–0482, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: hamilton.heather@epa.gov.*

3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier:* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2005–0482. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m. excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What is the Federal approval process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What does Federal approval of a state regulation mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What is being addressed in this document?

The Iowa Department of Natural Resources (IDNR) requested EPA approval of the 2005 revisions to the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution, as a revision to the Iowa SIP. The changes were adopted by the Polk County Board of Health Supervisors on August 16, 2005, and became effective August 24, 2005.

The definitions for AQD (Air Quality Division) and Health Officer are being revised to include the updated title, Air Quality Division of Polk County. Definitions for EPA reference method and Volatile Organic Compounds are being updated to include recent CFR amendment dates. Additional definitions being added to Chapter V are Hazardous air pollutant, and manually operated equipment. These definitions are consistent with the definitions in the Iowa SIP.

Two revisions are being made to Article VII, "Performance Test for Stack Emission Test," at 5–18(a)(2) and 5–18(a)(3), to include recent CFR amendment dates.

Revisions to Article X, "Permits," and Division 2, "Operating Permits," are being made to add the term of "cooling units" to fuel-burning equipment for indirect heating and reheating furnaces. The paragraphs at 5–33(3) and 5–39(b)(2) were deleted and replaced with paragraphs that included residential heaters, cook stoves, or fireplaces which burn untreated wood, untreated seeds or pellets, or other untreated vegetative materials. Exemptions were added at 5–33(19) and 5–39(a)(12) to add manually-operated equipment, as defined in Article I, 5–2. Revisions made to Article X are consistent with the Iowa SIP.

Have the requirements for approval of a SIP revision been met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What action is EPA taking?

EPA is approving a revision to the SIP submitted by the state of Iowa to approve the 2005 update to the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. These revisions will ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules that are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule 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 of the rule 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 13, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. In § 52.820 the table in paragraph (c) is amended by revising the entry for "Chapter V" under the heading "Polk County" to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources, Environmental Protection Commission [567]				
*	*	*	*	*
Polk County				
CHAPTER V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V.	8/24/05	3/30/06 [insert FR page number where the document begins]	Article I, Section 5–2, definition of "variance"; Article VI, Sections 5–16(n), (o) and (p); Article VIII, Article IX, Sections 5–27(3) and (4); Article XIII, and Article XVI, Section 5–75(b) are not a part of the SIP.

* * * * *

[FR Doc. 06–3032 Filed 3–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0122; FRL–8050–4]

Approval and Promulgation of Implementation Plans; Iowa; Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is making a revision to the Code of Federal Regulations (CFR) for the purpose of giving the Iowa Department of Natural Resources (IDNR) full regulatory responsibility for EPA-issued Prevention of Significant Deterioration (PSD) permits. IDNR demonstrated state legislative authority to take responsibility for the permits, and demonstrated that resources are available to accomplish full regulatory responsibility.

DATES: This direct final rule will be effective May 30, 2006, without further notice, unless EPA receives adverse comment by May 1, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0122, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. E-mail: *Hamilton.heather@epa.gov.*
3. Mail: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. Hand Delivery or Courier: Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2006–0122. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://*

www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m. excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is Being Addressed in This Document?
What Action is EPA Taking?

What is Being Addressed in This Document?

EPA is making a revision to the CFR for the purpose of giving the IDNR full regulatory responsibility for EPA-issued PSD permits.

On April 22, 1987, EPA approved Iowa's rules for the Prevention of Significant Deterioration (PSD) of air quality (a permit program for major new and modified sources of air pollution proposing to locate in areas of the state which are achieving the ambient air quality standards). One issue in that rulemaking addressed how the PSD permits previously issued by EPA would be administered. At that time, IDNR determined that it did not have authority to implement the PSD program. EPA approved the Iowa program, which incorporated the federal PSD rules in 40 CFR 52.21, by reference. However, EPA stated in 40 CFR 52.833 that its approval did not extend to sources holding federal PSD permits and EPA retained authority to administer the program for those permits for sources subject to permits previously issued by EPA. IDNR has since reconsidered its authority and has determined that it does have authority to implement EPA permits.

IDNR demonstrated state legal authority to take responsibility for the permits in a letter to EPA Region 7 dated May 23, 2003. IDNR's authority to take responsibility for EPA-issued permits can be found in the Iowa Administrative Code, Section 567, "Environmental Protection Commission", Chapter 22.4, "Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD)." In the same letter, IDNR demonstrated that resources are available to assume regulatory responsibility for EPA-issued permits. The IDNR Construction Permit Section of the Air Quality Bureau is responsible for reviewing and issuing air construction permits and is fully staffed by permit review engineers. The air dispersion modeling related to construction permits is accomplished by environmental specialists located in the Program Development Section of the Air Quality Bureau. Four ambient air monitoring staff are available for questions and issues related to pre-application or post-construction ambient air monitoring for PSD permits.

A public hearing with regard to this action was held by the state. Two comments were received from industry representatives which supported the action.

With this action, the regulatory text in 52.833 will be revised to reflect that IDNR has been given full regulatory responsibility for EPA-issued PSD permits. The language stating "sources with permits issued by EPA prior to the effective date of the state's rules;" will be deleted.

What Action is EPA Taking?

EPA is approving this revision submitted by Iowa and is revising 40 CFR 52.833 to give the Iowa Department of Natural Resources regulatory responsibility for EPA-issued Prevention of Significant Deterioration permits. IDNR demonstrated legal authority to take responsibility for the permits, and demonstrated that resources are available to accomplish full regulatory responsibility. We do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 30, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 13, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. Section 52.833 is revised to read as follows:

§ 52.833 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Air Act are met, except for sources seeking permits to locate on Indian lands in the state of Iowa; and certain sources affected by the stack height rules described in a letter from Iowa dated April 22, 1987.

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21 except paragraph (a)(1) are hereby incorporated and made a part of the applicable State plan for the State of Iowa for sources wishing to locate on Indian lands; and certain sources as identified in Iowa's April 22, 1987, letter.

[FR Doc. 06–3036 Filed 3–29–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[OAR–2006–0160; FRL–8049–6]

RIN 2060–AN67

Control of Air Pollution From New Motor Vehicles: Amendments to the Tier 2 Motor Vehicle Emission Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to make minor amendments to the existing Tier 2 motor vehicle regulations (65 FR 6698, February 10, 2000, hereinafter referred to as the Tier 2 rule). These minor amendments are consistent with our intention, under the original Tier 2 rule, to provide interim compliance flexibilities for clean diesels in the passenger car market. While the automotive industry has made rapid advancements in light-duty diesel emissions control technologies and will, as a result, be able to produce diesel vehicles that can comply with the primary regulatory requirements of the Tier 2 program, diesel vehicles still face some very limited technological challenges in meeting the full suite of Tier 2 requirements. This action will provide two voluntary, interim alternative compliance options for a very limited set of standards for oxides of nitrogen (NO_X), including only high altitude and high speed/high acceleration conditions. These temporary alternative compliance options are designed to be environmentally neutral, as manufacturers choosing them would then be required to meet more stringent standards in other aspects of the Tier 2 program. The alternative compliance options will last for only three model years, during which time advancements in diesel emissions control technologies will be further developed.

DATES: This direct final rule is effective on June 28, 2006 without further notice, unless we receive adverse comments by May 1, 2006 or if we receive a request for a public hearing by April 14, 2006. Should we receive any adverse comments on this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0160. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Todd Sherwood, U.S. EPA, National Vehicle and Fuel Emissions Laboratory, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone (734) 214–4405, fax (734) 214–4816, e-mail *sherwood.todd@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to adopt the provisions in this Direct Final Rule if adverse comments are filed. This rule will be effective on June 28, 2006 without further notice unless we receive adverse comment by May 1, 2006 or a request for a public hearing by April 14, 2006. If we receive adverse comment on one or more distinct amendments, paragraphs, or sections of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions are being withdrawn due to adverse comment. We may address all adverse comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action.

Any parties interested in commenting must do so at this time. Any distinct amendment, paragraph, or section of today's rulemaking for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of today's rule.

Access to Rulemaking Documents Through the Internet

Today's action is available electronically on the date of publication from EPA's **Federal Register** Internet web site listed below. Electronic copies of this preamble, regulatory language, and other documents associated with today's final rule are available from the EPA Office of Transportation and Air Quality Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you already incur for connecting to the Internet.

EPA **Federal Register** Web site: *http://www.epa.gov/fedrgstr/EPA–AIR/* (either select a desired date or use the Search feature).

EPA Office of Transportation and Air Quality Web site for Tier 2 Vehicle and Gasoline Sulfur Program Amendments: *http://www.epa.gov/tier2/amendments.htm.*

Please note that changes in format, page length, etc:, may occur due to computer software differences.

Regulated Entities

Entities potentially affected by this action are those that manufacture and sell motor vehicles in the United States. The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated entities
Industry	336111 336112	3711	Automobile and light truck manufacturers.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

I. Overview of Voluntary Alternative Compliance Options

The amendments described below pertain to the Tier 2/Gasoline Sulfur regulations finalized by EPA on February 10, 2000 (65 FR 6698), hereafter referred to as the Tier 2 rule, or the Tier 2 program. The Tier 2/Gasoline Sulfur program was designed to significantly reduce the emissions from new passenger cars and light trucks, including pickup trucks, vans, minivans, and sport-utility vehicles. The program is a comprehensive regulatory initiative that treats vehicles and fuels as a system, combining requirements for much cleaner vehicles with requirements for much lower levels of sulfur in gasoline. The program, which began in model year 2004, phases in a single set of exhaust emission standards that will, for the first time, apply to all passenger cars, light trucks, and larger passenger vehicles operated on any fuel. To enable the very clean Tier 2 vehicle emission control technology to be introduced and to maintain its effectiveness, the Tier 2 program also requires reduced gasoline sulfur levels nationwide. The Tier 2 program did not require similar changes for diesel fuel sulfur levels, but a separate rule mandated the reduction of highway diesel fuel sulfur levels beginning in September, 2006 (66 FR 5001, January 18, 2001). Although we provide some additional context in the following discussions, the Tier 2 program is very detailed and will not be described completely in this direct final rule. Readers are advised to consult the documents associated with this rulemaking if they are interested in more information than is provided in this direct final rule. Information regarding the Tier 2 rule may be found on the EPA Web site at *http://www.epa.gov/tier2.*

A key component of the Tier 2 program has been an emphasis on consistent emission standards regardless of fuel type. This approach helps to ensure that our overall air quality goals are met. However, the Tier 2 program also gives some consideration to the fact that diesel vehicles must accomplish a much greater emission reduction from current levels in order to comply with the final Tier 2 program. Under the Tier 1 emissions control program, diesel-powered vehicles could be more than twice as high in emissions as gasoline vehicles for NO_X and in practice were almost ten times higher in emissions of PM. Tier 2 included a number of interim measures that provide a glide path for vehicles to improve incrementally before coming into full compliance with the final Tier 2 program. Manufacturers were given several flexibility options in the Tier 2 regulations to ease their transition into meeting the final Tier 2 standards until late in the phase-in period (as late as model year 2007 for light-duty vehicles (LDVs) and light light-duty trucks (LLDTs), and model year 2009 for heavy LDTs (HLDTs)).[1] These flexibilities were meant to give manufacturers an adequate amount of leadtime toward meeting the very stringent Tier 2 standards. Manufacturers were also permitted to certify vehicle families to less stringent bins during the phase-in, as long as the manufacturer's total fleet met the appropriate average NO_X level.[2] There were also provisions for specific flexibilities for diesel vehicles in the early years of the program.

As EPA projected, the automotive industry has made rapid advancements in diesel emissions control technologies for NO_X via NO_X adsorber systems, advanced turbo chargers, and more effective exhaust gas recirculation, and for PM via particulate filters that control diesel PM to gasoline levels. These advancements mean that manufacturers will be able to produce diesel vehicles that can comply with the primary regulatory requirements of the Tier 2 program. However, diesel vehicles still face some very limited technological challenges in meeting the full suite of Tier 2 requirements. Some diesel vehicle manufacturers have approached

[1] Light-duty truck (LDT) means any motor vehicle rated at 8,500 pounds gross vehicle weight rating (GVWR) or less which has a vehicle curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is: (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or, (2) designed primarily for transportation of persons and has a capacity of more than 12 persons; or, (3) available with special features enabling off-street or off-highway operation and use (40 CFR 86.1803–01). A light LDT means any LDT rated up through 6,000 pounds GVWR. A heavy LDT means any LDT rated greater than 6,000 pounds GVWR.

[2] The Tier 2 rule when fully phased in contains eight sets of emission standards, or "bins" (bins 1 through 8). Each bin is a set of emission standards to which manufacturers can certify their vehicles, provided that each manufacturer meets a specified fleet average NO_X standard. During the initial years of the program, there are an additional three bins.

EPA to express concerns with respect to a very limited set of standards for oxides of nitrogen (NO_X) emissions. Specifically, some manufacturers are concerned with the 4,000 mile standards for high speed/high acceleration operating conditions (i.e., the US06 cycle and associated standards) and the NO_X standards for high altitude operating conditions. These two narrow areas of operation are the most challenging for diesel vehicles due to the relatively high engine loads of the US06 test cycle and the relative lack of oxygen at high altitudes. The new technologies that have been applied to broadly bring these vehicles into Tier 2 compliance will require further fine-tuning to fully address emissions under these conditions. We are projecting that, with only a few more interim years of refinement, these technologies will be able to achieve full compliance under these narrow conditions as they already demonstrate under typical operating conditions. We discuss these existing standards, the technical challenges faced by diesels, and our environmentally neutral interim voluntary compliance options below.

A. High Speed/High Acceleration (US06 Cycle) Option

1. Background on Existing Tier 2 SFTP Requirements

In addition to bins of exhaust emission standards for the Federal Test Procedure (FTP), the Tier 2 rule also includes exhaust emission standards for the Supplemental Federal Test Procedure (SFTP) for which standards were first established in 1996.[3] The SFTP procedures are designed to control emissions that occur during types of driving that are not well-represented on the FTP. Such "off-cycle" driving includes high speed driving and rapid accelerations and decelerations, and driving with the air conditioner operating. We have separate test cycles and associated standards for each of these operating conditions: High speed/rapid acceleration is covered by the US06 cycle and standards, and air conditioner operation is covered by the SC03 cycle and standards. SFTP emission levels are a composite of the emission levels over these two test cycles and the FTP cycle. SFTP emissions from each vehicle test group must meet a set of SFTP emission standards in addition to the FTP standards.[4] The Tier 2 SFTP standard is calculated based on the Tier 1 SFTP standards, the Tier 1 FTP standards, and the standards for the Tier 2 bin to which the vehicle is being certified according to the equation:

$$SFTP_{Tier\ 2}=SFTP_{Tier\ 1}-[(0.35)\times(FTP_{Tier\ 1}-FTP_{Tier\ 2})]$$

Standards for NMHC and NO_X are added together in the calculation, and Tier 2 NMOG standards are treated as NMHC in the calculation.

Beginning with the 2004 model year (i.e., with the Tier 2 program), LDVs and LDTs have been required to meet the US06 and SC03 standards at 4,000 miles and the SFTP standard at 120,000 miles.[5] [6] These standards are shown in Table 1 for Tier 2 bins 1 through 8.

TABLE 1.—TIER 2 SFTP EXHAUST EMISSIONS STANDARDS FOR 2004 AND LATER MODEL YEARS—LDV/LDT1 ONLY

[NO_X+NMHC g/mi]

Bin	4k Mile standards		120k Mile standards[a]
	US06	SC03	SFTP
8	0.14	0.20	0.71
7	0.14	0.20	0.68
6	0.14	0.20	0.66
5	0.14	0.20	0.65
4	0.14	0.20	0.63
3	0.14	0.20	0.62
2	0.14	0.20	0.60
1	0.14	0.20	0.59

[a] 120,000 miles or 10 years, whichever occurs first.

Through model year 2006, the Tier 2 program allows diesel LDVs and diesel LDT1s to comply with an intermediate useful life SFTP standard in lieu of complying with the 4,000 mile US06 and SC03 standards.[7] In the Tier 2 rule preamble, we stated that we were providing this option because we lacked certainty as to whether diesel vehicles could comply with the 4,000 mile US06 and SC03 standards that were actually established based on gasoline vehicles under the California LEV program.[8] Manufacturers choosing this option were required to calculate intermediate useful life SFTP standards using the same approach described for full useful life standards by substituting the appropriate intermediate useful life values in the SFTP standard equation shown above. Table 2 shows the applicable SFTP standards for diesel LDVs/LDT1s making use of this option.

[3] 61 FR 54852.

[4] SFTP emissions are determined according to the equation SFTP=0.35×(FTP)+0.28×(US06)+0.37×(SC03).

[5] A 120,000 mile useful life is actually a 120,000 mile useful life or 10 years for LDVs and LLDTs, or 120,000 miles or 11 years for HLDTs, whichever occurs first. A 150,000 mile useful life is actually 150,000 miles or 15 years, whichever occurs first. These time elements are implied throughout the text wherever we refer to useful life.

[6] Our National Low Emission Vehicle (NLEV) rulemaking (63 FR 926) required the 4,000 mile standards and 120,000 mile useful life for manufacturers opting into the NLEV program. The Tier 2 program made these a requirement for all vehicles.

[7] This option was also available to all light light-duty trucks (LDT1 and LDT2), see 40 CFR 86.1811–04(f)(6).

[8] 65 FR 6791, section V.C.4.

TABLE 2.—EXISTING OPTIONAL TIER 2 SFTP EXHAUST EMISSIONS STANDARDS AVAILABLE THROUGH THE 2006 MODEL YEAR DIESEL LDV/LDT1 ONLY

[NO_X+NMHC g/mi]

Bin	4k Mile standards		50k Mile standards [a]	120k Mile standards [b]
	US06	SC03	SFTP	SFTP
8	n/a	n/a	0.51	0.71
7	n/a	n/a	0.49	0.68
6	n/a	n/a	0.48	0.66
5	n/a	n/a	0.47	0.65
4	n/a	n/a	0.46	0.63
3	n/a	n/a	0.45	0.62
2	n/a	n/a	0.43	0.60
1	n/a	n/a	0.42	0.59

[a] There are no intermediate useful life FTP standards for bins 1 through 4 so the Tier 2 120,000 mile standards were used in their place according to 40 CFR 86.1811–04(f)(6)(ii).
[b] 120,000 miles or 10 years, whichever occurs first.

2. Voluntary Interim Compliance Option for US06 Standards

Some diesel vehicle manufacturers have approached EPA to express concerns with respect to the US06 standard for 2007 and later model years (Table 1). The concern is that the US06 standard, while generally feasible, cannot yet be met by some diesel LDVs with a sufficient compliance margin. Typically, manufacturer certification levels are 20 to 30 percent below the standards to provide some level of compliance margin. The risk associated with the low compliance margin for some diesel LDVs is such that some manufacturers may choose not to certify such vehicles for the U.S. market. These manufacturers have noted that the SFTP standards were developed based on vehicle weight classifications (i.e., LDV/LDT1, LDT2, etc.), as shown in Table 3. While capable today of meeting the LDT2 standard, manufacturers note that some LDVs need more time to achieve the LDV emissions level. They note that it makes sense since some LDVs are as heavy as some LDT2s. Vehicle weight directly impacts engine-out NO_X emissions due to the increased engine load necessary to accelerate a heavier vehicle. While this issue has largely been addressed over most normal driving modes by increasing catalyst size with vehicle mass, further improvements in catalyst management (*e.g.*, regeneration strategies and system optimization) are needed for the heaviest diesel passenger cars. Given the rapid improvement in diesel catalyst systems to address the bulk of NO_X emissions, we are confident in projecting that further system optimization will enable all diesel vehicles to address this narrow area of control with only a few more years of development.

TABLE 3.—TIER 2 US06 EXHAUST EMISSIONS STANDARDS FOR 2004 AND LATER MODEL YEARS

[NO_X+NMHC g/mi]

Weight class	4k Mile US06 standard
LDV/LDT1	0.14
LDT2	0.25
LDT3	0.4
LDT4	0.6

Consistent with providing the optional SFTP standards for diesel LDVs and diesel LDTs through the 2006 model year in the current Tier 2 rule, this direct final rule provides a temporary voluntary alternative compliance option for diesel LDVs and LDT1s beginning with the 2007 model year. Manufacturers choosing this option for a given vehicle line will be allowed to comply with the LDT2 4,000 mile US06 standard of 0.25 g/mi NO_X+NMHC in lieu of meeting the current LDV/LDT1 level of 0.14 NO_X+NMHC. We believe that this voluntary compliance option should be environmental neutral, reflecting the full degree of emission reduction potential achieved by diesel vehicles. To ensure environmental neutrality, vehicles for which manufacturers choose this option will be required to meet a more stringent full useful life SFTP composite standard than the base Tier 2 SFTP standards shown in Table 1. This more stringent standard will be the optional 50,000 mile standard that had been available for diesels through the 2006 model year (Table 2). For example, a bin 8 diesel vehicle will have to meet the 0.51 g/mi SFTP composite standard shown in Table 2 rather than the 0.71 g/mi SFTP composite standard shown in Table 1. Further, these vehicles will be required to meet the SFTP composite standard for a longer useful life of 150,000 miles rather than the base Tier 2 useful life of 120,000 miles.

The resultant standards for diesel LDVs/LDT1s for which manufacturers choose the alternative compliance option are shown in Table 4. The alternative compliance option will be available for model years 2007 through 2009, during which time we expect that manufacturers will be able to meet the remaining narrow challenges facing diesel technology to fully comply with the full suite of Tier 2 requirements.

TABLE 4.—OPTIONAL TIER 2 SFTP EXHAUST EMISSIONS STANDARDS AVAILABLE FOR MODEL YEARS 2007 THROUGH 2009 DIESEL LDV/LDT1 ONLY

[NO_X+NMHC g/mi]

Bin	4k Mile standards		50k Mile standards	150k Mile standards [a]
	US06	SC03 [b]	SFTP	SFTP
8	0.25	0.20	0.51	0.51

TABLE 4.—OPTIONAL TIER 2 SFTP EXHAUST EMISSIONS STANDARDS AVAILABLE FOR MODEL YEARS 2007 THROUGH 2009 DIESEL LDV/LDT1 ONLY—Continued

[NO_X+NMHC g/mi]

Bin	4k Mile standards		50k Mile standards	150k Mile standards [a]
	US06	SC03 [b]	SFTP	SFTP
7	0.25	0.20	0.49	0.49
6	0.25	0.20	0.48	0.48
5	0.25	0.20	0.47	0.47
4	0.25	0.20	0.46	0.46
3	0.25	0.20	0.45	0.45
2	0.25	0.20	0.43	0.43
1	0.25	0.20	0.42	0.42

[a] 150,000 miles or 15 years, whichever occurs first.
[b] The SC03 standard shown here is the same as the base Tier 2 SC03 standard. No change is made to this standard under the alternative compliance option.

We are providing this US06 alternative compliance option because diesel vehicles have developed rapidly, reducing NO_X emissions by more than 80 percent from the Tier 1 level, thereby demonstrating an ability to meet the Tier 2 FTP standards. We are projecting that, with only a few more years of development, they will be able to meet the 4,000 mile US06 provisions. Further, we believe clean diesel technology can play an important role in the U.S. light-duty market. This is particularly true given the consumer interest in the increased fuel efficiency that diesels can provide. While vehicles using this option will be certified to a less stringent 4,000 mile US06 standard, they will be held to not only a more stringent full useful life SFTP standard, but also an increased useful life for that standard.

As an example, we can consider a bin 8 LDV. Under the base Tier 2 SFTP standards, a bin 8 LDV would meet a 4,000 mile US06 standard of 0.14 g/mi NO_X+NMHC. Beyond 4,000 miles, the SFTP standard would be the 0.71 g/mi value shown in Table 1. That means that the vehicle could legally emit at the 0.71 g/mi level for miles 4,000 through 120,000. Under the alternative compliance option, while the 4,000 mile US06 standard will be somewhat higher (up to 0.25 g/mi NO_X+NMHC), the vehicle will be required to emit no more than 0.51 g/mi of NO_X+NMHC for miles 4,000 through 150,000.

B. High Altitude Option

Under the Tier 2 program, the emissions standards for each bin apply regardless of altitude. The significant progress to date has enabled diesel vehicles to comply with the FTP standards. However, NO_X control from diesel vehicles at high altitude is particularly challenging due to the relative lack of oxygen, and hence, a need to reduce exhaust gas recirculation (EGR) rates in order to compensate. Since EGR is a primary engine-out NO_X control measure, engine-out NO_X can increase at high altitude. The NO_X catalysts applied to meet the broad Tier 2 emission standards for 2007 will largely offset these increased emissions under most but not all conditions. We are projecting that the NO_X catalyst systems will require additional refinement in design and calibration to fully address NO_X emissions under these conditions. Based on the rapid progress to broadly address NO_X emissions with catalyst technologies, we are confident in projecting that further system optimization will fully address this narrow emission issue.

Some diesel vehicle manufacturers have approached EPA to express concerns that they do not yet have an adequate compliance margin to accommodate the expected emissions increase experienced at high altitude. As with the US06 issue described above, these manufacturers are concerned about the compliance margin afforded by the stringent Tier 2 standards. They have stated that, while the Tier 2 standards are technologically feasible, the risks associated with in-use compliance are such that they may choose to forego light-duty diesel certification for the U.S. market.

During the phase-in period, the Tier 2 program already includes a provision for higher in-use FTP standards. Our basis for that provision was that, as with any new technology or even with new calibrations of existing technology, there are risks of in-use compliance problems that may not appear in the certification process.[9] In support of the provision, we also noted that in-use compliance concerns may discourage manufacturers from applying new technologies or new calibrations. For those reasons, we established higher in-use standards for those bins most likely to require the greatest applications of effort as a means to provide assurance to manufacturers that they would not face a recall action if they were to exceed the standards by a specified amount.[10]

Consistent with that rationale, and because light-duty diesel vehicles require the greatest application of effort toward meeting the Tier 2 standards, this direct final rule provides a temporary compliance option at high altitude for light-duty diesels. While operating at high altitude, vehicles using this option will be held to a standard of 1.2 times the NO_X standard to which they were certified. This option will be available during model years 2007 through 2009 and for bins 7 and 8 only. This option is designed to be environmentally neutral and to reflect the full degree of emissions reductions available by light-duty diesel technology. Therefore, one condition for using this option is the requirement to meet the bin 5 FTP PM standard of 0.01 g/mi. The FTP PM standard is 0.02 g/mi for bins 7 and 8 while it is 0.01 g/mi for bins 6 and below. Therefore, we are limiting this option to bins 7 and 8. In other words, to use this option, the vehicle must be certified to a PM standard half the level of the base Tier 2 standard for their given bin. Further, vehicles for which manufacturers choose this option will have to be certified to a useful life of 150,000 miles rather than the base Tier 2 useful life of 120,000 miles. Importantly, vehicles for which manufacturers choose this option will have the same certification standards (except for PM, which will be more stringent) as in the base Tier 2 program, and these two conditions for

[9] 65 FR 6796, section V.I.3.

[10] The in-use factors applied for NO_X in the Tier 2 rule ranged from 1.4 to 1.7 depending on the bin.

using the option—tighter PM standard and longer useful life—will apply at all altitudes. Table 5 summarizes the base Tier 2 and optional standards for manufacturers choosing this high altitude option.

TABLE 5.—TIER 2 NO_X AND PM EMISSIONS STANDARDS FOR LIGHT-DUTY DIESEL VEHICLES UNDER THE OPTIONAL HIGH ALTITUDE COMPLIANCE FACTOR

[Available for model years 2007 through 2009]

Bin	Program	NO_X standards (g/mi)		PM standards (g/mi)	Useful life [a] (miles)
		Certification and in-use at low altitude	In-use at high altitude	Certification and In-use at all altitudes	
8	Base Tier 2	0.20	0.20	0.02	120k.
	Option [b]	0.20	0.24	0.01	150k.
7	Base Tier 2	0.15	0.15	0.02	120k.
	Option [b]	0.15	0.18	0.01	150k.

[a] 120,000 miles or 10 years, whichever occurs first; 150,000 miles or 15 years, whichever occurs first.
[b] An in-use at high altitude multiplicative factor of 1.2 has been applied to the certification NO_X standard; this would be available to NO_X only.

Note that the optional standards shown in Table 5 carry with them a requirement to certify to a 150,000 mile useful life. There is a provision in the Tier 2 program that allows manufacturers to forego compliance with intermediate useful life standards (only bins 5 through 8 have intermediate useful life standards in the final Tier 2 program) provided they certify the vehicle to a 150,000 mile useful life.[11] Bins 5 through 8 vehicles using the option to forego intermediate useful life standards in favor of a 150,000 mile useful life are not permitted to generate additional NO_X credits toward the fleet average NO_X standard. Similarly, under this option, manufacturers choosing the option to use the high altitude compliance factor will not be allowed to generate additional NO_X credits toward the fleet average NO_X standard.

We are providing this high altitude alternative compliance option for the same reason stated above for the US06 option—because diesel vehicles have rapidly improved, reducing their NO_X emissions by more than 80 percent, and will be able to fully comply with all of the Tier 2 provisions given only a few more years of development. We believe this option is environmentally neutral. While vehicles using the option will be allowed a compliance margin of 20 percent for NO_X at high altitude, that comes with a 50 percent more stringent PM standard at all altitudes and an increased useful life for both the NO_X and PM standards.

[11] 40 CFR 86.1811–04(c)(4).

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency is required to determine whether this regulatory action would be "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The order defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that this final rule is not a "significant regulatory action."

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities.

For purposes of assessing the impacts of today's direct final rule on small entities, small entity is defined as: (1) A motor vehicle manufacturer with fewer than 1000 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This direct final rule will not have any adverse economic impact on small entities. Today's rule revises certain provisions of the Tier 2 rule (65 FR 6698, February 10, 2000), such that regulated entities have more flexibility in complying with the requirements of the Tier 2 rule. More specifically, today's action provides alternative compliance options that relax very limited elements of the Tier 2 standards in return for greater stringency in other, broader elements of the standards.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more for any single year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative that is not the least costly, most cost-effective, or least burdensome alternative if we provide an explanation in the final rule of why such an alternative was adopted.

Before we establish any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government plan pursuant to section 203 of the UMRA. Such a plan must provide for notifying potentially affected small governments, and enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant federal intergovernmental mandates. The plan must also provide for informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no federal mandates for state, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule will significantly or uniquely affect small governments.

We have determined that this rule does not contain a federal mandate that may result in estimated expenditures of more than $100 million to the private sector in any single year. This action has the net effect of providing alternative compliance options within the Tier 2 rule. Therefore, the requirements of the UMRA do not apply to this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires us to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." The phrase "policies that have federalism implications" is defined in the Executive Order to include regulations 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."

Under section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or we consult with state and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts state law, unless we consult with state and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt state or local law, even if those rules do not have federalism implications (i.e., the rules 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). Those requirements include providing all affected state and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, we also must consult, to the extent practicable, with appropriate state and local officials regarding the conflict between state law and federally protected interests within the Agency's area of regulatory responsibility.

This rule does not have federalism implications. 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, as specified in Executive Order 13132. This rule provides alternative compliance options for complying with existing rules that adopted national standards to control vehicle emissions and gasoline fuel sulfur levels. The requirements of the rule will be enforced by the federal government at the national level. Thus, the requirements of Section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. Today's rule does not uniquely affect the communities of American Indian tribal governments since the motor vehicle requirements for private businesses in today's rule will have national applicability. Furthermore, today's rule does not impose any direct compliance costs on these communities and no circumstances specific to such

communities exist that will cause an impact on these communities beyond those discussed in the other sections of today's document. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866; and, (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5–501 of the Executive Order directs us to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not an economically significant regulatory action as defined by Executive Order 12866. Furthermore, this rule does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d) of Public Law 104–113, directs us to use voluntary consensus standards in our regulatory activities unless it would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This rule references technical standards adopted by us through previous rulemakings. No new technical standards are established in today's rule. The standards referenced in today's rule involve the measurement of gasoline fuel parameters and motor vehicle emissions.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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 Congress and the Comptroller General of the United States. We will submit a report containing this rule 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 of the rule 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 rule will be effective June 28, 2006.

I. Statutory Provisions and Legal Authority

Statutory authority for today's final rule is found in the Clean Air Act, 42 U.S.C. 7401 *et seq.*, in particular, section 202 of the Act, 42 U.S.C. 7521. This rule is being promulgated under the administrative and procedural provisions of Clean Air Act section 307(d), 42 U.S.C. 7607(d).

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Motor vehicle pollution.

Dated: March 21, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set forth in the preamble, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 86—CONTROL OF EMISSIONS FROM NEW AND IN-USE HIGHWAY VEHICLES AND ENGINES

■ 1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart S—[Amended]

■ 2. Section 86.1811–04 is amended by adding paragraphs (f)(8) and (p)(5) to read as follows:

§ 86.1811–04 Emission standards for light-duty vehicles, light-duty trucks and medium-duty passenger vehicles.

* * * * *

(f) * * *

(8)(i) For model year 2007 through 2009 diesel LDVs and diesel LDT1s only, a manufacturer may optionally comply with the 4000 mile US06 NMHC+NO_X standard shown in Table S04–4 for LDT2s (0.25 g/mile), instead of the standards for LDV/LDT1s (0.14 g/mile). A manufacturer choosing this option also must comply with intermediate life SFTP NMHC+NO_X standards determined using the calculation described under paragraph (f)(6)(ii) of this section. A manufacturer choosing this option must comply with the SFTP NMHC+NO_X standard determined under paragraph (f)(6)(ii) not only at intermediate life but also at full useful life and must certify such vehicles to this SFTP NMHC+NO_X standard for a full useful life of 150,000 miles or 15 years, whichever occurs first.

(ii) In Part I of its certification application for model years 2007 through 2009, a manufacturer of diesel LDV/LDT1s must declare which provision it will use (the base Tier 2 provision of paragraphs (f)(1) and (f)(2) of this section or the option described in paragraph (f)(8)(i) of this section).

* * * * *

(p) * * *

(5) For diesel vehicles certified to bin 7 and bin 8 only in model years 2007 through 2009, a manufacturer may optionally comply with the bin 5 FTP PM standard shown in Table S04–1. For diesel vehicles choosing this option, separate in-use NO_X standards apply at high altitude conditions as defined in § 86.1803–01. These standards are determined by multiplying the applicable NO_X certification standards by a factor of 1.2. The resultant standards apply only in-use at high altitude conditions and do not apply for certification or selective enforcement auditing. A manufacturer choosing this option must certify such vehicles to the applicable FTP NO_X and PM standards for a full useful life of 150,000 miles or 15 years, whichever occurs first. A manufacturer choosing this option would not be allowed to generate additional credits as described under § 86.1860–04 (g).

* * * * *

[FR Doc. 06–2979 Filed 3–29–06; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 71, No. 61
Thursday, March 30, 2006

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24270; Directorate Identifier 2005–NM–200–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 777 airplanes. This proposed AD would require, for the drive mechanism of the horizontal stabilizer, repetitive detailed inspections for discrepancies; repetitive lubrication of the ballnut and ballscrew; repetitive measurements of the freeplay between the ballnut and the ballscrew; and corrective action if necessary. This proposed AD results from a report of extensive corrosion of a ballscrew in the drive mechanism of the horizontal stabilizer on a Boeing Model 757 airplane, which is similar in design to the ballscrew on certain Model 777 airplanes. We are proposing this AD to prevent an undetected failure of the primary load path for the ballscrew in the horizontal stabilizer and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by May 15, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6490; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA–2006–24270; Directorate Identifier 2005–NM–200–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

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

Discussion

On January 31, 2000, there was an accident involving a McDonnell Douglas Model DC–9–83 (MD–83) airplane. The National Transportation Safety Board (NTSB) determined that the probable cause of the accident was a loss of airplane pitch control resulting from the in-flight failure of the acme nut threads of the jackscrew assembly of the horizontal stabilizer trim system. The NTSB concluded that the thread failure was caused by excessive wear, resulting from insufficient lubrication of the jackscrew assembly.

The drive mechanism of the horizontal stabilizer on Model DC–9–83 (MD–83) airplanes has a jackscrew assembly with an acme screw. The drive mechanism of the horizontal stabilizer on Boeing Model 777 airplanes uses a ballscrew assembly. Acme screws and ballscrews have some differences in design, but perform similar functions and have the same airplane-level effect following failure. The manufacturer's safety analysis of the Model 777 drive mechanism found no safety problems with the configuration of the drive mechanism, but showed that changes to the maintenance procedures and maintenance intervals are required to keep the drive mechanism properly maintained and operating as designed.

We have received a report indicating that the ballscrew in the drive mechanism of the horizontal stabilizer on a Boeing Model 757 airplane showed extensive corrosion, which could lead to excessive wear. The ballscrew on certain Model 757 airplanes is similar to that on the Model 777 airplanes that are the subject of this proposed AD. Therefore, both of these airplane models could have the same unsafe condition.

We are considering separate rulemaking action for Model 757 airplanes and other similar Boeing airplanes.

Extensive corrosion of the ballscrew in the drive mechanism of the horizontal stabilizer, if not corrected, could cause an undetected failure of the primary load path for the ballscrew and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 777–27A0059, Revision 1, dated August 18, 2005. The service bulletin describes procedures for performing repetitive detailed inspections of the horizontal stabilizer trim actuator ballnut and ballscrew for discrepancies; repetitive measurements (inspections) of the freeplay between the actuator ballnut and ballscrew; repetitive lubrication of the actuator ballnut and ballscrew; and, if necessary, replacing the actuator with a new or serviceable actuator. Discrepancies of the actuator ballnut and ballscrew may include cracking; metal flaking; thread deformation, cross threading, and stripping; corrosion; metal particles or corrosion products in the lubricating grease; large amounts of grease exuding from the top seal of the ballnut or around the ballnut return tubes; bent or lifted ballnut return tubes; loose or missing ball bearings; and other damage or obvious wear. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

The service bulletin refers to the Boeing 777 Aircraft Maintenance Manual (AMM), subjects 12–21–05, 27–41–13, and 29–11–00, as additional sources of service information for accomplishing the detailed inspections, lubrications, freeplay measurements, and replacement of the horizontal stabilizer trim actuator.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between the Proposed AD and Service Information

The Summary Action section and paragraph 1.D "Description" of the service bulletin specify changing the position of the horizontal stabilizer to allow inspecting the entire ballscrew. However, this instruction does not appear in the Work Instructions of the service bulletin or in the referenced AMM sections. To ensure that the detailed inspection is performed properly, we have included this instruction in paragraph (h) of the proposed AD.

Although the service bulletin does not require a maintenance records check to determine prior replacement of the horizontal stabilizer trim actuator, this proposed AD would include such a requirement in order to ensure that all subject actuators meet the requirements of this proposed AD.

Clarification of Compliance Times

The manufacturer determined that, if an operator has previously removed and replaced the actuator, it is possible that the replacement actuator might not meet the serviceability criteria intended by the actions specified in the service bulletin. Therefore, the manufacturer determined that a revised initial compliance time was necessary, as specified in paragraph (l) of this AD.

The service bulletin specifies "recommended" intervals for repeating specified actions. However, we have determined that the "acceptable" intervals also specified by the service bulletin will allow operators to accomplish all specified repetitive actions without an unacceptable increase in safety risk to any airplane. Therefore, we have specified the "acceptable" intervals in this proposed AD.

Costs of Compliance

There are about 596 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 130 airplanes of U.S. registry.

The proposed detailed inspection would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed inspection for U.S. operators is $10,400, or $80 per airplane, per inspection cycle.

The proposed freeplay measurement would take about 5 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed freeplay measurement for U.S. operators is $52,000, or $400 per airplane, per measurement cycle.

The proposed lubrication would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed lubrication for U.S. operators is $10,400, or $80 per airplane, per lubrication cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–24270; Directorate Identifier 2005–NM–200–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by May 15, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 777–200, –300, and –300ER series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of extensive corrosion of a ballscrew in the drive mechanism of the horizontal stabilizer of a Boeing Model 757 airplane, which is similar in design to the ballscrew on certain Model 777 airplanes. We are issuing this AD to prevent an undetected failure of the primary load path for the ballscrew in the drive mechanism of the horizontal stabilizer and subsequent wear and failure of the secondary load path, which could lead to loss of control of the horizontal stabilizer and consequent loss of control of the airplane.

Compliance

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

Service Bulletin Reference

(f) The term "service bulletin," as used in this AD, means Boeing Alert Service Bulletin 777–27A0059, Revision 1, dated August 18, 2005.

Note 1: The service bulletin refers to the Boeing 777 Aircraft Maintenance Manuals (AMM), subjects 12–21–05, 27–41–13, and 29–11–00, as additional sources of service information for accomplishing the actions required by this AD.

Maintenance Records Check

(g) Within 180 days or 3,500 flight hours after the effective date of this AD, whichever occurs first: Perform a maintenance records check or inspect to determine if any horizontal stabilizer trim actuator has been replaced for any issue described in the service bulletin with a serviceable actuator that was not new or overhauled, and has not received a detailed inspection and freeplay measurement since the replacement.

(1) If the actuator has not been replaced, perform all actions of this AD except for paragraph (l) of this AD.

(2) If the actuator has been replaced, perform the actions specified by paragraph (l) of this AD.

Detailed Inspection

(h) Before the accumulation of 15,000 total flight hours or within 18 months after the effective date of this AD, whichever occurs later, except as provided by paragraph (l) of this AD: Perform a detailed inspection for discrepancies of the horizontal stabilizer trim actuator ballnut and ballscrew in accordance with Part 1 of the Accomplishment Instructions of the service bulletin, changing the position of the horizontal stabilizer as needed to allow inspecting the entire ballscrew. Repeat the detailed inspection thereafter at intervals not to exceed 3,500 flight hours or 12 months, whichever occurs first. If any discrepancy is found during any inspection required by this AD, before further flight, replace the actuator with a new or serviceable actuator in accordance with the service bulletin.

Freeplay Measurement (Inspection)

(i) Before the accumulation of 15,000 total flight hours or within 18 months after the effective date of this AD, whichever occurs later, except as provided by paragraph (l) of this AD: Perform a freeplay measurement of the ballnut and ballscrew in accordance with Part 2 of the Accomplishment Instructions of the service bulletin. Repeat the freeplay measurement thereafter at intervals not to exceed 18,000 flight hours or 60 months, whichever occurs first. If the freeplay is found to exceed the limits specified in the service bulletin during any measurement required by this AD, before further flight, replace the actuator with a new or serviceable actuator in accordance with the service bulletin.

Lubrication

(j) Before the accumulation of 15,000 total flight hours or within 18 months after the effective date of this AD, whichever occurs later: Lubricate the ballnut and ballscrew in accordance with Part 3 of the Accomplishment Instructions of the service bulletin. Repeat the lubrication thereafter at intervals not to exceed 2,000 flight hours or 12 months, whichever occurs first.

Credit for Using Original Issue of Service Bulletin

(k) Actions performed prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 777–27A0059, dated September 18, 2003, are considered acceptable for compliance with the corresponding actions of this AD.

Prior Replacement of Actuator

(l) If, prior to the effective date of this AD, any horizontal stabilizer trim actuator was replaced in accordance with Boeing Alert Service Bulletin 777–27A0059, dated September 18, 2003, with a serviceable actuator that was not new or overhauled, and has not received a detailed inspection and freeplay measurement since the replacement, perform an inspection and freeplay measurement of that actuator as required by paragraphs (h) and (i) of this AD within 24 months or 3,500 flight hours after the effective date of this AD, whichever occurs first.

Parts Installation

(m) As of the effective date of this AD, no person may install, on any airplane, a horizontal stabilizer trim actuator that is not new or overhauled, unless a detailed inspection and freeplay measurement of that actuator is performed before further flight, in accordance with paragraphs (h) and (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on March 22, 2006.

Michael Zielinski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–4619 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24245; Directorate Identifier 2005–NM–166–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200C Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Boeing Model 737–200C series airplanes. The existing AD currently requires a one-time external detailed inspection for cracking of the fuselage skin in the lower lobe cargo compartment; repetitive internal detailed inspections for cracking of the frames in the lower lobe cargo compartment; repair of cracked parts; and terminating action for

the repetitive internal detailed inspections. This proposed AD restates the requirements of the existing AD and adds a requirement to perform repetitive detailed inspections of the body station (BS) 360 and BS 500 fuselage frames, after accomplishing the terminating action, and repair if necessary. This proposed AD results from multiple reports that the existing AD is not fully effective in preventing cracks in the BS 360 and BS 500 fuselage frames. We are proposing this AD to detect and correct cracking of the fuselage frames from BS 360 to BS 500B, which, if not detected, could lead to loss of the cargo door during flight and consequent rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by May 15, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Howard Hall, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6430; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2006–24245; Directorate Identifier 2005–NM–166–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or may visit *http://dms.dot.gov*.

Examining the Docket

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

Discussion

On June 4, 1999, we issued AD 99–12–08, amendment 39–11192 (64 FR 31488, June 11, 1999), for all Boeing Model 737–200C series airplanes. That AD requires a one-time external detailed inspection to detect and correct cracking of the fuselage skin in the lower lobe cargo compartment; repetitive internal detailed visual inspections for cracking of the frames in the lower lobe cargo compartment; repair of cracked parts; and a preventative modification that provides terminating action for the repetitive internal detailed inspections. That AD resulted from reports of cracking of the body frames between stringers 19 left and 25 left and at body station (BS) 360 to 500B. We issued that AD to prevent opening or loss of the cargo door during flight, and consequent rapid decompression of the airplane.

Actions Since Existing AD Was Issued

AD 99–12–08 states that modifying certain fuselage frames from BS 360 through BS 500B inclusive constitutes terminating action for the repetitive internal detailed inspections required for all specified fuselage frames. However, since we issued AD 99–12–08, we have received multiple reports indicating that the modification required by AD 99–12–08 is not fully effective in preventing cracking of the BS 360 and BS 500 fuselage frames. Consequently, to maintain airplane structural integrity, it is necessary to require new internal detailed inspections at the BS 360 and BS 500 fuselage frames on airplanes that have been modified as required by paragraph (c) of AD 99–12–08, and repair if necessary.

Changes to Existing AD

This proposed AD would retain certain requirements of AD 99–12–08. Since AD 99–12–08 was issued, the AD format has been revised; therefore, paragraphs (a), (b), and (c) of AD 99–12–08 have been re-identified as paragraphs (f), (g), and (h) in this proposed AD.

We have revised paragraph (g)(1) of this proposed AD to include a statement that repairs must be performed in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with the procedures specified in paragraph (k)(4) of this AD; and that the Boeing 737 Structural Repair Manual is one approved source of repair information for accomplishing the requirements of paragraph (g)(1) of this proposed AD.

Operators should be aware that paragraph (c) of AD 99–12–08 states that installing doublers on the fuselage frames between BS 360 to 500B constitutes terminating action for all inspections required by that AD, even though no doublers are installed on the fuselage frames at BS 360 and BS 500. Therefore, to maintain consistency with AD 99–12–08, paragraph (h) of this proposed AD continues to require installing doublers on the fuselage frames between BS 360 to 500B, which constitutes terminating action for the inspections required for those frames, while paragraph (i) of this proposed AD specifies a new requirement for repetitive inspections of the fuselage frames at BS 360 and BS 500 only.

AD 99–12–08 refers to a "detailed visual inspection." However, since the issuance of AD 99–12–08, we have clarified the inspection terminology to refer to a "detailed inspection." We have included a definition of this type of inspection in Note 1 of this proposed AD.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design.

For this reason, we are proposing this AD, which would supersede AD 99–12–08 and retain the requirements of the existing AD. This proposed AD would also require repetitive internal detailed inspections for cracking of the BS 360 and BS 500 fuselage frames and repair if necessary. These inspections would be required to be done in accordance with Boeing Alert Service Bulletin 737–53A1160, dated October 24, 1991; or Boeing Service Bulletin 737–53A1160, Revision 1, dated April 29, 1993; which were referenced as appropriate sources of service information by AD 99–12–08. That service information specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Costs of Compliance

There are about 90 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 18 airplanes of U.S. registry.

The modification required by AD 99–12–08, and retained in this proposed AD, takes approximately 160 work hours per airplane to accomplish, at an average labor rate of $80 per work hour. Required parts cost about $5,500 per airplane. Based on these figures, the estimated cost of the currently required modification for U.S. operators is $329,400, or $18,300 per airplane.

The new proposed inspections would take about 3 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new inspections specified in this proposed AD for U.S. operators is $4,320, or $240 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–11192 (64 FR 31488, June 11, 1999), and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–24245; Directorate Identifier 2005–NM–166–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by May 15, 2006.

Affected ADs

(b) This AD supersedes AD 99–12–08.

Applicability

(c) This AD applies to all Boeing Model 737–200C series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from multiple reports that the modification required by AD 99–12–08 is not fully effective in preventing cracks in the BS 360 and BS 500 fuselage frames. We are issuing this AD to detect and correct cracking of the fuselage frames from BS 360 to BS 500B, which, if not detected, could lead to loss of the cargo door during flight and consequent rapid decompression of the airplane.

Compliance

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

Restatement of Requirements of AD 99–12–08

One-Time External Detailed Inspection

(f) Prior to the accumulation of 29,000 total flight cycles or within 250 flight cycles after August 9, 1993 (the effective date AD 93–13–02, amendment 39–8615, which was superseded by AD 99–12–08), whichever occurs later, accomplish an external detailed inspection to detect cracks of the fuselage skin between stringers 19 left and 25 left and at body stations 360 to 540, in accordance with Boeing Alert Service Bulletin 737–53A1160, dated October 24, 1991; or Boeing Service Bulletin 737–53A1160, Revision 1, dated April 29, 1993. If any crack is found, prior to further flight, accomplish the requirements of paragraphs (f)(1) and (f)(2) of this AD.

(1) Perform an internal detailed inspection to detect cracks of the frames between stringers 19 left and 25 left and at body stations 360 to 500B, in accordance with either service bulletin.

(2) Repair all cracks in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Internal Detailed Inspections

(g) Within 3,000 flight cycles after completing the requirements of paragraph (f) of this AD, unless accomplished within the last 6,000 flight cycles prior to August 9, 1993, perform an internal detailed inspection to detect cracks of the frames between stringers 19 left and 25 left and at body stations 360 to 500B, in accordance with Boeing Alert Service Bulletin 737–53A1160,

dated October 24, 1991; or Boeing Service Bulletin 737–53A1160, Revision 1, dated April 29, 1993. Thereafter, repeat the internal detailed inspection at intervals not to exceed 9,000 flight cycles. If any crack is found during any inspection required by this paragraph, before further flight, repair as specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) If any crack is found that does not exceed the limits specified in the Boeing 737 Structural Repair Manual (SRM), repair the crack in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with the procedures specified in paragraph (k)(4) of this AD. The SRM is one approved source of information for accomplishing the requirements of this paragraph. Repeat the internal detailed inspection thereafter at intervals not to exceed 9,000 flight cycles.

(2) If any crack is found that exceeds the limits specified in the SRM, repair the crack in accordance with a method approved by the Manager, Seattle ACO; or in accordance with the procedures specified in paragraph (k)(4) of this AD. Repeat the internal detailed visual inspection thereafter at intervals not to exceed 9,000 flight cycles.

Install Doublers

(h) Prior to the accumulation of 75,000 total flight cycles, or within 3,000 flight cycles after July 16, 1999 (the effective date of AD 99–12–08), whichever occurs later, install doublers on the specified frames located between stringers 19 left and 25 left from BS 360 to BS 500B, in accordance with Boeing Service Bulletin 737–53A1160, Revision 1, dated April 29, 1993. Installing these doublers on the specified fuselage frames ends the repetitive inspections required by paragraphs (f) and (g) of this AD.

New Requirements of This AD

Repetitive Inspection of Certain Frames

(i) Within 9,000 flight cycles after accomplishing the modification required by paragraph (h) of this AD, or within 4,500 flight cycles after the effective date of this AD, whichever occurs later, perform an internal detailed inspection to detect cracking in the fuselage frame at BS 360 and the fuselage frame at BS 500, between stringers 19 left and 25 left, in accordance with Boeing Alert Service Bulletin 737–53A1160, dated October 24, 1991; or Boeing Service Bulletin 737–53A1160, Revision 1, dated April 29, 1993. Thereafter, repeat the internal detailed inspection of the BS 360 and BS 500 frames at intervals not to exceed 9,000 flight cycles.

(j) If any crack is found during any inspection required by paragraph (i) of this AD, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) AMOCs approved previously in accordance with AD 99–12–08, including AMOCs approved previously in accordance with AD 93–13–02, are approved as AMOCs for the corresponding provisions specified in paragraphs (f), (g), and (h) of this AD.

(4) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–4620 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22034; Directorate Identifier 2004–NM–182–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Model GV and GV–SP Series Airplanes

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

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier proposed airworthiness directive (AD) for all Gulfstream Model GV and certain Model GV–SP series airplanes. The original NPRM would have required a one-time inspection of the left and right aileron and elevator actuators to determine the part and serial numbers of each actuator, repetitive inspections of suspect actuators to detect broken damper shafts, and replacement of any actuator having a broken damper shaft. The original NPRM would also have required that operators report any broken damper shaft they find to the FAA. The original NPRM would also have provided an optional terminating action for the repetitive inspection requirements of the proposed AD. The original NPRM resulted from reports of broken or cracked damper shafts within the aileron and elevator actuator assemblies. This action revises the original NPRM by proposing to mandate the previously optional terminating action. We are proposing this supplemental NPRM to prevent broken damper shafts, which could result in locking of an aileron or elevator actuator (hard-over condition), which would activate the hard-over protection system (HOPS), resulting in increased pilot workload and consequent reduced controllability of the airplane.

DATES: We must receive comments on this supplemental NPRM by April 24, 2006.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, Georgia 31402–9980, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM.

Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2005–22034; Directorate Identifier 2004–NM–182–AD"; at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this supplemental NPRM. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

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

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an AD (the "original NPRM") for all Gulfstream Model GV and certain Model GV–SP series airplanes. The original NPRM was published in the **Federal Register** on August 8, 2005 (70 FR 45581). The original NPRM proposed to require a one-time inspection of the left and right aileron and elevator actuators to determine the part and serial numbers of each actuator, repetitive inspections of suspect actuators to detect broken damper shafts, and replacement of any actuator having a broken damper shaft. The original NPRM proposed to require that operators report any broken damper shaft they find to the FAA. The original NPRM also proposed to provide an optional terminating action for the repetitive inspection requirements of the proposed AD.

Comments

We have considered the following comments on the original NPRM.

Request for Correction of the Statement of Proposed Requirements

One commenter, Gulfstream Aerospace, requests that we correct our position in the "FAA's Determination and Requirements of the Proposed AD" section of the original NPRM that states that we are not requiring the terminating action (*i.e.*, replacement of all suspect actuators) because the necessary replacement parts are not yet available. Gulfstream asserts that the new, improved replacement actuators are now available and that airplane owners are required to replace the actuators during the recall time, after which the replacement cost will be charged to the customer.

From this comment, we infer that Gulfstream is ultimately requesting that we revise the original NPRM to require the previously optional terminating replacement. We agree that the terminating replacement should now be required. We have confirmed that the necessary replacement actuators are available. Therefore, we have revised the original NPRM to require the previously optional terminating actuator replacement and have revised the "FAA's Determination and Requirements of the Supplemental NPRM" section as requested by Gulfstream.

Request for Addition of Gulfstream GV Customer Bulletin 124

The other commenter, the Federal Bureau of Investigation (FBI), requests that we add Gulfstream GV Customer Bulletin 124, dated December 8, 2004, to the proposed requirements. The FBI states that this bulletin lists the part numbers (P/Ns) for the new actuators necessary for the terminating replacement. The FBI also asserts that adding this bulletin will prevent operators who have already done the replacement from being required to do it again.

We agree that Gulfstream GV Customer Bulletin 124, dated December 8, 2004, should be added to the proposed requirements. As we stated previously, we have revised the original NPRM to propose to require the terminating replacement. Because Gulfstream GV Customer Bulletin 124 does contain the necessary P/Ns for Model GV series airplanes to do the replacement, we have added it to this supplemental NPRM as the source of service information for those airplanes to do the replacement. We have also added Gulfstream G500 and G550 Customer Bulletins 6, both dated December 8, 2004, to this supplemental NPRM as the source of service information for Model GV–SP series airplanes to do the terminating replacement. These bulletins are described below.

Relevant Service Information

We have reviewed the following Gulfstream customer bulletins:

TABLE.—RELEVANT SERVICE INFORMATION

Model	Customer bulletin	Dated
GV–SP series airplanes	Gulfstream G500 Customer Bulletin 6	December 8, 2004.
GV–SP series airplanes	Gulfstream G550 Customer Bulletin 6	December 8, 2004.
GV series airplanes	Gulfstream GV Customer Bulletin 124	December 8, 2004.

The customer bulletins describe procedures for doing a one-time inspection of the left and right aileron and elevator actuators to determine the P/N and serial number (S/N) of each actuator and for replacing identified actuators. The customer bulletins also describe procedures for reporting accomplishment of the actions and returning affected actuators to Gulfstream. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period

to provide additional opportunity for public comment on this supplemental NPRM.

Differences Between the Proposed AD and New Customer Bulletins

Gulfstream G500 Customer Bulletin 6 is effective to all Gulfstream Model G500 series airplanes, and Gulfstream G550 Customer Bulletin 6 is effective to all Gulfstream Model G550 series airplanes. The supplemental NPRM remains applicable only to Gulfstream Model GV–SP series airplanes having S/Ns 5001 through 5052 inclusive. We have determined that Model GV–SP series airplanes having S/Ns 5053 and subsequent are equipped with non-suspect actuators during production.

Gulfstream G500 and G550 Customer Bulletins 6 and Gulfstream GV Customer Bulletin 124 do not specify what to do if an installed actuator has either a P/N or S/N that is missing or is unreadable. This supplemental NPRM would require that those actuators also be inspected to detect broken damper shafts as if they have a P/N and S/N listed in the customer bulletins.

These customer bulletins specify replacing a subject actuator having a P/N and S/N listed in the customer bulletins, but they do not specify the type of replacement actuator. This supplemental NPRM would require replacement with either:

- A new or serviceable actuator having a subject P/N and S/N identified in Table 1 "Serial Number Effectivity Table" in Gulfstream G500 and G550 Customer Bulletins 6 and Gulfstream GV Customer Bulletin 124, as applicable, provided the actuator has been and continues to be inspected for broken damper shafts in accordance with the requirements of this supplemental NPRM; or
- A new or serviceable actuator having a new P/N identified in Table 2 "Retrofit Part Number Replacement Table" in Gulfstream G500 and G550 Customer Bulletins 6 and Gulfstream GV Customer Bulletin 124, as applicable, regardless of the S/N. Replacing an actuator with an actuator having a new P/N, regardless of S/N, would terminate the requirements of this supplemental NPRM for that actuator only.

The customer bulletins do not specify reporting findings of broken damper shafts. This supplemental NPRM would require that findings of all broken damper shafts be reported to the FAA. When the unsafe condition addressed by an AD is likely due to a manufacturer's quality control (QC) problem, a reporting requirement is instrumental in ensuring that we can gather as much information as possible regarding the extent and nature of the QC problem or breakdown, especially in cases where the data may not be available through other established means. This information is necessary to ensure that proper corrective action will be taken. Based on the results of these reports, we may determine that further corrective action is warranted.

The Accomplishment Instructions of the customer bulletins specify to submit the Service Reply Card or compliance information to the manufacturer. This supplemental NPRM does not include those actions.

These differences have been coordinated with the airplane manufacturer.

Clarification of Terminating Action

The terminating action proposed in this supplemental NPRM is replacement of the suspect actuators with actuators having new P/Ns listed in Table 2 "Retrofit Part Number Replacement Table" in Gulfstream G500 and G550 Customer Bulletins 6 and Gulfstream GV Customer Bulletin 124, as applicable. This is not made clear in the customer bulletins.

Costs of Compliance

There are about 214 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 174 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD. Gulfstream will provide replacement parts at no cost to operators.

ESTIMATED COSTS

Action	Gulfstream airplane model	Work hours	Average labor rate per hour	Cost per airplane	Fleet cost
Inspection for part/serial number	GV and GV–SP series airplanes.	1	$80	$80	$13,920.
Inspection of actuators, per inspection cycle (if accomplished).	GV series airplanes.	14 per actuator	80	1,120	$194,880, per actuator, per inspection cycle.
	GV–SP series airplanes.	4 per actuator	80	320	$55,680, per actuator, per inspection cycle.
Terminating replacement	GV series airplanes.	26 per aileron actuator (2 actuators per airplane).	80	4160	$723,840.
		52 per elevator actuator (2 actuators per airplane).	80	8,320	$1,447,680.
	GV–SP series airplanes.	32 per aileron actuator (2 actuators per airplane).	80	5,120	$890,880.
		52 per elevator actuator (2 actuators per airplane).	80	8,320	$1,447,680.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this supplemental NPRM and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Gulfstream Aerospace Corporation: Docket No. FAA–2005–22034; Directorate Identifier 2004–NM–182–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by April 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Gulfstream Model GV series airplanes, and Model GV–SP series airplanes having serial numbers (S/Ns) 5001 through 5052 inclusive; certificated in any category.

Unsafe Condition

(d) This AD results from reports of broken or cracked damper shafts within the aileron and elevator actuator assemblies. We are issuing this AD to prevent broken damper shafts, which could result in locking of an aileron or elevator actuator (hard-over condition), which would activate the hard-over protection system (HOPS), resulting in increased pilot workload and consequent reduced controllability of the airplane.

Compliance

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

Service Information References

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

TABLE 1.—APPLICABLE GULFSTREAM CUSTOMER BULLETINS

For—	For model—	Use—	Dated—
(1) Initial/repetitive inspections of and corrective actions for identified subject actuators.	(i) GV–SP series airplanes	Gulfstream G500 Customer Bulletin 4	August 23, 2004.
	(ii) GV–SP series airplanes	Gulfstream G550 Customer Bulletin 4	August 23, 2004.
	(iii) GV series airplanes	Gulfstream GV Customer Bulletin 123	August 23, 2004.
(2) Terminating replacement of subject actuators.	(i) GV–SP series airplanes	Gulfstream G500 Customer Bulletin 6	December 8, 2004.
	(ii) GV–SP series airplanes	Gulfstream G550 Customer Bulletin 6	December 8, 2004.
	(iii) GV series airplanes	Gulfstream GV Customer Bulletin 124	December 8, 2004.

Inspection To Determine Actuator Part and Serial Numbers

(g) Within 500 flight hours after the effective date of this AD: Do a one-time inspection of the left and right aileron and elevator actuators to determine the part number (P/N) and S/N of each actuator, in accordance with the applicable customer bulletin.

No Subject Actuators Installed

(h) If no actuator with a P/N and S/N listed in Table 1 "Serial Number Effectivity Table" of the applicable customer bulletin is identified during the inspection required by paragraph (g) of this AD, no further action is required by this AD, except as required by paragraph (l) of this AD.

Initial and Repetitive Inspections of Subject Actuators

(i) For any actuator identified during the inspection required by paragraph (g) of this AD with a P/N and S/N listed in Table 1 "Serial Number Effectivity Table" of the applicable customer bulletin, and for actuators for which the P/N or S/N is missing or unreadable: Before further flight, do a detailed inspection of the identified actuator to detect a broken damper shaft, in accordance with the applicable customer bulletin.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

(1) If no damper shaft is found broken: Repeat the inspection required by paragraph (i) of this AD thereafter at intervals not to exceed 500 flight hours, until the terminating replacement specified in paragraph (j) of this AD is accomplished.

Corrective Action for Subject Actuators

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

(i) Replace the actuator with a new or serviceable actuator having a P/N and S/N listed in Table 1 "Serial Number Effectivity Table" of the applicable customer bulletin, provided the new or serviceable actuator has been inspected in accordance with the requirements of paragraph (i) of this AD. Thereafter, repeat the inspection required by paragraph (i) of this AD for that actuator at intervals not to exceed 500 flight hours, until the terminating replacement specified in paragraph (j) of this AD is accomplished.

(ii) Replace the actuator with a new or serviceable actuator having a new P/N listed in Table 2 "Retrofit Part Number Replacement Table" of the applicable customer bulletin. This replacement terminates the requirements of this paragraph for that actuator only.

Terminating Replacement

(j) Within 24 months after the effective date of this AD: Replace all identified suspect actuators with new or serviceable actuators having a new P/N listed in Table 2 "Retrofit Part Number Replacement Table" of the applicable customer bulletin. This replacement terminates the requirements of this AD, except as required by paragraph (l) of this AD.

Reporting Requirement

(k) Submit a report of any broken damper shafts to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; fax (770) 703–6097. The report must be done at the applicable time specified in paragraph (k)(1) or (k)(2) of this AD. The report must include the inspection date, the airplane model and S/N, the actuator position (left or right aileron or elevator), and the actuator P/N and S/N. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) If the inspection required by paragraph (i) of this AD is done after the effective date of this AD: Submit a report within 30 days after the inspection is done.

(2) If an inspection required by paragraph (i) of this AD was done before the effective date of this AD: Submit a report within 30 days after the effective date of this AD.

Parts Installation

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

Special Flight Permit Prohibited

(m) Special flight permits (14 CFR 21.197 and 21.199) are not allowed if any broken damper shaft is found during any inspection required by paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, Atlanta ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on March 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–4621 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–06–019]

RIN 1625–AA00

Safety Zone: Fireworks Display, Broad Bay, Virginia Beach, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes the establishment of a 420 foot safety zone in support of the Cavalier 4th of July Fireworks Display occurring on July 04, 2006, on the banks of Broad Bay, Virginia Beach, VA. This action is intended to restrict vessel traffic on Broad Bay as necessary to protect mariners from the hazards associated with fireworks displays.

DATES: Comments and related material must reach the Coast Guard on or before May 15, 2006.

ADDRESSES: You may mail comments and related material to Commander, Sector Hampton Roads, Federal Building, 200 Granby St., 7th Floor, Attn: Lieutenant Clark, Norfolk, VA 23510. Sector Hampton Roads maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Federal Building Fifth Coast Guard District between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Bill Clark, Chief, Waterways Management Division, Sector Hampton Roads, at (757) 668–5580.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05–06–019 and indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting, but you may submit a request for a meeting by writing to the Commander, Sector Hampton Roads at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On July 4, 2006, the Cavalier 4th of July Fireworks Display will be held on the banks of Broad Bay in Virginia Beach, VA. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, vessel traffic will be temporarily restricted.

Discussion of Proposed Rule

The Coast Guard is establishing a 420 foot safety zone on specified waters of Broad Bay in the vicinity of the Cavalier Golf and Yacht Club in Virginia Beach, VA. This regulated area will be established in the interest of public safety during the Cavalier 4th of July Fireworks Display and will be enforced from 9 p.m. to 10:30 p.m. on July 4, 2006. General navigation in the safety zone will be restricted during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation restricts access to the regulated area, the effect of this rule will not be significant because: (i) The COTP may authorize access to the safety zone; (ii) the safety zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via

maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities because the zone will only be in place for a limited duration and maritime advisories will be issued allowing the mariners to adjust their plans accordingly. However, this rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in that portion of Broad Bay from 9 p.m. to 10:30 p.m. on July 4, 2006.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Bill Clark, Chief, Waterways Management Division, Sector Hampton Roads, at (757) 668–5580.

The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" is not required for this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add Temporary § 165.T06–019, to read as follows:

§ 165.T06–019 Safety Zone: Broad Bay, Virginia Beach, VA.

(a) Location: The following area is a safety zone: All waters within 420 feet of the fireworks display at Cavalier Golf and Yacht Club on Broad Bay, Virginia beach, VA in the Captain of the Port, Hampton Roads zone as defined in 33 CFR § 3.25–10.

(b) Definition: Captain of the Port: means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) Regulation: (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, VA, or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads and the Sector Duty Officer at Sector Hampton Roads, Portsmouth, Virginia can be contacted at telephone Number (757) 668–5555 or (757) 484–8192.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM 13 and 16.

(d) Effective date: This regulation is effective from 9 p.m. to 10:30 p.m. on July 4, 2006.

Dated: March 10, 2006.

John S. Kenyon,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Hampton Roads.

[FR Doc. E6–4610 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 41

[Docket No.: PTO–P–2005–0016]

RIN 0651–AB77

Revisions and Technical Corrections Affecting Requirements for *Ex Parte* and *Inter Partes* Reexamination

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rule making.

SUMMARY: The United States Patent and Trademark Office (Office) is proposing changes to the rules of practice relating to *ex parte* and *inter partes* reexamination. The Office is proposing to provide for a patent owner reply to a request for an *ex parte* reexamination or an *inter partes* reexamination prior to the examiner's decision on the request. The Office is also proposing to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause. The Office additionally proposes to designate the correspondence address for the patent as the correct address for all communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination, and to simplify the filing of reexamination papers by providing for the use of a single "mail stop" address for the filing of substantially all *ex parte* reexamination papers (such is already the case for *inter partes* reexamination papers). The Office is further proposing to make miscellaneous clarifying changes as to terminology and applicability of the reexamination rules.

Comment Deadline Date: To be ensured of consideration, written comments must be received on or before May 30, 2006. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail over the Internet addressed to: *AB77.comments@uspto.gov*. Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313–1450; or by facsimile to (571) 273–7710, marked to the attention of Kenneth M. Schor, Senior Legal Advisor. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office prefers that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal.

The comments will be available for public inspection at the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, currently located at Room MDW 07D74 of Madison West, 600 Dulany Street, Alexandria, Virginia 22313–1450, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: *http://www.uspto.gov*). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: By telephone—Kenneth M. Schor, at (571) 272–7710 or Robert J. Spar at (571) 272–7700; by mail addressed to U.S. Patent and Trademark Office, Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Kenneth M. Schor; by facsimile transmission to (571) 273–7710 marked to the attention of Kenneth M. Schor; or by electronic mail message over the Internet addressed to *kenneth.schor@uspto.gov*.

SUPPLEMENTARY INFORMATION: The Office is proposing changes to the rules of practice relating to *ex parte* and *inter partes* as follows:

Proposal I: To provide for a patent owner reply to a request for an *ex parte* reexamination or an *inter partes* reexamination prior to the examiner's decision on the request.

Proposal II: To prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause.

Proposal III: To designate the correspondence address for the patent as the correct address for all notices, official letters, and other communications for patent owners in an *ex parte* reexamination or an *inter partes* reexamination. Also, to simplify the filing of reexamination papers by providing for the use of "Mail Stop *Ex Parte* Reexam" for the filing of all *ex parte* reexamination papers (not just *ex parte* reexamination requests), other than certain correspondence to the Office of the General Counsel.

Proposal IV: To make miscellaneous clarifying changes as to the terminology and applicability of the reexamination rules, and to correct inadvertent errors in the text of certain reexamination rules.

Discussion of Proposals I through IV

Proposal I. To Provide for a Patent Owner Reply to a Request for Reexamination Prior to Decision on the Request: Since the inception of reexamination, a patent owner whose patent is challenged by a third party request for reexamination has not been afforded an opportunity to comment on the request prior to the examiner's decision on the request. This is equally so for both *ex parte* reexamination and *inter partes* reexamination. Under § 1.530(a), "[e]xcept as provided in § 1.510(e), no statement or other response by the patent owner in an *ex parte* reexamination proceeding shall be filed prior to the determinations made in accordance with § 1.515 or § 1.520. If a premature statement or other respo .se is filed by the patent owner, it will not be acknowledged or considered in making the determination." Under § 1.540, "[n]o submissions other than the statement pursuant to § 1.530 and the reply by the *ex parte* reexamination requester pursuant to § 1.535 will be considered prior to examination." Under § 1.939(b), [u]nless otherwise authorized, no paper shall be filed prior to the initial Office action on the merits of the *inter partes* reexamination.

The rule making history for § 1.530(a) addressed the Office's rationale for the regulatory prohibition of a patent owner response to a request (prior to the examiner's decision on the request) in a hearing report issued by the Office, which stated that "several persons felt that the patent owner should be allowed to comment before the decision [on the request] under § 1.515 is made. Providing for such a comment would delay the decision under § 1.515 which must be made within three months * * *." *See Rules of Practice in Patent Cases; Reexamination Proceedings*, 46 FR 29176, 29179 (May 29, 1981) (final rule). In *Patlex Corp.* v. *Mossinghoff*, 771 F.2d 480, 226 USPQ 985 (Fed. Cir. 1985), the propriety of the Office's regulatory prohibition of a patent owner response to a request prior to the decision on the request was upheld by the U.S. Court of Appeals for the Federal Circuit (hereinafter—the Federal Circuit). The Office argued in *Patlex* that this regulatory prohibition was adopted in the interest of efficiency, in view of the three-month deadline set by Congress in 35 U.S.C. 303. The Office pointed out that the only purpose of the decision on the request is to decide whether reexamination should go forward at all, not to decide how any new question of patentability ultimately will be answered. The *Patlex* court supported the Office in this matter based upon the agency's (Office's) expression of a need for administrative convenience.

Recently, however, the Office initiated a program to process and examine all new reexamination proceedings in one Central Reexamination Unit (the CRU). This is expected to permit increased efficiency in deciding new requests for reexamination to the point where a patent owner response to a request (prior to the examiner's decision on the request) can be accommodated, while continuing to comply with the statutory mandate to decide requests for reexamination within three months. Accordingly, the Office is proposing to provide for a patent owner reply to a request for an *ex parte* reexamination or an *inter partes* reexamination prior to the examiner's decision on the request. Such a patent owner reply would address patentee concerns as to their current inability to address a request prior to an order. Further, the patent owner's input could improve the information/evidence and understanding of the issues before the examiner deciding the request. That input should serve the purpose of reducing improper/unnecessary orders and providing more timely patent owner responses on the record to third party allegations. This proposal should enable the Office to be better able to weed out those requests that do not raise a substantial question of patentability, prior to instituting a full-blown proceeding. Bringing the issues to light earlier via such a patent owner response to the request should facilitate the reexamination process pursuant to special dispatch.

As a final point, in order to address the statutory mandate to decide all requests for reexamination within three months, the content and time for filing the patent owner's response (to the request) will be strictly limited. This should enable the Office to comply with the statute, while obtaining the benefits of the patent owner's comments prior to deciding the request.

This proposal involves providing new sections § 1.512 and § 1.921, and revising § 1.510(b), § 1.515(a), § 1.530(a), § 1.915(b) and § 1.923.

Proposal II. To Prohibit Supplemental Patent Owner Responses to an Office Action Without a Showing of Sufficient Cause: The Office is proposing to amend § 1.945 to provide that a patent owner supplemental response (which can be filed to address a third party requester's comments on patent owner's initial response to an Office action) will be entered only where the patent owner has made a showing of sufficient cause as to why the supplemental response should be entered.

Pursuant to § 1.937(b), an *inter partes* reexamination proceeding is "conducted in accordance with §§ 1.104 through 1.116, the sections governing the application examination process * * * except as otherwise provided * * * *." Thus, a patent owner's response to an Office action is governed by § 1.111. Prior to the revision of § 1.111(a)(2) implemented via the final rule, *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, 69 FR 56482 (Sept. 21, 2004), 1287 *Off. Gaz. Pat. Office* 67 (Oct. 12, 2004) (final rule), a patent owner could, in effect, file an unlimited number of supplemental responses to an Office action for an *inter partes* reexamination proceeding, thereby delaying prosecution. The changes to § 1.111(a)(2) made in the Strategic Plan final rule, in effect, addressed this undesirable consequence of the rules in *inter partes* reexamination by providing that a reply (or response, in reexamination) which is supplemental to a § 1.111(b) compliant reply will not be entered as a matter of right (with the exception of a supplemental reply filed while action by the Office is suspended under § 1.103(a) or (c)). Section 1.111(a)(2)(i), as implemented in the Strategic Plan final rule, however, also provides that "the Office may enter" a supplemental response to an Office action under certain conditions. Thus, a patent owner's supplemental response that provides additional information, or one that further amends the claims, could be argued to "simplify the issues for appeal" and thereby satisfy § 1.111(a)(2)(i)(F), or the supplemental response might be limited to "cancellation of claims" (to satisfy § 1.111(a)(2)(i)(A)), or "adoption of the examiner suggestions" (to satisfy § 1.111(a)(2)(i)(B)). Even a supplemental response that answers the third party requester comments might, in some instances, be argued to "simplify the issues for appeal." Whether or not the supplemental response should be entered is then a question to be decided by the Office. In order to fully inform both the Office and the requester (so that the requester can provide rebuttal in its comments) as to why patent owner deems a supplemental response to be

worthy of entry, it is proposed that the rules be revised to require a patent owner showing of sufficient cause why entry should be permitted to accompany any supplemental response by the patent owner. The showing of sufficient cause would be required to provide: (1) A detailed explanation of how the criteria of § 1.111(a)(2)(i) is satisfied; (2) an explanation of why the supplemental response could not have been presented together with the original response to the Office action; and (3) a compelling reason to enter the supplemental response.

This proposal would permit the entry of a supplemental response to an Office action where there is a valid reason for it, and a showing to that effect is made by the patent owner. At the same time, it would provide the Office and the requester with notice of patent owner's reasons for desiring entry and permit the requester to rebut patent owner's stated position.

This proposal involves § 1.945.

Proposal III. Reexamination Correspondence: 1. The Patent Owner's Address of Record: Currently, all notices, official letters, and other communications for patent owners in a reexamination proceeding must be directed to the attorney or agent of record (see § 1.33(c)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to § 11.5 and § 11.11 (unless there is no attorney or agent of record, in which case the patent owner(s) address(es) of record are used). The Office has been receiving reexamination filings where the request has been served on the patent owner at the correspondence address under § 1.33(a) that is a correct address for the patent, rather than at the patent owner address prescribed in § 1.33(c) for use in reexamination. This has been occurring because the § 1.33(a) address is the address used for correspondence during the pendency of applications, as well as post-grant correspondence in patents maturing from such applications. Further, even if a potential reexamination requester realizes that the address indicated by § 1.33(c) is the proper patent owner address to use, patent practitioners occasionally move from one firm to another, and the potential reexamination requester is then faced with two (or more) § 1.33(c) addresses for the practitioners of record; the requester must decide which practitioner address to serve. Finally, the § 1.33(c) address might not be kept up-to-date, while a practitioner or patent owner is likely to be inclined to keep the § 1.33(a) address up-to-date for prompt receipt of notices as to the patent. The Office of Enrollment and Discipline regularly has mail returned because the register of patent attorneys and agents maintained pursuant to § 11.5 and § 11.11 is not up-to-date. Thus, the § 1.33(a) correspondence address for the patent provides a better or more reliable option for the patent owner's address than does the register of patent attorneys and agents maintained pursuant to § 11.5 and § 11.11 (the reexamination address for the patent owner presently called for by § 1.33(c)).

It is to be noted that a change to the correspondence address may be filed with the Office during the enforceable life of the patent, and the correspondence address will be used in any correspondence relating to maintenance fees unless a separate fee address has been specified. *See* § 1.33(d). A review of randomly selected recent listings of *inter partes* reexamination filings reflected that all had an attorney or agent of record for the related patents. There were an average of 18.6 attorneys or agents of record for the patents, and for those attorneys, an average of 3.8 addresses (according to the register of patent attorneys and agents maintained pursuant to § 11.5 and § 11.11). Although for half of the patents, all of the attorneys or agents had the same address, one patent had 77 attorneys and agents of record, and the register reflects 18 different addresses for these practitioners. In such a patent with many different attorneys and agents of record, and many of the practitioners being in different states, mailing a notice related to a reexamination proceeding for the patent to an attorney or agent of record in the patented file, even the attorney or agent most recently made of record (*e.g.*, the attorney with the highest registration number), is likely to result in correspondence not being received by the appropriate party. Since the correspondence address of the patent file is used for maintenance fee correspondence, if a fee address is not specified, patent owners already have an incentive to keep the correspondence address for a patented file up-to-date.

Given the choice of relying on either the correspondence address for the patent or the address for the attorney/agent of record per the register of patent attorneys and agents (as is presently the case), it is more reasonable to rely on the correspondence address for the patent. The patentee should be responsible for updating the correspondence address for the patent, and if the patentee does not, then the patentee should bear the risk of a terminated reexamination prosecution due to the failure to respond to an Office action sent to an obsolete address. Further, use of the correspondence address for the patent will provide a potential reexamination requester and the Office with one simple address to work with, and the requester and the Office will not be confused in the situations where attorneys move from firm to firm (as that has become more common). The correspondence address for the patents is available in public PAIR (Patent Application Information Retrieval), so that a requester need only click on the address button for the patent, and he/she will know what address to use.

The present proposal would accordingly revise § 1.33(c) to designate the correspondence address for the patent as the correct address for all notices, official letters, and other communications for patent owners in reexamination proceedings.

If the present proposal is implemented, the correspondence address for any pending reexamination proceeding not having the same correspondence address as that of the patent file will automatically be changed, by rule, to that of the patent file. For any such proceeding, it would be strongly encouraged (at that point) that the patent owner should affirmatively file a Notification of Change of Correspondence Address in the reexamination proceeding to conform the address of the proceeding with that of the patent. While the correspondence address change would automatically be effected (by rule) even if the patent owner notification is not filed, such a patent owner notification would clarify the record, and would address the possibility that, absent such a patent owner notification, correspondence may inadvertently be mailed to an incorrect address causing a delay in the prosecution.

This aspect of the proposal involves § 1.33.

2. Reexamination correspondence addressed to the Office: In the final rule *Changes to Implement the 2002 Inter Partes Reexamination and Other Technical Amendments to the Patent Statute*, 68 FR 70996 (Dec. 22, 2003), 1278 *Off. Gaz. Pat. Office* 218 (Jan. 20, 2004), § 1.1(c) was amended to provide separate mail stops for *ex parte* reexamination proceedings and *inter partes* reexamination proceedings. *See* § 1.1(c). As per that rule making, the mail stop for *ex parte* reexamination proceedings can only be used for the original request papers for *ex parte* reexamination. The new mail stop for *inter partes* reexamination, on the other hand, includes both original request papers and all subsequent

correspondence filed in the Office (other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c)), because the Central Reexamination Unit (CRU) was, and is, the central receiving area for all *inter partes* reexamination proceeding papers. The CRU has now also become the central receiving area for all *ex parte* reexamination proceeding papers. Accordingly, it is proposed to simplify the filing of reexamination papers by permitting the use of "Mail Stop *Ex Parte* Reexam" for the filing of all *ex parte* reexamination follow-on papers (not just *ex parte* reexamination requests), other than correspondence to the Office of the General Counsel pursuant to §§ 1.1(a)(3) and 1.302(c)).

This aspect of the proposal involves § 1.1(c).

Correspondence relating to all reexamination proceedings is best handled at one central location where Office personnel have specific expertise in reexamination because of the unique nature of reexamination proceedings. That central location is the CRU.

Proposal IV. Clarifying Changes as to Reexamination Rule Terminology and Applicability, and Correction of Inadvertent Errors in the Text of Certain Reexamination Rules: The Office is proposing miscellaneous clarifying changes as to the terminology and applicability of the reexamination rules. The rule changes of sub-parts 1 and 2 below were proposed in the *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan,* 68 FR 53816 (Sept. 12, 2003), 1275 *Off. Gaz. Pat. Office* 23 (Oct. 7, 2003) (notice of proposed rule making) (hereinafter the Strategic Plan Proposed Rule). The Office did not proceed with those changes in the final rule *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan,* 69 FR 56482 (Sept. 21, 2004), 1287 *Off. Gaz. Pat. Office* 67 (Oct. 12, 2004) (final rule) (hereinafter the Strategic Plan Final Rule). The Office is re-presenting those proposals after further consideration and in view of the changes somewhat more recently made by the final rule *Rules of Practice Before the Board of Patent Appeals and Interferences* 69 FR 49960 (Aug. 12, 2004), 1286 *Off. Gaz. Pat. Office* 21 (Sept. 7, 2004) (final rule) (hereinafter, the Appeals final rule). The essential substance of all change proposals set forth in Proposal IV, sub-parts 1 and 2, remains as it was in the Strategic Plan Proposed Rule. The four revisions proposed in Proposal IV are set forth as follows:

1. It is proposed that the rules be amended to clarify that the patent owner's failure to file a timely response in an *ex parte* or *inter partes* reexamination proceeding will terminate the prosecution of the reexamination proceeding, but will not terminate or conclude the reexamination proceeding itself. It is the issuance and publication of a reexamination certificate that concludes the reexamination proceeding. This distinction is important, because a reexamination prosecution which is terminated may be reopened at the option of the Director where appropriate. For example, a rejection that was withdrawn during the proceeding may be reinstated after the prosecution has terminated where the propriety of that rejection has been reconsidered. In contrast, a reexamination proceeding which has been concluded is not subject to being reopened. After the reexamination proceeding has been concluded, the Office is not permitted to reinstate the exact same ground of rejection in a reexamination proceeding, where the same question of patentability is raised by the prior art that is the basis of the rejection. See § 13105, part (a), of the Patent and Trademark Office Authorization Act of 2002, enacted in Public Law 107–273, 21st Century Department of Justice Appropriations Authorization Act, 116 Stat. 1758 (2002).

This distinction between terminating the prosecution of the reexamination proceeding, and the conclusion of the reexamination proceeding, was highlighted by the Federal Circuit decision of *In re Bass,* 314 F.3d 575, 577, 65 USPQ2d 1156, 1157 (Fed. Cir. 2003), wherein the Court indicated that:

> Until a matter has been completed, however, the PTO may reconsider an earlier action. *See In re Borkowski,* 505 F.2d 713, 718, 184 USPQ 29, 32–33 (CCPA 1974). A reexamination is complete upon the statutorily mandated issuance of a reexamination certificate, 35 U.S.C. 307(a); the NIRC merely notifies the applicant of the PTO's intent to issue a certificate. A NIRC does not wrest jurisdiction from the PTO precluding further review of the matter.

It is to be noted that both Notice of Intent to Issue Reexamination Certificate (NIRC) cover sheet forms, *i.e., ex parte* reexamination Form PTOL 469 and *inter partes* reexamination Form PTOL 2068, specifically state (in their opening sentences) that "[p]rosecution on the merits is (or remains) closed in this * * * reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office, or upon petition." This statement in both forms makes the point that the NIRC terminates the *prosecution* in the reexamination proceeding (if prosecution has not already been terminated, e.g., via failure to respond), but does not terminate or conclude the reexamination *proceeding* itself. Rather, it is the issuance and publication of the reexamination certificate that concludes the reexamination proceeding. The rules would be revised accordingly.

Definitional Consideration: In the Strategic Plan Proposed Rule, the terminology used was that a patent owner's failure to file a timely response in a reexamination proceeding (and the issuance of the NIRC) would "conclude" the prosecution of the reexamination proceeding, but would not terminate the reexamination proceeding, and the issuance and publication of a reexamination certificate would "terminate" the reexamination proceeding. This usage of "conclude" and "terminate" has been reconsidered, however, and the usage of the terms has been reversed to be consistent with the way the Office defines "termination," as can be observed in the recent Appeals final rule (*supra.*). It is to be noted that the patent statute, in 35 U.S.C. 307(a), states for *ex parte* reexamination (35 U.S.C. 316 contains an analogous statement for *inter partes* reexamination): "In a reexamination proceeding under this chapter, when the time for appeal has expired or any appeal proceeding has terminated, the Director will issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any proposed amended or new claim determined to be patentable." (Emphasis added).

Thus, after the appeal proceeding in the reexamination is terminated (which terminates the prosecution in the reexamination), the reexamination proceeding is concluded by the issuance and publication of the reexamination certificate.

It is further observed that in the Appeals final rule, § 1.116(c) states that "[t]he admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the * * * reexamination prosecution from termination under § 1.550(d) or § 1.957(b) * * *." The use of "termination of the prosecution" where the reexamination proceeding has not concluded is consistent with the presentation in § 1.116(c) in the Appeals final rule. As a further indication in the

Appeals final rule, § 1.197(a) discusses the passing of jurisdiction over an application or patent under *ex parte* reexamination proceeding to the examiner after a decision by the Board of Patent Appeals and Interferences, and § 1.197(b) then states that "[p]roceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except * * *." Thus, the termination (of the appeal) does not signify the completion of an application or reexamination proceeding. Rather, the application then continues until patenting or abandonment, and the reexamination continues until issuance of the reexamination certificate; at that point these proceedings are concluded.

The above changes would be directed to §§ 1.502, 1.550, 1.565(d), 1.570, 1.902, 1.953, 1.957, 1.958, 1.979, 1.991, 1.997, and 41.4.

2. Pursuant to 35 U.S.C. 307(a), "when the time for appeal has expired or any appeal proceeding has terminated, the Director will issue and publish a certificate * * *" (emphasis added) for an *ex parte* reexamination proceeding. Likewise, for an *inter partes* reexamination, 35 U.S.C. 316(a) states that "when the time for appeal has expired or any appeal proceeding has terminated, the Director shall issue and publish a certificate" (emphasis added). Accordingly, any reexamination proceeding is concluded when the reexamination certificate has been issued and published. It is at that point in time that the Office no longer has jurisdiction over the patent which has been reexamined.

Sections 1.570 and 1.997 are the sections that implement the statutory *ex parte* and *inter partes* reexamination certificates, respectively. The titles of §§ 1.570 and 1.997, as well as paragraphs (b) and (d) in both sections, currently refer to the issuance of the reexamination certificate, but fail to refer to the publication of the certificate. The titles of §§ 1.570 and 1.997, as well as paragraphs (b) and (d), are proposed to be revised to track the language of 35 U.S.C. 307 and 35 U.S.C. 316, and refer to both issuance and publication, to thereby make it clear in the rules when the reexamination proceeding is concluded. The other reexamination rules containing language referring to the issuance of the reexamination certificate would likewise be revised.

The above changes would be directed to §§ 1.502, 1.530, 1.550, 1.565(c), 1.570, 1.902, 1.953, 1.957, 1.979, and 1.997.

3. In § 1.137, the introductory text of paragraphs (a) and (b) states "a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c)." [Emphasis added]. As pointed out in the discussion of the first sub-proposal, when the patent owner fails to timely respond, it is actually the prosecution of the reexamination that is terminated under § 1.550(d) for *ex parte* reexamination, or is terminated under § 1.957(b) for *inter partes* reexamination. For the § 1.957(c) scenario, however, the prosecution of the *inter partes* reexamination proceeding is not terminated when the patent owner fails to timely respond pursuant to § 1.957(c). Rather, an Office action is issued to permit the third party requester to challenge the claims found patentable (as to any matter where the requester has preserved the right of such a challenge), and the prosecution is "limited to the claims found patentable at the time of the failure to respond, and to any claims added thereafter which do not expand the scope of the claims which were found patentable at that time." Section 1.957(c).

It is proposed that the introductory text of § 1.137(a) and § 1.137(b) be revised to also provide for the situation where the prosecution is "limited" pursuant to § 1.957(c) (and the prosecution of the reexamination is not "terminated"). It is also proposed that § 1.137(e) be revised consistent with § 1.137(a) and § 1.137(b).

It is noted that § 1.957(c) does, in fact, result in the "terminating" of reexamination prosecution as to the non-patentable claims (under § 1.957(b), on the other hand, prosecution is terminated *in toto*). It would be confusing, however, to refer to a termination of reexamination prosecution in the § 1.957(c) scenario, since the limited termination as to the non-patentable claims could easily be confused with the termination of the entirety of the prosecution of § 1.957(b). Accordingly, the § 1.957(c) "limitation" of the scope of the remaining claims is the language deemed better suited for use in the rules.

The above changes would be directed to §§ 1.8, 1.137 and 41.4 (§§ 1.8 and 41.4 contain language which tracks that of § 1.137(a) and § 1.137(b), and would thus be revised accordingly).

4. Pursuant to § 1.8(b), a remedy is provided for having correspondence considered to be timely filed, where correspondence was mailed or transmitted in accordance with paragraph § 1.8(a) but not timely received in the Office, and "the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice." Such a remedy is not, however, explicitly provided for in an *inter partes* reexamination proceeding where correspondence was mailed or transmitted in accordance with paragraph § 1.8(a), but not timely received in the Office. In that case, pursuant to § 1.957(c), the reexamination prosecution is not terminated, but is rather "limited to the claims found patentable at the time of the failure to respond, and to any claims added thereafter which do not expand the scope of the claims which were found patentable at that time." Therefore, it could appear that § 1.8(b) does not apply to the § 1.957(c) scenario. Therefore, § 1.8(b) is proposed to be revised to explicitly provide the § 1.8(b) remedy for the § 1.957(c) scenario as well.

In addition, the certificate of mailing and transmission is available to an *inter partes* reexamination third party requester filing papers. *See* MPEP §§ 2624 and 2666.05. Just as a § 1.8(b) remedy would be provided for the patent owner in the § 1.957(b) and (c) scenarios, it would also be provided for the requester in the § 1.957(a) scenario.

The above change would be directed to § 1.8.

5. The final rule *Rules of Practice Before the Board of Patent Appeals and Interferences* 69 FR 49960 (Aug. 12, 2004), 1286 *Off. Gaz. Pat. Office* 21 (Sept. 7, 2004) (final rule) revised the reexamination appeal rules to remove and reserve §§ 1.961 to 1.977. In addition, §§ 1.959, 1.979, 1.993 were revised and new §§ 41.60 through 41.81 were added. Revision of some of the reexamination rules referring to these sections was inadvertently not made. It is proposed to make those changes. Further, it is proposed that §§ 1.510(f) and 1.915(c) be revised to change § 1.34(a) to § 1.34, to update the sections to conform with the revision of § 1.34 made in final rule *Revision of Power of Attorney and Assignment Practice* 69 FR 29865 (May 26, 2004) (final rule).

It is further proposed that § 1.33(c) be revised to add "Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken." These two sentences were inadvertently deleted from § 1.33(c) via the final rule *Changes to Representation*

of Others Before the United States Patent and Trademark Office, 69 FR 35428, 35452 (June 24, 2004) (final rule).

This aspect of the proposal involves §§ 1.33(c), 1.510(f), 1.915(c), 1.953(b), 1.983(a), and 1.991.

Section-by-Section Discussion

Section 1.1: It is proposed, pursuant to Proposal III, to amend § 1.1(c)(1) to provide for use of "Mail Stop *Ex Parte* Reexam" for the filing of all *ex parte* reexamination follow-on papers (not just *ex parte* reexamination requests), other than certain correspondence to the Office of the General Counsel. Section 1.1 would be amended by revising paragraph (c)(1) from its current reading "Requests for *ex parte* reexamination (original request papers only) should be additionally marked 'Mail Stop *Ex Parte* Reexam'" to read "Requests for *ex parte* reexamination (original request papers) and all subsequent *ex parte* reexamination correspondence filed in the Office, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c), should be additionally marked 'Mail Stop *Ex Parte* Reexam.'"

Section 1.8: Section 1.8(b) is proposed to be amended, pursuant to Proposal IV, to recite "In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the * * * Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence * * * or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence * * *."

The language "the prosecution of a reexamination proceeding is terminated" (for §§ 1.550(d) and 1.957(b)) clarifies that the reexamination proceeding is not concluded under §§ 1.550(d) or 1.957(b), but rather, the prosecution of the reexamination is terminated.

The language "or the prosecution of a reexamination proceeding is * * * limited pursuant to § 1.957(c)" more appropriately sets forth that the § 1.8(b) remedy is applied to avoid the § 1.957(c) consequences of a patent owner failure to respond in an *inter partes* reexamination.

The language "or a requester paper is refused consideration pursuant to § 1.957(a)" more appropriately sets forth that the § 1.8(b) remedy is applied to avoid the § 1.957(a) consequences of a failure to file a requester paper in an *inter partes* reexamination.

Section 1.17: Sections 1.17(l) and (m) are proposed to be revised, pursuant to Proposal IV, to clarify that a reexamination proceeding is not concluded under §§ 1.550(d) or 1.957(b), but rather, the prosecution of a reexamination is terminated under §§ 1.550(d) or 1.957(b), or reexamination prosecution is limited under § 1.957(c). No change is being proposed as to the fee amounts.

Section 1.33: It is proposed that § 1.33(c) be revised, pursuant to Proposal III, to replace "the attorney or agent of record (*see* § 1.34(b)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to §§ 11.5 and 11.11 or, if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record" with "correspondence address." As proposed to be revised, all notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address for the patent. As previously discussed, a change to the correspondence address may be filed with the Office during the enforceable life of the patent. It is further proposed, pursuant to Proposal IV, that § 1.33(c) be revised to add "Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken."

Section 1.137: Sections 1.137(a), (b), and (e) are proposed to be amended, pursuant to Proposal IV, to more appropriately set forth the §§ 1.550(d) and 1.957(b) consequences of the patent owner's failure to make a required response. To do so, the introductory text of § 1.137(a) and § 1.137(b) is proposed to be revised to recite "a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b)" (emphasis added), rather than "a reexamination proceeding becoming terminated under §§ 1.550(d) or 1.957(b)" (emphasis added). In § 1.137(e), "a concluded *ex parte* reexamination prosecution" and "a concluded *inter partes* reexamination prosecution" is proposed to be inserted in place of "a terminated *ex parte* reexamination proceeding" and "a terminated *inter partes* reexamination proceeding", respectively.

Sections 1.137(a), (b) and (e) are proposed to be amended to clarify that the reexamination proceedings under § 1.957(c) referred to in §§ 1.137(b) and (c) are limited as to further prosecution; the prosecution is not terminated. To make this clarification, the introductory text portions of § 1.137(a) and § 1.137(b) are proposed to be revised to recite that the prosecution is "limited under § 1.957(c)," rather than "terminated." Section 1.137(e) is proposed to be revised to also refer to "revival" of "an *inter partes* reexamination limited as to further prosecution."

Section 1.502: Section 1.502 is proposed to be amended, pursuant to Proposal IV, to state that the "reexamination proceeding" is "concluded by the issuance and publication of a reexamination certificate." That is the point at which citations (having an entry right in the patent) which were filed after the order of *ex parte* reexamination will be placed in the patent file.

Section 1.510: It is proposed that § 1.510(b)(5) be revised, pursuant to Proposal I, as a conformatory change with respect to new § 1.512 discussed below. In order to provide the patent owner with a maximized amount of time to file a reply under § 1.512 to a third party request, the request must be served on the patent owner by facsimile transmission, personal service (courier) or overnight delivery, as opposed to first class mail. Accordingly, § 1.510(b)(5) would be revised to require that the request include a certification in accordance with § 1.248(b) by the third party requester that a copy of the request was served in its entirety on the patent owner at the address as provided for in § 1.33(c) by facsimile transmission, personal service (courier) or overnight. The name and address of the party served must be indicated. If service on the patent owner was not possible, then a duplicate copy must be supplied to the Office. A filing date will not be granted to the request until either the certification by the requester is received, or the Office serves the supplied duplicate copy on the patent owner.

It is further proposed that § 1.510(f) be revised, pursuant to Proposal IV, to change § 1.34(a) to § 1.34. This change would update the section to conform with the revision of § 1.34 made in *Revision of Power of Attorney and Assignment Practice* 69 FR 29865 (May 26, 2004) (final rule).

Section 1.512: Pursuant to Proposal I, it is proposed to provide new § 1.512 to provide for a patent owner reply to a request for an *ex parte* reexamination prior to the examiner's decision on the request.

Section 1.512(a) would permit a reply to a third party *ex parte* reexamination request under § 1.510 to be filed by the patent owner within thirty days from the date of service of the request on the patent owner. Since the statute requires that the decision on the request be issued within three months following the filing of a request for reexamination, this thirty-day period is not extendable. It is strongly encouraged that any patent owner reply to a request be faxed directly to the CRU to ensure receipt and matching with the reexamination proceeding prior to the examiner's decision on the request.

It is to be noted that this provision for patent owner reply to a request does not apply to Director ordered reexaminations and patent owner requested reexaminations. It does not apply to Director ordered reexaminations, since there is no request for reexamination. It does not apply to patent owner requested reexaminations, since the patent owner can place all of its comments in its request.

Section 1.512(a) would also require that any reply to a request by the patent owner must be served upon the third party requester in accordance with § 1.248. Service on the requester of all patent owner papers is required in a third party requested reexamination.

Section 1.512(b) would require (1) that the total reply to the request not exceed fifty total pages in length excluding evidence and reference materials such as prior art references, (2) that the form of the reply must be in accordance with the requirements of § 1.52, and (3) that the reply must not include any proposed amendment of the claims. Fifty pages is deemed a sufficient upper limit for the patent owner's rebuttal of the requester's case, and an excessive length would only delay the process. Section 1.512(b) would also require that the reply not include any proposed amendment of the claims. The determination on whether to order reexamination is made on the patent claims as they exist at the filing of the request; thus there is no need for an amendment at this point in the process, and again, an amendment would only delay the process.

Section 1.512(c) would provide that the reply will be considered only to the extent that it relates to the issues raised in the request for reexamination. Although a reply that does not solely relate to the issues raised in the request will not be returned to the patent owner, any portion of the reply that does not relate to the issues raised in the request will not be considered, and comments will not be provided by the Office as to what was not considered.

Section 1.512(c) would further provide for the returning or discarding of the reply papers, if the reply to the request: is not timely filed, fails to comply with § 1.512(b), or fails to include a certification that the reply was served upon the requester in accordance with § 1.248. In these instances, the reply will be returned to the patent owner or discarded (at the Office's option) without consideration. Further, there will be no opportunity to file a supplemental reply, given the time constraints discussed above.

Section 1.512(d) would provide that the third party requester may not file a paper responsive to the patent owner reply to the request, and that any such paper will be returned to the requester or discarded (at the Office's option) without consideration. There is no need for a further requester paper at this point, since, if reexamination is denied, third party requester will continue to have (pursuant to § 1.515(c)) the right to seek review by a petition under § 1.181 within one month of the mailing date of the examiner's determination refusing reexamination. At that point, the requester can address the patent owner reply to the request.

Section 1.515(a): Section 1.515(a) is proposed to be amended, pursuant to Proposal IV, as a conformatory change with respect to new § 1.512. Section 1.515(a) would be revised to state that the examiner will consider any patent owner reply under § 1.512 together with the request for reexamination, in determining whether to grant reexamination. The first sentence of § 1.515(a) would read: "Within three months following the filing date of a request for an *ex parte* reexamination under § 1.510, an examiner will consider the request and any patent owner reply under § 1.512 and determine whether or not a substantial new question of patentability affecting any claim of the patent is raised * * *." The bold shows the added text.

Section 1.530: Section 1.530(a) is proposed to be amended, pursuant to Proposal I as a conformatory change with respect to new § 1.512. Currently, § 1.530(a) provides: "Except as provided in § 1.510(e), no statement or other response by the patent owner * * * shall be filed prior to the determinations made in accordance with § 1.515 or § 1.520." Since the patent owner would be permitted to file, prior to the determination made in accordance with § 1.515, a reply to a third party *ex parte* reexamination request under § 1.510 if proposed new § 1.512 is adopted, § 1.530(a) would be revised to provide: "Unless otherwise authorized, no statement or other response by the patent owner in an *ex parte* reexamination proceeding shall be filed prior to the determinations made in accordance with § 1.515 or § 1.520." This "unless otherwise authorized" language is the same as is used in the *inter partes* reexamination analogous provision § 1.939. In addition, the disposition of the unauthorized paper would be explicitly set forth in the § 1.530(a), i.e., the paper will be returned or discarded at the Office's option.

Section 1.530(k) is proposed to be amended, pursuant to Proposal IV, to state that proposed amendments in *ex parte* or *inter partes* reexamination are not effective until the reexamination certificate is both "issued and published" (emphasis added) to conform § 1.530(k) with the language of 35 U.S.C. 307.

Section 1.550: Section 1.550(d) is proposed to be amended, pursuant to Proposal IV, to recite that "[i]f the patent owner fails to file a timely and appropriate response to any Office action or any written statement of an interview required under § 1.560(b), the prosecution in the *ex parte* reexamination proceeding will be a terminated prosecution, and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.570 * * *" (emphasis added.). This makes it clear that the patent owner's failure to timely file a required response (or interview statement) will result in the terminating of prosecution of the reexamination proceeding, but will not conclude the reexamination proceeding. It is to be noted that the prosecution will be a terminated prosecution as of the day after the response was due and not timely filed. In this instance, the NIRC will be subsequently issued; however, it will not be the instrument that operates to terminate the prosecution, since that will have already automatically occurred upon the failure to respond. Further, "issued and published" is used to conform § 1.550(d) with the language of 35 U.S.C. 307.

Section 1.565: Pursuant to Proposal IV, it is proposed that § 1.565(c) be amended to set forth that consolidated *ex parte* reexamination proceedings will result in the issuance and publication of a single certificate under § 1.570. As pointed out above, this tracks the

statutory language. It is further proposed that § 1.565(d) be amended to make it clear that the issuance of a reissue patent for a merged reissue-reexamination proceeding effects the conclusion of the reexamination proceeding. This is distinguished from the termination of the reexamination prosecution, as pointed out above. As a further technical change, it is proposed to change "consolidated" in § 1.565(c) to "merged," for consistency with the terminology used in § 1.565(d). There is no difference in the meaning of the two terms, and the use of different terms in the two subsections is confusing. In addition, in § 1.565(d), it is proposed to replace "normally" with "usually," as "normally" is deemed an inadvertent inappropriate choice of terminology. The same term ("usually") would be added to § 1.565(c). It is to be noted that there are instances where the Office does not consolidate or merge an ongoing *ex parte* reexamination proceeding with a subsequent reexamination or reissue proceeding, which are addressed on a case-by-case basis. The following are examples. If the prosecution in an ongoing *ex parte* reexamination proceeding has terminated (*e.g.*, by the issuance of a Notice of Intent to Issue Reexamination Certificate), the *ex parte* reexamination proceedings will generally not be consolidated or merged with a subsequent reexamination or reissue proceeding. If an ongoing *ex parte* reexamination proceeding is ready for decision by the Board of Patent Appeals and Interferences, or is on appeal to the U.S. Court of Appeals for the Federal Circuit, it would be inefficient (and contrary to the statutory mandate for special dispatch) to "pull back" the ongoing *ex parte* reexamination proceeding for merger with a subsequent reexamination or reissue proceeding. As a final example, an ongoing *ex parte* reexamination proceeding might be directed to one set of claims for which a first accused infringer (with respect to the second set) has filed the ongoing request for reexamination. A later reexamination request might then be directed to a different set of claims for which a second accused infringer (with respect to the second set) has filed the request. In this instance, where there are simply no issues in common, merger would serve only to delay the resolution of the first proceeding, representing a harm to the reexamination system. If reexamination is to act as an effective alternative to litigation, the ability to decide the question of whether to merge/consolidate based on the merits of a particular fact pattern must be reserved to the Office.

Section 1.570: Pursuant to Proposal IV, it is proposed that the heading of § 1.570 and § 1.570(a) be amended to make it clear that the issuance and publication of the *ex parte* reexamination certificate effects the conclusion of the reexamination proceeding. The failure to timely respond, or the issuance of the NIRC, do not conclude the reexamination proceeding. Section 1.570, paragraphs (b) and (d), would be amended to recite that the reexamination certificate is both issued and published for consistency with the language of 35 U.S.C. 307.

Section 1.902: Pursuant to Proposal IV, it is proposed to amend § 1.902 to state that the "reexamination proceeding" is "concluded by the issuance and publication of a reexamination certificate." That is the point at which citations (having a right to entry in the patent) which were filed after the order of *inter partes* reexamination will be placed in the patent file.

Section 1.915: It is proposed that § 1.915(b)(6) be revised, pursuant to Proposal I, as a conformatory change with respect to new § 1.921 discussed below. In order to provide the patent owner with a maximized amount of time to file a reply under § 1.921 to the third party's request, the request must be served on the patent owner by facsimile transmission, personal service (courier) or overnight delivery, as opposed to first class mail. Accordingly, § 1.915(b)(6) would be revised to require that the request include a certification in accordance with § 1.248(b) by the third party requester that a copy of the request was served in its entirety on the patent owner at the address as provided for in § 1.33(c) by facsimile transmission, personal service (courier) or overnight. The name and address of the party served must be indicated. If service on the patent owner was not possible, then a duplicate copy must be supplied to the Office. A filing date will not be granted to the request until either the certification by the requester is received, or the Office serves the supplied duplicate copy on the patent owner.

Pursuant to Proposal IV, it is proposed that § 1.915(c) be revised to change § 1.34(a) to § 1.34. This change would update the section to conform with the revision of § 1.34 made in *Revision of Power of Attorney and Assignment Practice* 69 FR 29865 (May 26, 2004) (final rule).

Section 1.921: Pursuant to Proposal I, it is proposed to provide new § 1.921 to provide for a patent owner reply to a request for an *inter partes* reexamination prior to the examiner's decision on the request.

Section 1.921(a) would permit a reply to a third party *inter partes* reexamination request under § 1.915 to be filed by the patent owner within thirty days from the date of service of the request on the patent owner. Since the statute requires that the decision on the request be issued within three months following the filing of a request for reexamination, this thirty-day period is not extendable. It is strongly encouraged that any patent owner reply to a request be faxed directly to the CRU or hand-carried to the CRU, to ensure receipt and matching with the reexamination proceeding prior to the examiner's decision on the request.

It is to be noted that this provision for a patent owner reply to a request does not apply to Director ordered reexaminations and patent owner requested reexaminations, since there cannot be a Director ordered *inter partes* reexamination or a patent owner requested inter partes reexamination.

Section 1.921(a) would also require that any reply to a request by the patent owner must be served upon the third party requester in accordance with § 1.248. Service on the requester of all patent owner papers is required in any *inter partes* reexamination.

Section 1.921(b) would require (1) that the entire reply to the request not exceed 50 total pages in length excluding evidence and reference materials such as prior art references, (2) that the form of the reply must be in accordance with the requirements of § 1.52, and (3) that the reply must not include any proposed amendment of the claims. Fifty pages is deemed a sufficient upper limit for the patent owner's rebuttal of the requester's case, and an excessive length would only delay the process. Section 1.921(b) would also require that the reply not include any proposed amendment of the claims. The determination on whether to order reexamination is made on the patent claims as they exist at the filing of the request; thus there is no need for an amendment at this point in the process, and again, an amendment would only delay the process.

Section 1.921(c) would provide that the reply will be considered only to the extent that it relates to the issues raised in the request for reexamination. Although a reply that does not solely relate to the issues raised in the request will not be returned to the patent owner, any portion of the reply that does not relate to the issues raised in the request will not be considered, and comments

will not be provided by the Office as to what was not considered.

Section 1.921(c) would further provide for the returning or discarding of the reply papers if the reply to the request: Is not timely filed, fails to comply with § 1.921(b), or fails to include a certification that the reply was served upon the requester in accordance with § 1.248. In these instances, the reply will be returned to the patent owner or discarded (at the Office's option) without consideration. Further, there will be no opportunity to file a supplemental reply, given the time constraints discussed above.

Section 1.921(d) would provide that the third party requester may not file a paper responsive to the patent owner reply to the request, and that any such paper will be returned to the requester or discarded (at the Office's option) without consideration. There is no need for a further requester paper at this point, since, if reexamination is denied, the third party requester will continue to have (pursuant to § 1.927) the right to seek review by a petition under § 1.181 within one month of the mailing date of the examiner's determination refusing reexamination. At that point, the requester can address the patent owner reply to the request.

Section 1.923: Section 1.923 is proposed to be amended, pursuant to Proposal I, as a conformatory change with respect to new § 1.921. Section 1.923 would be revised to state that the examiner will consider any patent owner reply under § 1.921 together with the request for reexamination, in determining whether to grant reexamination. In addition, in the first sentence, "§ 1.919" would be changed to "§ 1.915," since it is § 1.915 that provides for the request; § 1.919 provides for the filing date of the request.

Section 1.945: Currently, § 1.945 provides that "[t]he patent owner will be given at least thirty days to file a response to any Office action on the merits of the *inter partes* reexamination." Pursuant to Proposal II, it is proposed that § 1.945 be revised to address the filing of a supplemental response to an Office action. As it is proposed to revise § 1.945, any supplemental response to an Office action would be entered only where the supplemental response is accompanied by a showing of sufficient cause why the supplemental response should be entered. The showing of sufficient cause would be required to provide: (1) A detailed explanation of how the requirements of § 1.111(a)(2)(i) are satisfied; (2) an explanation of why the supplemental response could not have been presented together with the original response to the Office action; and (3) a compelling reason to enter the supplemental response.

The decision on the sufficiency of the showing will not be issued until after receipt of requester comments under § 1.947 on the supplemental response, or the expiration of the 30-day period for requester comments (whichever comes first). The decision would be communicated to the parties either prior to, or with, the next Office action on the merits, as is deemed appropriate for the handling of the case.

A showing of sufficient cause will not be established by an explanation that the supplemental response is needed to address the requester's comments (on patent owner's response), and could not have been presented together with the original response because it was not known that requester would raise a particular point. The *inter partes* reexamination statute (35 U.S.C. 314) provides for the patent owner to respond to an Office action, and the requester to comment on that response. There is no intent in the statute to provide the patent owner with a chance to file a supplemental response to address the requester's comments.

It is pointed out that no corresponding rule revision is needed in *ex parte* reexamination, since there is no third party requester comment on a patent owner response (that a patent owner will wish to address), and § 1.111(a)(2) will adequately deal with patent owner supplemental responses.

Section 1.953: Revision is proposed pursuant to Proposal IV. Section 1.953(b) states "Any appeal by the parties shall be conducted in accordance with §§ 1.959–1.983." This reference to §§ 1.959–1.983 is not correct, as some of the referenced rules have been deleted and others added. Instead of revising the incorrect reference, the entire sentence is proposed to be deleted as being out of place in § 1.953, which is not directed to the appeal process, but rather an Office action notifying parties of the right to appeal.

Section 1.953(c) is proposed to be amended, pursuant to Proposal IV, to state that if a notice of appeal is not timely filed after a Right of Appeal Notice, then "prosecution in the *inter partes* reexamination proceeding will be terminated." This will not, however, conclude the reexamination proceeding.

The subheading preceding § 1.956 is proposed to be amended, pursuant to Proposal IV, to refer to termination of the prosecution of the reexamination, rather than the termination or conclusion of the reexamination proceeding, since that is what the sections which follow address. It is § 1.997 (Issuance of *Inter Partes* Reexamination Certificate) that deals with conclusion of the reexamination proceeding.

Section 1.957: Section 1.957(b) is proposed to be amended, pursuant to Proposal IV, to recite that "[i]f no claims are found patentable, and the patent owner fails to file a timely and appropriate response * * *, the prosecution in the reexamination proceeding will be a terminated prosecution, and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.997 * * *" (Emphasis added). This makes it clear that the patent owner's failure to timely file a required response, where no claim has been found patentable, will result in the terminating of prosecution of the reexamination proceeding, but will not conclude the reexamination proceeding. As previously discussed for *ex parte* reexamination, the prosecution will be a terminated prosecution as of the day after the response was due and not timely filed. In this instance, the NIRC will be subsequently issued; however, it will not be the instrument that operates to terminate the prosecution, since that will have already automatically occurred upon the failure to respond. Also, "issued and published" is used to conform § 1.550(d) with the language of 35 U.S.C. 316.

Section 1.958: The heading of § 1.958 is proposed to be amended, pursuant to Proposal IV, to refer to the termination of prosecution of the reexamination, rather than the termination or conclusion of the reexamination proceeding, since that is what the rule addresses.

Section 1.979: Section 1.979(b) is proposed to be amended, pursuant to Proposal IV, to recite that "[u]pon judgment in the appeal before the Board of Patent Appeals and Interferences, if no further appeal has been taken (§ 1.983), the prosecution in the *inter partes* reexamination proceeding will be terminated and the Director will issue and publish a certificate under § 1.997 concluding the proceeding." [Emphasis added]. This makes it clear that the termination of an appeal for an *inter partes* reexamination proceeding will result in a terminating of prosecution of the reexamination proceeding if no other appeal is present, but will not conclude the reexamination proceeding. Rather, it is the reexamination certificate under § 1.997 that concludes the reexamination proceeding.

In addition, the title of § 1.979 is proposed to be amended to add

"appeal" before proceedings, and thus recite "Return of Jurisdiction from the Board of Patent Appeals and Interferences; termination of appeal proceedings." This would make it clear that it is the appeal proceedings that are terminated; the reexamination proceeding is not terminated or concluded.

Section 1.983: In § 1.983(a), it is proposed, pursuant to Proposal IV, to change the incorrect reference to § 1.979(e) to the correct reference,— § 41.81.

Section 1.989: Pursuant to Proposal IV, it is proposed that § 1.989(a) be amended to set forth that consolidated (merged) reexamination proceedings containing an *inter partes* reexamination proceeding will result in the issuance and publication of a single certificate under § 1.570. As pointed out above, this tracks the statutory language.

Section 1.991: In § 1.991, it is proposed, pursuant to Proposal IV, to add "and 41.60–41.81" to "§§ 1.902 through 1.997," since §§ 41.60–41.81 provide the requester with participation rights. It is further proposed that § 1.991 be amended to make it clear that the issuance of a reissue patent for a merged reissue-reexamination proceeding effects the conclusion of the reexamination proceeding. This is distinguished from the termination of the reexamination prosecution, as pointed out above.

Section 1.997: Both the heading of § 1.997 and § 1.997(a) are proposed to be amended, pursuant to Proposal IV, to make it clear that the issuance and publication of the *inter partes* reexamination certificate effects the conclusion of the reexamination proceeding. The failure to timely respond, or the issuance of the NIRC, does not conclude the reexamination proceeding. Section 1.997(a) is also proposed to be revised to make its language consistent with that of § 1.570(a). Section 1.997, paragraphs (b) and (d), are proposed to be amended to recite that the reexamination certificate is both issued and published, for consistency with the language of 35 U.S.C. 316.

Section 41.4: Paragraph (b) of § 41.4 is proposed to be amended, pursuant to Proposal IV, to (1) recite to "a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b)" rather than "a reexamination proceeding becoming terminated under §§ 1.550(d) or 1.957(b)," and (2) refer to the prosecution as being "limited" under § 1.957(c) rather than "terminated" under § 1.957(c). These changes track those made in § 1.137; see the discussion of § 1.137.

Rule Making Considerations

Regulatory Flexibility Act: For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes proposed in this notice will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). The Office has issued between about 150,000 and 190,000 patents each year during the last five fiscal years. The Office receives fewer than 500 requests for *ex parte* reexamination each year, and fewer than 100 requests for *inter partes* reexamination each year. The principal impact of the changes in this proposed rule is to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause.

The change in this proposed rule to prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause will not have a significant economic impact on a substantial number of small entities for two reasons. First, assuming that all patentees in an *inter partes* reexamination are small entities and that all would have submitted a supplemental response without sufficient cause, the proposed change would impact fewer than 100 small entity patentees each year. Second, there is no petition or other fee for the showing of sufficient cause that would be necessary under the proposed change for a supplemental patent owner's response to an Office action in an *inter partes* reexamination.

Therefore, the changes proposed in this notice will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this notice have been reviewed and previously approved by OMB under OMB control numbers: 0651–0027, 0651–0031, 0651–0033, and 0651–0035. The United States Patent and Trademark Office is not resubmitting the other information collections listed above to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collections under these OMB control numbers. The principal impacts of the changes in this proposed rule are to: (1) Provide for a patent owner reply to a request for an *ex parte* reexamination or an *inter partes* reexamination prior to the examiner's decision on the request, (2) prohibit supplemental patent owner responses to an Office action in an *inter partes* reexamination without a showing of sufficient cause, (3) to designate the correspondence address for the patent as the correspondence address for all communications for patent owners in *ex parte* and *inter partes* reexaminations, and (4) to provide for the use of a single "mail stop" address for the filing of substantially all *ex parte* reexamination papers (as is already the case for *inter partes* reexamination papers).

Interested persons are requested to send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Robert J. Spar, Director, Office of Patent Legal Administration, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313–1450.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses, and Biologics.

37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

For the reasons set forth in the preamble, 37 CFR parts 1 and 41 are proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Section 1.1 is amended by revising paragraph (c)(1) to read as follows:

§ 1.1 Addresses for non-trademark correspondence with the United States Patent and Trademark Office..

* * * * *

(c) * * *

(1) Requests for *ex parte* reexamination (original request papers) and all subsequent *ex parte* reexamination correspondence filed in the Office, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 1.302(c), should be additionally marked "Mail Stop *Ex Parte* Reexam."

* * * * *

3. Section 1.8 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 1.8 Certificate of mailing or transmission.

* * * * *

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:

* * * * *

4. Section 1.17 is amended by revising paragraphs (l) and (m) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(l) For filing a petition for the revival of an unavoidably abandoned application under 35 U.S.C. 111, 133, 364, or 371, for the unavoidably delayed payment of the issue fee under 35 U.S.C. 151, or for the revival of an unavoidably terminated or limited reexamination prosecution under 35 U.S.C. 133 (§ 1.137(a)):

By a small entity (§ 1.27(a))	$250.00
By other than a small entity	$500.00

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated or limited reexamination prosecution under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a))	$750.00
By other than a small entity	$1,500.00

* * * * *

5. Section 1.33 is amended by revising paragraph (c) to read as follows:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * * * *

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

* * * * *

6. Section 1.137 is amended by revising its heading, the introductory text of paragraph (a), the introductory text of paragraph (b), and paragraph (e) to read as follows:

§ 1.137 Revival of abandoned application, terminated reexamination prosecution, or lapsed patent.

(a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

* * * * *

(b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

* * * * *

(e) *Request for reconsideration.* Any request for reconsideration or review of a decision refusing to revive an abandoned application, a terminated or limited reexamination prosecution, or lapsed patent upon petition filed pursuant to this section, to be considered timely, must be filed within two months of the decision refusing to revive or within such time as set in the decision. Unless a decision indicates otherwise, this time period may be extended under:

(1) The provisions of § 1.136 for an abandoned application or lapsed patent;

(2) The provisions of § 1.550(c) for a terminated *ex parte* reexamination prosecution, where the *ex parte* reexamination was filed under § 1.510; or

(3) The provisions of § 1.956 for a terminated *inter partes* reexamination prosecution or an *inter partes* reexamination limited as to further prosecution, where the *inter partes* reexamination was filed under § 1.913.

* * * * *

7. Section 1.502 is revised to read as follows:

§ 1.502 Processing of prior art citations during an *ex parte* reexamination proceeding.

Citations by the patent owner under § 1.555 and by an ex parte reexamination requester under either § 1.510 or § 1.535 will be entered in the reexamination file during a reexamination proceeding. The entry in the patent file of citations submitted after the date of an order to reexamine pursuant to § 1.525 by persons other than the patent owner, or an *ex parte* reexamination requester under either § 1.510 or § 1.535, will be delayed until the reexamination proceeding has been concluded by the issuance and publication of a reexamination certificate. See § 1.902 for processing of prior art citations in patent and reexamination files during an *inter partes* reexamination proceeding filed under § 1.913.

8. Section 1.510 is amended by revising paragraphs (b)(5), and (f) to read as follows:

§ 1.510 Request for *ex parte* reexamination.

* * * * *

(b) * * *

(5) If the request was filed by a person other than the patent owner, a certification in accordance with § 1.248(b) by the requester that a copy

of the request has been served in its entirety on the patent owner at the address as provided for in § 1.33(c) by facsimile transmission, personal service (courier) or overnight delivery. The name and address of the party served must be indicated. If service was not possible, a duplicate copy must be supplied to the Office. A filing date will not be granted to the request until the certification is received, or the Office serves the supplied duplicate copy on the patent owner.

* * * * *

(f) If a request is filed by an attorney or agent identifying another party on whose behalf the request is being filed, the attorney or agent must have a power of attorney from that party or be acting in a representative capacity pursuant to § 1.34.

9. A new § 1.512 is added to read as follows:

§ 1.512 Patent owner reply to third party request for *ex parte* reexamination.

(a) A reply to a third party *ex parte* reexamination request under § 1.510 may be filed by the patent owner within thirty days from the date of service of the request on the patent owner. This thirty-day period is not extendable. Any such reply to the request by the patent owner must be served upon the third party requester in accordance with § 1.248.

(b) The reply to the request must not exceed fifty pages in length excluding evidence and reference materials such as prior art references, must be in accordance with the requirements of § 1.52, and must not include any proposed amendment of the claims.

(c) The reply will be considered only to the extent that it relates to the issues raised in the request for reexamination. If a reply to the request is not timely filed, fails to comply with paragraph (b) of this section, or fails to include a certification that the reply was served upon the requester in accordance with § 1.248, the reply will be returned to the patent owner or discarded (at the Office's option) without consideration and without an opportunity to file a supplemental reply.

(d) The third party requester may not file a paper responsive to the patent owner reply to the request, and any such paper will be returned to the requester or discarded (at the Office's option) without consideration.

10. Section 1.515 is amended by revising paragraph (a) to read as follows:

§ 1.515 Determination of the request for *ex parte* reexamination.

(a) Within three months following the filing date of a request for an *ex parte* reexamination under § 1.510, an examiner will consider the request and any patent owner reply under § 1.512 and determine whether or not a substantial new question of patentability affecting any claim of the patent is raised by the request and the prior art cited therein, with or without consideration of other patents or printed publications. The examiner's determination will be based on the claims in effect at the time of the determination, will become a part of the official file of the patent, and will be mailed to the patent owner at the address as provided for in § 1.33(c) and to the person requesting reexamination.

* * * * *

11. Section 1.530 is amended by revising paragraphs (a) and (k) to read as follows:

§ 1.530 Statement by patent owner in *ex parte* reexamination; amendment by patent owner in *ex parte* or *inter partes* reexamination; inventorship change in *ex parte* or *inter partes* reexamination.

(a) Unless otherwise authorized, no statement or other response by the patent owner in an *ex parte* reexamination proceeding shall be filed prior to the determinations made in accordance with § 1.515 or § 1.520. If a premature statement or other response is filed by the patent owner, it will not be acknowledged or considered in making the determination, and it will be returned or discarded (at the Office's option).

* * * * *

(k) *Amendments not effective until certificate.* Although the Office actions will treat proposed amendments as though they have been entered, the proposed amendments will not be effective until the reexamination certificate is issued and published.

* * * * *

12. Section 1.550 is amended by revising paragraph (d) to read as follows:

§ 1.550 Conduct of *ex parte* reexamination proceedings.

* * * * *

(d) If the patent owner fails to file a timely and appropriate response to any Office action or any written statement of an interview required under § 1.560(b), the prosecution in the *ex parte* reexamination proceeding will be a terminated prosecution, and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.570 in accordance with the last action of the Office.

* * * * *

13. Section 1.565 is amended by revising its paragraphs (c) and (d), to read as follows:

§ 1.565 Concurrent office proceedings which include an *ex parte* reexamination proceeding.

* * * * *

(c) If *ex parte* reexamination is ordered while a prior *ex parte* reexamination proceeding is pending and prosecution in the prior *ex parte* reexamination proceeding has not been terminated, the *ex parte* reexamination proceedings will usually be merged and result in the issuance and publication of a single certificate under § 1.570. For merger of *inter partes* reexamination proceedings, see § 1.989(a). For merger of *ex parte* reexamination and *inter partes* reexamination proceedings, see § 1.989(b).

(d) If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will usually be made to merge the two proceedings or to suspend one of the two proceedings. Where merger of a reissue application and an *ex parte* reexamination proceeding is ordered, the merged examination will be conducted in accordance with §§ 1.171 through 1.179, and the patent owner will be required to place and maintain the same claims in the reissue application and the *ex parte* reexamination proceeding during the pendency of the merged proceeding. The examiner's actions and responses by the patent owner in a merged proceeding will apply to both the reissue application and the *ex parte* reexamination proceeding and will be physically entered into both files. Any *ex parte* reexamination proceeding merged with a reissue application shall be concluded by the grant of the reissued patent. For merger of a reissue application and an *inter partes* reexamination, see § 1.991.

* * * * *

14. Section 1.570 is amended by revising its heading and paragraphs (a), (b) and (d), to read as follows:

§ 1.570 Issuance and publication of *ex parte* reexamination certificate concludes *ex parte* reexamination proceeding.

(a) To conclude an *ex parte* reexamination proceeding, the Director will issue and publish an *ex parte* reexamination certificate in accordance with 35 U.S.C. 307 setting forth the results of the *ex parte* reexamination proceeding and the content of the patent following the *ex parte* reexamination proceeding.

(b) An *ex parte* reexamination certificate will be issued and published in each patent in which an *ex parte* reexamination proceeding has been ordered under § 1.525 and has not been merged with any *inter partes* reexamination proceeding pursuant to § 1.989(a). Any statutory disclaimer filed by the patent owner will be made part of the *ex parte* reexamination certificate.

* * * * *

(d) If an *ex parte* reexamination certificate has been issued and published which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto.

* * * * *

15. Section 1.902 is revised to read as follows:

§ 1.902 Processing of prior art citations during an *inter partes* reexamination proceeding.

Citations by the patent owner in accordance with § 1.933 and by an *inter partes* reexamination third party requester under § 1.915 or § 1.948 will be entered in the *inter partes* reexamination file. The entry in the patent file of other citations submitted after the date of an order for reexamination pursuant to § 1.931 by persons other than the patent owner, or the third party requester under either § 1.913 or § 1.948, will be delayed until the *inter partes* reexamination proceeding has been concluded by the issuance and publication of a reexamination certificate. See § 1.502 for processing of prior art citations in patent and reexamination files during an *ex parte* reexamination proceeding filed under § 1.510.

16. Section 1.915 is amended by revising paragraphs (b)(6) and (c) as follows:

§ 1.915 Content of request for *inter partes* reexamination.

* * * * *

(b) * * *

(6) A certification in accordance with § 1.248(b) by the third party requester that a copy of the request has been served in its entirety on the patent owner at the address as provided for in § 1.33(c) by facsimile transmission, personal service (courier) or overnight delivery. The name and address of the party served must be indicated. If service was not possible, a duplicate copy must be supplied to the Office. A filing date will not be granted to the request until the certification is received, or the Office serves the supplied duplicate copy on the patent owner.

* * * * *

(c) If an *inter partes* request is filed by an attorney or agent identifying another party on whose behalf the request is being filed, the attorney or agent must have a power of attorney from that party or be acting in a representative capacity pursuant to § 1.34.

* * * * *

17. A new § 1.921 is added to read as follows:

§ 1.921 Patent owner reply to third party request for *inter partes* reexamination.

(a) A reply to a third party *inter partes* reexamination request under § 1.915 may be filed by the patent owner within thirty days from the date of service of the request on the patent owner. This thirty-day period is not extendable. Any such reply to the request by the patent owner must be served upon the third party requester in accordance with § 1.248.

(b) The reply to the request must not exceed fifty pages in length excluding evidence and reference materials such as prior art references, must be in accordance with the requirements of § 1.52, and must not include any proposed amendment of the claims.

(c) The reply will be considered only to the extent that it relates to the issues raised in the request for reexamination. If a reply to the request is not timely filed, fails to comply with paragraph (b) of this section, or fails to include a certification that the reply was served upon the requester in accordance with § 1.248, the reply will be returned to the patent owner or discarded (at the Office's option) without consideration and without an opportunity to file a supplemental reply.

(d) The third party requester may not file a paper responsive to the patent owner reply to the request, and any such paper will be returned to the requester or discarded (at the Office's option) without consideration.

18. Section 1.923 is revised to read as follows:

§ 1.923 Examiner's determination on the request for *inter partes* reexamination.

Within three months following the filing date of a request for *inter partes* reexamination under § 1.915, the examiner will consider the request and any patent owner reply under § 1.921 and determine whether or not a substantial new question of patentability affecting any claim of the patent is raised by the request and the prior art citation. The examiner's determination will be based on the claims in effect at the time of the determination, will become a part of the official file of the patent, and will be mailed to the patent owner at the address as provided for in § 1.33(c) and to the third party requester. If the examiner determines that no substantial new question of patentability is present, the examiner shall refuse the request and shall not order *inter partes* reexamination.

19. Section 1.945 is revised to read as follows:

§ 1.945 Response to Office action by patent owner in *inter partes* reexamination.

(a) The patent owner will be given at least thirty days to file a response to any Office action on the merits of the *inter partes* reexamination.

(b) Any supplemental response to the Office action will be entered only where the supplemental response is accompanied by a showing of sufficient cause why the supplemental response should be entered. The showing of sufficient cause must include:

(1) An explanation of how the requirements of § 1.111(a)(2)(i) are satisfied;

(2) An explanation of why the supplemental response could not have been presented together with the original response to the Office action; and

(3) A compelling reason to enter the supplemental response.

20. Section 1.953 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.953 Examiner's Right of Appeal Notice in *inter partes* reexamination.

* * * * *

(b) Expedited Right of Appeal Notice: At any time after the patent owner's response to the initial Office action on the merits in an *inter partes* reexamination, the patent owner and all third party requesters may stipulate that the issues are appropriate for a final action, which would include a final rejection and/or a final determination favorable to patentability, and may request the issuance of a Right of Appeal Notice. The request must have the concurrence of the patent owner and all third party requesters present in the proceeding and must identify all of the appealable issues and the positions of the patent owner and all third party requesters on those issues. If the examiner determines that no other issues are present or should be raised, a Right of Appeal Notice limited to the identified issues shall be issued.

(c) The Right of Appeal Notice shall be a final action, which comprises a final rejection setting forth each ground of rejection and/or final decision

favorable to patentability including each determination not to make a proposed rejection, an identification of the status of each claim, and the reasons for decisions favorable to patentability and/or the grounds of rejection for each claim. No amendment can be made in response to the Right of Appeal Notice. The Right of Appeal Notice shall set a one-month time period for either party to appeal. If no notice of appeal is filed, prosecution in the *inter partes* reexamination proceeding will be terminated, and the Director will proceed to issue and publish a certificate under § 1.997 in accordance with the Right of Appeal Notice.

21. The undesignated center heading immediately preceding § 1.956 is revised to read as follows:

Extensions of Time, Terminating of Reexamination Prosecution, and Petitions to Revive in *Inter Partes* Reexamination

22. Section 1.957 is amended by revising paragraph (b) to read as follows:

§ 1.957 Failure to file a timely, appropriate or complete response or comment in *inter partes* reexamination.

* * * * *

(b) If no claims are found patentable, and the patent owner fails to file a timely and appropriate response in an *inter partes* reexamination proceeding, the prosecution in the reexamination proceeding will be a terminated prosecution and the Director will proceed to issue and publish a certificate concluding the reexamination proceeding under § 1.997 in accordance with the last action of the Office.

* * * * *

23. Section 1.958 is amended by revising its heading to read as follows:

§ 1.958 Petition to revive *inter partes* reexamination prosecution terminated for lack of patent owner response.

* * * * *

24. Section 1.979 is amended by revising its heading and paragraph (b) to read as follows:

§ 1.979 Return of Jurisdiction from the Board of Patent Appeals and Interferences; termination of appeal proceedings.

* * * * *

(b) Upon judgment in the appeal before the Board of Patent Appeals and Interferences, if no further appeal has been taken (§ 1.983), the prosecution in the *inter partes* reexamination proceeding will be terminated and the Director will issue and publish a certificate under § 1.997 concluding the proceeding. If an appeal to the U.S. Court of Appeals for the Federal Circuit has been filed, that appeal is considered terminated when the mandate is issued by the Court.

25. Section 1.983 is amended by revising paragraph (a) to read as follows:

§ 1.983 Appeal to the United States Court of Appeals for the Federal Circuit in *inter partes* reexamination.

(a) The patent owner or third party requester in an *inter partes* reexamination proceeding who is a party to an appeal to the Board of Patent Appeals and Interferences and who is dissatisfied with the decision of the Board of Patent Appeals and Interferences may, subject to § 41.81, appeal to the U.S. Court of Appeals for the Federal Circuit and may be a party to any appeal thereto taken from a reexamination decision of the Board of Patent Appeals and Interferences.

* * * * *

26. Section 1.989 is amended by revising paragraph (a) to read as follows:

§ 1.989 Merger of concurrent reexamination proceedings.

(a) If any reexamination is ordered while a prior *inter partes* reexamination proceeding is pending for the same patent and prosecution in the prior *inter partes* reexamination proceeding has not been terminated, a decision may be made to merge the two proceedings or to suspend one of the two proceedings. Where merger is ordered, the merged examination will normally result in the issuance and publication of a single reexamination certificate under § 1.997.

* * * * *

27. Section 1.991 is revised to read as follows:

§ 1.991 Merger of concurrent reissue application and *inter partes* reexamination proceeding.

If a reissue application and an *inter partes* reexamination proceeding on which an order pursuant to § 1.931 has been mailed are pending concurrently on a patent, a decision may be made to merge the two proceedings or to suspend one of the two proceedings. Where merger of a reissue application and an *inter partes* reexamination proceeding is ordered, the merged proceeding will be conducted in accordance with §§ 1.171 through 1.179, and the patent owner will be required to place and maintain the same claims in the reissue application and the *inter partes* reexamination proceeding during the pendency of the merged proceeding. In a merged proceeding the third party requester may participate to the extent provided under §§ 1.902 through 1.997 and 41.60–41.81, except that such participation shall be limited to issues within the scope of *inter partes* reexamination. The examiner's actions and any responses by the patent owner or third party requester in a merged proceeding will apply to both the reissue application and the *inter partes* reexamination proceeding and be physically entered into both files. Any *inter partes* reexamination proceeding merged with a reissue application shall be concluded by the grant of the reissued patent.

28. Section 1.997 is amended by revising its heading and paragraphs (a), (b), and (d) to read as follows:

§ 1.997 Issuance and publication of *inter partes* reexamination certificate concludes inter partes reexamination proceeding.

(a) To conclude an *inter partes* reexamination proceeding, the Director will issue and publish an *inter partes* reexamination certificate in accordance with 35 U.S.C. 316 setting forth the results of the *inter partes* reexamination proceeding and the content of the patent following the *inter partes* reexamination proceeding.

(b) A certificate will be issued and published in each patent in which an *inter partes* reexamination proceeding has been ordered under § 1.931. Any statutory disclaimer filed by the patent owner will be made part of the certificate.

* * * * *

(d) If a certificate has been issued and published which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto.

* * * * *

PART 41—PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

29. The authority citation for 37 CFR part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135.

30. Section 41.4 is amended by revising paragraph (b) to read as follows:

§ 41.4 Timeliness.

* * * * *

(b) *Late filings.*

(1) A late filing that results in either an application becoming abandoned or a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b) of this title or limited under § 1.957(c) of this title may be revived as set forth in § 1.137 of this title.

(2) A late filing that does not result in either an application becoming abandoned or a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b) of this title or

limited under § 1.957(c) of this title will be excused upon a showing of excusable neglect or a Board determination that consideration on the merits would be in the interest of justice.

* * * * *

Dated: March 22, 2006.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 06–2962 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2005–0482; FRL–8050–1]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the State Implementation Plan (SIP) submitted by the state of Iowa. The purpose of this revision is to approve the 2005 update to the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. These revisions will help to ensure consistency between the applicable local agency rules and Federally-approved rules, and ensure Federal enforceability of the applicable parts of the local agency air programs.

DATES: Comments on this proposed action must be received in writing by May 1, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2005–0482 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: Hamilton.heather@epa.gov.*
3. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. *Hand Delivery or Courier:* Deliver your comments to: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule that is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule that is located in the rules section of this **Federal Register**.

Dated: March 13, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 06–3033 Filed 3–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2006–0122; FRL–8050–3]

Approval and Promulgation of Implementation Plans; Iowa; Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Code of Federal Regulations (CFR) for the purpose of giving the Iowa Department of Natural Resources (IDNR) full regulatory responsibility for EPA-issued Prevention of Significant Deterioration (PSD) permits. IDNR demonstrated state legislative authority to take responsibility for the permits, and demonstrated that resources are available to accomplish full regulatory responsibility.

DATES: Comments on this proposed action must be received in writing by May 1, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2006–0122 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. E-mail: *Hamilton.heather@epa.gov.*
3. Mail: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. Hand Delivery or Courier: Deliver your comments to: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed

from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: March 13, 2006.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 06–3035 Filed 3–29–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[OAR–2006–0160; FRL–8049–5]

RIN 2060–AN67

Control of Air Pollution from New Motor Vehicles: Amendments to the Tier 2 Motor Vehicle Emission Regulations; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to make minor amendments to the existing Tier 2 motor vehicle regulations (65 FR 6698, February 10, 2000, hereinafter referred to as the Tier 2 rule). These proposed minor amendments are consistent with our intention, under the original Tier 2 rule, to provide interim compliance flexibilities for clean diesels in the passenger car market. While the automotive industry has made rapid advancements in light-duty diesel emissions control technologies and will, as a result, be able to produce diesel vehicles that can comply with the primary regulatory requirements of the Tier 2 program, diesel vehicles still face some very limited technological challenges in meeting the full suite of Tier 2 requirements. This action would provide two voluntary, interim alternative compliance options for a very limited set of standards for oxides of nitrogen (NO_X), including only high altitude and high speed/high acceleration conditions. These temporary alternative compliance options are designed to be environmentally neutral, as manufacturers choosing them would then be required to meet more stringent standards in other aspects of the Tier 2 program. The alternative compliance options would last for only three model years, during which time advancements in diesel emissions control technologies would be further developed.

In the "Rules and Regulations" section of this **Federal Register**, we are making these technical amendments as a direct final rule without prior proposal because we view these technical amendments as noncontroversial revisions and anticipate no adverse comment. We have explained our reasons for these technical amendments in the preamble to the direct final rule. If we receive no adverse comment, we would not take further action on this proposed rule. If we receive adverse comment, we would withdraw the portions of the direct final rule receiving such comment and those portions would not take effect. We would address all public comments in a subsequent final rule based on this proposed rule. We would not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: If we do not receive a request for a public hearing, written comments are due May 1, 2006. Requests for a public hearing must be received by April 14, 2006. If we do receive a request for a public hearing, it would be held on May 1, 2006, starting at 10 a.m. In that case, the public comment period would close on June 28, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0160, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Mail: Public Docket No. A–97–10, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0160. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http//www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http//www.regulations.gov* or e-mail. The *http//www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http//www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http//www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http//www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Todd Sherwood, U.S. EPA, National Vehicle and Fuel Emissions Laboratory, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone (734) 214–4405, fax (734) 214–4816, e-mail *sherwood.todd@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is proposing to make minor amendments to the existing Tier 2 motor vehicle regulations (65 FR 6698, February 10, 2000, hereinafter referred to as the Tier 2 rule). These minor amendments are consistent with our intention, under the original Tier 2 rule, to provide interim flexibilities for clean diesels in the passenger car market. This action would provide two voluntary alternative compliance options for a very limited set of standards for oxides of nitrogen (NO_X) (high altitude and high speed/hard acceleration). The alternative compliance options would last for only three model years, during which time advancements in diesel emissions control technologies would be further developed.

In the "Rules and Regulations" section of this **Federal Register**, we are making these minor amendments as a direct final rule without prior proposal because we view these amendments as noncontroversial revisions and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule. This proposal incorporates by reference all of the reasoning, explanation, and regulatory text from the direct final rule. For further information, including the regulatory text for this proposal, please refer to the direct final rule that is located in the "Rules and Regulations" section of this **Federal Register** publication. The direct final rule will be effective on June 28, 2006 unless we receive adverse comment by May 1, 2006, or if we receive a request for a public hearing by April 14, 2006. If we receive no adverse comment, we will take no further action on this proposed rule.

Access to Rulemaking Documents Through the Internet

Today's action is available electronically on the date of publication from EPA's Federal Register Internet Web site listed below. Electronic copies of this preamble, regulatory language, and other documents associated with today's proposed rule are available from the EPA Office of Transportation and Air Quality Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you already incur for connecting to the Internet.

EPA Federal Register Web site: *http://www.epa.gov/fedrgstr/EPA-AIR/* (either select a desired date or use the Search feature).

EPA Office of Transportation and Air Quality Web site for Tier 2 Vehicle and Gasoline Sulfur Program Amendments: *http://www.epa.gov/tier2/amendments.htm.*

Please note that changes in format, page length, etc., may occur due to computer software differences.

Regulated Entities

Entities potentially affected by this action are those that manufacture and sell motor vehicles in the United States. The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated entities
Industry	336111 336112	3711	Automobile and light truck manufacturers.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

I. Overview of Alternative Compliance Options

In the "Rules and Regulations" section of this **Federal Register**, we are making two minor amendments to the Tier 2 program as a direct final rule without prior proposal. As noted above, we are doing this because we view these minor amendments as noncontroversial and anticipate no adverse comment. We have explained our reasons for making these minor amendments in the preamble to the direct final rule. This proposal incorporates by reference all of the reasoning, explanation, and regulatory text from the direct final rule. For further information, including the regulatory text for this proposal, please refer to the direct final rule that is located in the "Rules and Regulations" section of this **Federal Register** publication.

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency is required to determine whether this regulatory action would be "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The order defines a "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that this proposed rule is not a "significant regulatory action."

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small

organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A motor vehicle manufacturer with fewer than 1000 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This proposed rule would not have any adverse economic impact on small entities. Today's rule revises certain provisions of the Tier 2 rule (65 FR 6698, February 10, 2000), such that regulated entities have more flexibility in complying with the requirements of the Tier 2 rule. More specifically, today's action provides alternative compliance options that relax very limited elements of the Tier 2 standards in return for greater stringency in other, broader elements of the standards. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, we generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more for any single year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative that is not the least costly, most cost-effective, or least burdensome alternative if we provide an explanation in the final rule of why such an alternative was adopted.

Before we establish any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government plan pursuant to section 203 of the UMRA. Such a plan must provide for notifying potentially affected small governments, and enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant Federal intergovernmental mandates. The plan must also provide for informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no federal mandates for state, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the rule would significantly or uniquely affect small governments.

We have determined that this rule does not contain a federal mandate that may result in estimated expenditures of more than $100 million to the private sector in any single year. This action has the net effect of providing alternative compliance options within the Tier 2 rule. Therefore, the requirements of the UMRA do not apply to this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires us to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." The phrase "policies that have federalism implications" is defined in the Executive Order to include regulations 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."

Under section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or we consult with state and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts state law, unless we consult with state and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt state or local law, even if those rules do not have federalism implications (*i.e.*, the rules would 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). Those requirements include providing all affected state and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, we also must consult, to the extent practicable, with appropriate state and local officials regarding the conflict between state law and federally protected interests within the Agency's area of regulatory responsibility.

This rule does not have federalism implications. It would 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. This rule provides alternative compliance options for complying with existing rules that adopted national standards to control vehicle emissions and gasoline fuel sulfur levels. The requirements of the rule would be enforced by the federal government at the national level. Thus, the requirements of Section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with

Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175. Today's rule does not uniquely affect the communities of American Indian tribal governments since the motor vehicle requirements for private businesses in today's rule would have national applicability. Furthermore, today's rule does not impose any direct compliance costs on these communities and no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of today's document. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5–501 of the Executive Order directs us to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order because it is not an economically significant regulatory action as defined by Executive Order 12866. Furthermore, this rule does not concern an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d) of Public Law 104–113, directs us to use voluntary consensus standards in our regulatory activities unless it would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This rule references technical standards adopted by us through previous rulemakings. No new technical standards are established in today's rule. The standards referenced in today's rule involve the measurement of gasoline fuel parameters and motor vehicle emissions.

III. Statutory Provisions and Legal Authority

Statutory authority for today's proposed rule is found in the Clean Air Act, 42 U.S.C. 7401 *et seq.*, in particular, section 202 of the Act, 42 U.S.C. 7521. This rule is being promulgated under the administrative and procedural provisions of Clean Air Act section 307(d), 42 U.S.C. 7607(d).

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Motor vehicle pollution.

Dated: March 21, 2006.

Stephen L. Johnson,

Administrator.

[FR Doc. 06–2980 Filed 3–29–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Availability of Genetics Data and Extension of Comment Period for the Proposed Delisting of the Preble's Meadow Jumping Mouse (Zapus hudsonius preblei)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of two recently published reports and the underlying data which present additional analysis data regarding the Preble's meadow jumping mouse (*Zapus hudsonius preblei*). In order to ensure the public has full access to and an opportunity to comment on all available information on the proposed rule to delist the Preble's meadow jumping mouse, we are extending the public comment period until May 18, 2006. Comments previously submitted need not be resubmitted as they have already been incorporated into the public record and will be fully considered in the final decision and rule.

DATES: The public comment period that was reopened until April 18, 2006 (71 FR 8556) is extended until May 18, 2006. Any comments that are received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: Documents and data relative to this proposed rule are available at *http://mountain-prairie.fws.gov/preble/* or *http://mountain-prairie.fws.gov/preble/PEER/PEERindex.htm*. If you wish to comment, you may submit your comments and materials concerning the proposal by one of several methods:

1. You may submit written comments to Field Supervisor, Colorado Field Office, Ecological Services, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

2. You may hand deliver comments to our Colorado Field Office at 134 Union Blvd., Suite 670, Lake Plaza North, Lakewood, Colorado 80228, or send via facsimile (fax 303–236–4005).

3. You may send comments via electronic mail (e-mail) to *FW6_PMJM@fws.gov*. See the Public Comments Solicited section below for file format and other information about electronic filing.

The complete file for the finding and proposed rule is available for inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Linner, Field Supervisor, at the Colorado Field Office (see **ADDRESSES** section) or telephone (303) 236–4774. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from the proposed rule will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule in light of the additional information. Generally, we seek information, data, and comments concerning:

(1) The taxonomic status of *Z.h. preblei, Z.h. campestris, Z.h. intermedius,* and other *Z. hudsonius* subspecies with a particular focus on Ramey et al. (2003, 2004a, 2004b, 2005), King et al. (2006), and the recently released genetics data;

(2) The taxonomy, biology, ecology, distribution, status, and factors affecting *Z.h. preblei, Z.h. campestris, Z.h. intermedius,* and other *Z. hudsonius* subspecies;

(3) Data from any systematic surveys for *Z.h. preblei, Z.h. campestris, Z.h. intermedius,* and other *Z. hudsonius* subspecies, as well as any studies that may show population size or trends;

(4) Quantitative information regarding the life history, ecology, and habitat use of *Z.h. preblei, Z.h. campestris, Z.h. intermedius,* and other *Z. hudsonius* subspecies, as well as information regarding the applicability of information relevant to other subspecies;

(5) Information on the threats faced by the *Z.h. preblei, Z.h. campestris, Z.h. intermedius,* and other *Z. hudsonius* subspecies in relation to the five listing factors (as defined in section 4(a)(1) of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*));

(6) Information regarding the effects of current land management on population distribution and abundance of *Z.h. preblei, Z.h. campestris, Z.h. intermedius,* and other *Z. hudsonius* subspecies; and

(7) Information regarding the possibility of contact and interaction within or between *Z.h. preblei, Z.h. campestris,* and adjacent subspecies of meadow jumping mouse (i.e., *Z.h. intermedius* and *Z.h. pallidus*) or other information relevant to a determination of the taxonomic classification of the species.

You may submit comments as indicated under **ADDRESSES**. If you wish to submit comments by e-mail, please avoid the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Due to the high level of interest in this rulemaking process, we also may post comments on our Web site. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name 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. Comments and other information received, as well as supporting information used to write the proposed rule, will be available for public inspection, by appointment, during normal business hours at the Colorado Field Office (see **ADDRESSES** section). In making a final decision on the proposal, we will take into consideration the comments and any additional information we receive. Such communications may lead to a final regulation that differs from the proposal.

Background

The Preble's meadow jumping mouse (*Zapus hudsonius preblei*) was listed as a threatened species on May 13, 1998 (63 FR 26517). At the time of listing, we recognized Krutzsch (1954) as the "most recent revision of *Z. hudsonius*" and "the authority for (the 'subspecies') taxonomy" (63 FR 26517, May 13, 1998). In our February 2, 2005, **Federal Register** document (70 FR 5404), we determined that Ramey et al. (2004a) represented the best scientific and commercial information available regarding the taxonomy of *Z.h. preblei* and *Z.h. campestris*. Based on the lack of distinct genetic and morphologic differences between the two subspecies presented in Ramey et al. (2004a), we concluded that *Z.h. preblei* was likely not a valid subspecies and proposed removing the subspecies from the list of threatened and endangered species.

Since then, substantial additional information has become available including two recently available reports: "Comprehensive analysis of molecular phylogeographic structure among meadow jumping mice (*Zapus hudsonius*) reveals evolutionarily distinct subspecies" (King et al. 2006) and "Genetic relatedness of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) to nearby subspecies of *Z. hudsonius* as inferred from variation in cranial morphology, mitochondrial DNA, and microsatellite DNA: Implications for taxonomy and conservation" (Ramey et al. 2005). The Service intends to fully consider all of the available information in any delisting decision based on taxonomy.

In order to ensure all relevant information is considered, we have recently made available on our Web site (*http://mountain-prairie.fws.gov/preble/PEER/PEERindex.htm*) all of the morphological, mtDNA and microsatellite nuclear DNA data from Ramey et al. (2005) and King et al. (2006). We are extending the public comment period on the delisting proposal to allow the public to consider and comment on the above data.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 20, 2006.

H. Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. E6–4572 Filed 3–29–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.060314069–6069–01; I.D. 030306B]

RIN 0648–AT25

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 18

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 18 (Framework 18) to the Atlantic Sea Scallop Fishery Management Plan (FMP) which was developed by the New England Fishery Management Council (Council). Framework 18 proposes the following management measures: Scallop fishery specifications for 2006 and 2007 (open area days-at-sea (DAS)

and Scallop Access Area trip allocations); scallop Area Rotation Program adjustments; and revisions to management measures that would improve administration of the FMP. In addition, a seasonal closure of a proposed Scallop Access Area is proposed to reduce potential interactions between the scallop fishery and sea turtles, and to reduce finfish and scallop bycatch mortality.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) by 5 p.m., local time, on April 14, 2006.

ADDRESSES: Written comments should be submitted by any of the following methods:

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Framework 18."
- Email: *ScallopAT25@noaa.gov*
- Fax: (978) 281–9135
- Electronically through the Federal e-Rulemaking portal: *http//www.regulations.gov.*

Written comments regarding the burden-hour estimate or other aspects of the collection-of-information requirement contained in this proposed rule should be submitted to the Regional Administrator at the address above and by e-mail to *David_Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Copies of Framework 18 and its Regulatory Impact Review (RIR), including the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA), are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, 978–281–9288; fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The Council adopted Framework 18 on November 17, 2005, and submitted it to NMFS on December 16, 2005, for review and approval. Framework 18 was developed and adopted by the Council to meet the FMP's requirement to adjust biennially the management measures for the scallop fishery. The FMP requires the biennial adjustments to ensure that the measures meet the target fishing mortality rate (F) and other goals of the FMP and achieve optimum yield (OY) from the scallop resource on a continuing basis. This rule proposes measures for the 2006 and 2007 fishing years, which are described in detail below.

Proposed Measures

1. Revised open area DAS allocations

The number of open area DAS allocated to limited access vessels are required to be adjusted every 2 years to achieve OY at the target F (F=0.2) for the scallop resource. Since the calculation of overall fishing mortality also includes the mortality in controlled access areas, the calculation of the open area DAS allocations depends on the Access Area Program measures, including the rotation schedule, management measures, and Access Area trip allocations. Based on the Access Area Program measures proposed in Framework 18, the total number of open area DAS would be set at 20,000 open area DAS, resulting in the following vessel-specific DAS allocations: Full-time vessels would be allocated 52 DAS in 2006 and 51 DAS in 2007; part-time vessels would be allocated 21 DAS in 2006 and 20 DAS in 2007; and occasional vessels would receive 4 DAS for each year.

Since Framework 18, if approved, will be implemented after the start of the 2006 fishing year (March 1, 2006), and would reduce the 2006 DAS allocations, some scallop vessels may fish more DAS between March 1, 2006, and the implementation of Framework 18. Under current regulations, full-time, part-time, and occasional vessels are allocated 67, 27, and 6 DAS, respectively for the 2006 fishing year. Framework 18 would reduce the DAS allocations in the 2006 fishing year to 52, 21, and 4 DAS, for full-time, part-time, and occasional vessels, respectively. Part-time and occasional vessels would be most likely to exceed the proposed Framework 18 allocations for the 2006 fishing year because of their lower DAS allocations under both current regulation and Framework 18. To ensure that the conservation goals of the Scallop FMP are maintained, Framework 18 therefore proposes that any vessel that uses DAS in the 2006 fishing year in excess of the final number allocated to that vessel for the 2006 fishing year under Framework 18 would have the excess DAS deducted from its 2007 fishing year DAS allocations. Although this could potentially allow F to exceed the F target for the 2006 fishing year, the deduction from the 2007 allocations would neutralize the impacts on the resource over the 2–year period.

2. Revised rotational management schedule for the Closed Area I (CAI), Closed Area II (CAII), and Nantucket Lightship Closed Area (NLCA) Scallop Access Areas

Under existing regulations, the CAI and the NLCA Access Areas are scheduled to be open in 2006 and CAII and the NLCA are scheduled to be open in 2007. Framework 18 proposes to revise that schedule by opening the CAII and NLCA Access Areas in 2006 and CAI and NLCA in 2007. The revised schedule is intended to address changes in scallop resource abundance in the CAII and NLCA Access Areas that supports higher trip allocations in those areas in 2006. In *Oceana* v. *Evans, et al.*, (Civil Action No. 04–810, D.D.C., August 2, 2005, and October 6, 2005), the court vacated the essential fish habitat closures implemented under Framework 16 to the Scallop FMP and Framework 39 to the Northeast Multispecies FMP (69 FR 63460, November 2, 2004), which would have enlarged the CAI Access Area. Consequently, the Council opted to shift potential CAI trips in 2006 to CAII, and to close the CAI Access Area in 2006. With a smaller Access Area in CAI, the analysis in Framework 18 indicates that scallop catch rates would decline, causing increases in fishing time, bycatch, and habitat effects in CAI, with no notable benefits. The analysis in Framework 18 also indicates that CAII is capable of supporting an additional trip (from CAI) without exceeding the rotational area F target (F=0.2 to 0.3), which is specified in the FMP to achieve OY from the Scallop Access Areas.

3. Trip allocations, catch limits and seasons for Scallop Access Areas

The Access Area program regulations authorize limited access vessels to take a specified number of trips in each controlled Access Area, with a scallop possession limit for each trip. The number of trips and the possession limit are proposed to maintain F at 0.2 to 0.3 within the Access Areas. Vessels are allocated a maximum number of trips into each Access Area, though this allocation can be increased through an exchange of a trip(s) with another vessel. The following explains the proposed trip allocations for the 2006 and 2007 fishing years:

In the 2006 fishing year, the maximum number of trips a vessel could take in the CAII and NLCA Access Areas would be three and two trips, respectively. A full-time scallop vessel

would be allocated three trips in the CAII Access Area, and two trips in the NLCA Access Area. A part-time scallop vessel would be allocated two trips, which could be distributed into the Access Areas as follows: One trip in CAII Access Area and one trip in the NLCA Access Area; two trips in the CAII Access Area; or two trips in the NLCA Access Area. An occasional vessel would be allocated one trip, which could be taken in either the CAII or NLCA Access Area. The scallop possession limit for Access Area trips would be 18,000 lb (8,165 kg) for full-time and part-time vessels, and 7,500 lb (3,402 kg) for occasional vessels.

In the 2007 fishing year, the maximum number of trips a vessel could take in the CAI, NLCA, and Elephant Trunk Access Area (ETAA) would be one, one, and five, respectively (unless the ETAA allocation is adjusted as described in management measure number 4 below). A full-time scallop vessel would be allocated one trip in the CAI Access Area, one trip in the NLCA Access Area, and five trips in the ETAA. A part-time scallop vessel would be allocated three trips, which could be distributed as follows: One trip in the CAI Access Area, one trip in the NLCA Access Area, and one trip in the ETAA; one trip in the CAI Access Area and two trips in the ETAA; or one trip in the NLCA Access Area and two trips in the ETAA; or three trips in the ETAA. An occasional vessel would be allocated one trip, which could be taken in either the CAI or NLCA Access Areas, or ETAA. The scallop possession limit for Access Area trips would be 18,000 lb (8,165 kg) for full-time vessels, 16,800 lb (7,620 kg) for part-time vessels, and 7,500 lb (3,402 kg) for occasional vessels.

The ETAA would open for scallop fishing on January 1, 2007, rather than at the start of the fishing year on March 1, 2007. The early opening is intended to spread out the fishing effort in the ETAA to avoid potential negative effects of high levels of fishing effort concentrated in a shorter period of time.

4. Regulatory procedure to reduce the number of Scallop Access Area trips into the ETAA if updated biomass estimates are available from 2006 resource survey(s) that identify lower exploitable scallop biomass within the ETAA

The ETAA would open as an Access Area on January 1, 2007. The proposed Framework 18 ETAA trip allocations are based on 2004 scallop survey information, which was the best scientific information available when the Council established the proposed ETAA trip allocations for Framework 18. Because the ETAA would open nearly 3 years after the resource was surveyed in the area, the biomass estimates used in Framework 18 may not reflect the biomass at the time the ETAA opens. If, as of January 1, 2007, there is less biomass in the ETAA than the 2004 estimate, the number of allocated trips would be too high. This could result in overharvest of the ETAA under the proposed allocations unless there is a provision for adjusting the number of allocated trips. Framework 18 would establish a rulemaking process that would allow the Administrator, Northeast Region, NMFS (Regional Administrator) to adjust allocations in the ETAA based on updated biomass projections resulting from the 2006 resource surveys. To provide sufficient time to adjust allocations, if necessary, the survey data and analyses of updated exploitable biomass estimates for the area must be available prior to December 1, 2006, because Framework 18 requires NMFS to publish revised trip allocations on or about December 1, 2006. Framework 18 would require the Regional Administrator to publish predetermined revisions of the total allowable catch (TAC) specifications and trip allocations specified for a range of estimated exploitable biomass levels in the ETAA. Reduced trip allocations would ensure that the ETAA allocations do not cause overharvest of the scallop biomass in the area. If biomass estimates are lower than projected, the number of access trips can be reduced through a regulatory action consistent with the Administrative Procedure Act using the predetermined values in the table in § 648.60(a)(3)(i)(F) of the proposed regulatory text.

5. Open Area DAS Adjustments when yellowtail flounder catches reach the TAC limit allocated to scallop vessels fishing in Georges Bank Access Areas

Under current groundfish regulations, 10 percent of the yellowtail flounder TAC specified for harvest for each yellowtail flounder stock is allocated to vessels fishing for scallops under the Area Access Program in the CAI, CAII, or NLCA Access Areas (9.8 percent for the scallop access area fishery and 0.2 percent for vessels participating in approved scallop research). If the yellowtail flounder TAC is attained in any Access Area, the area is closed to further scallop fishing and vessels that have unutilized trips in the affected Access Area are authorized to take their unutilized trips in the open fishing areas. Framework 18 proposes to allocate the open area DAS for these unutilized trips in a manner that maintains the fishing mortality objectives for scallops. To do this, Framework 18 proposes a ratio for each Access Area that would address differential catch rates between Access Areas and open areas. If an Access Area is closed, each vessel with unutilized trips would be allocated a specific amount of additional open area DAS based on the following ratios: 5.5 DAS per unutilized trip in the CAI Access Area; 5.4 DAS per unutilized trip in the CAII Access Area; and 4.9 DAS per unused trip in the NLCA Access Area. For broken trips for which a vessel has not completed a compensation trip, the unutilized compensation days remaining in the applicable Access Area would be determined by dividing the pounds of scallops authorized for harvest on the compensation trip(s) by 1,500 lb (680 kg) (the catch per day used to calculate the possession limit in the access areas). For each unutilized compensation trip day in the CAI, CAII, or NLCA Access Areas, a vessel would receive 0.458, 0.450, and 0.408 DAS, respectively, in open areas. Although not explicitly stated in Framework 18, NMFS would also apply these ratios to vessels participating in approved research under the scallop research set-aside program. Such vessels would be allowed to conduct compensation fishing in open areas subject to the same ratio if the yellowtail research set-aside TAC (equal to two percent of the scallop fishery's overall yellowtail TAC set-aside) is harvested. The ratio is intended to equate Access Area catch that is limited by possession limit with open area trips that would be limited by DAS.

6. Extension of the current Scallop Access Area program in the Hudson Canyon Access Area (HCAA) through February 2008 for vessels that have unutilized HCAA trips from 2005

The 2005 scallop resource surveys indicate that scallop biomass in the Hudson Canyon area in 2005 was much lower than had been predicted in Amendment 10 to the FMP, which was based on 2003 NMFS scallop survey results. Catch rates dropped more quickly than had been anticipated, and many vessel owners hesitated to take their 2005 HCAA trips. In response, to concerns about low catch rates, this proposed action would extend the HCAA until February 29, 2008, so that vessel owners with unutilized or incomplete trips during the 2005 fishing year could wait to complete their trips. This would allow short-term growth of scallops in the HCAA that is projected to improve catch rates. This extension would also apply to unutilized 2005

research set-aside that was allocated for harvest in the HCAA.

7. Seasonal closure of the ETAA (September October) to reduce sea turtle interactions in the ETAA and reduce scallop and finfish discard mortality

The ETAA would be closed to scallop fishing for a two month period (September 1 - October 31). The 2–month closure is intended to provide protection for threatened and endangered sea turtles that may interact with the scallop fishery in the Mid-Atlantic and to reduce small scallop and finfish discard mortality. This closure period was selected to reflect a time of year when a relatively high number of sea turtle interactions were observed through 2004 in the ETAA, while minimizing the potential economic impacts of a longer closure. During this period, the analysis in Framework 18 also demonstrates that it is a period of high water and air temperatures, which causes higher scallop and finfish discard mortality.

8. Closure of an area off of Delaware/ Maryland/Virginia on January 1, 2007

Framework 18 proposes to close an area to the south of the ETAA, known as the Delmarva area. High numbers of small scallops from the 2003 year class were observed in the 2005 NMFS scallop survey in the proposed Delmarva rotational closed area. The area would close on January 1, 2007, coinciding with the opening of the ETAA. The Delmarva area would remain closed for 3 years, until February 28, 2010, when the small scallops would have grown to an optimal size for harvest. The new rotational scallop closed area would be consistent with the FMP's requirement to adjust the Area Rotation Program by establishing rotational closed areas to protect large concentrations of small scallops.

9. Elimination of the Scallop Access Area trip exchange program deadline in order to allow trip exchanges throughout the year

The proposed action would allow vessels to exchange controlled access area trips at any time during the fishing year, with proper notification and approval by NMFS. The current regulations require that transactions be submitted by June 1 of each year, but this time restriction was found to be unnecessary for adequate monitoring and compliance. Therefore, this rule proposes to eliminate the June 1 deadline.

10. Allowance of trip exchanges of 2006 CAII and/or NLCA Access Area trips for 2007 ETAA trips

In addition to allowing one-for-one exchanges of Access Area trips in areas open during the same fishing year (including any unutilized HCAA trips under the HCAA extension described above), this rule proposes to allow one-to-one trip exchanges of 2006 CAII or NLCA Access Area trips and 2007 ETAA trips. Without this proposed measure, the owners of Mid-Atlantic vessels who prefer not to fish on Georges Bank would not be able to gain a Mid-Atlantic controlled access area trip in exchange for a Georges Bank controlled access area trip in 2006. With the exception of vessels that have unutilized HCAA trips from 2005, there would be no Mid-Atlantic Access Areas open to fishing in 2006.

11. Modification of the Scallop Access Area broken trip program to allow unused makeup trips to be carried over to the next fishing year

The broken trip exemption program allows vessels that terminate an Access Area trip prior to catching the full possession limit to return to the Access Area to catch the remaining portion of the possession limit on a compensation trip. This rule proposes that vessels that break a trip within the last 60 days of an open period for an Access Area would be allowed to take their compensation trip in the same Access Area up to 60 days after the start of the subsequent fishing year or season for the Access Area. Vessels would only be allowed to take compensation trips in the subsequent fishing year in the same Access Area where the original trip was broken and only if the Access Area is open in the subsequent fishing year. For example, a vessel would not be allowed to carry a compensation trip forward from the 2006 CAII Access Area into the 2007 fishing year because CAII would be closed in 2007. This provision is proposed in order to reduce safety risks associated with vessel owners attempting to complete a broken trip with limited time left in the fishing year or Access Area season. It would also allow vessel owners and operators additional flexibility in planning end-of-year Access Area trips. This rule also proposes to require vessel operators to enter a trip identification number in the vessel's VMS prior to the start of a compensation trip so that NMFS can more accurately monitor Access Area activity in the scallop fleet. Under current regulations, which do not require such trip identification, accounting of vessel's trip allocations in Access Areas has been difficult and burdensome, especially if compensation trips are terminated before catching the possession limit allowed on that compensation trip.

12. Elimination of the scallop vessel crew size limit for Scallop Access Area trips only

This rule proposes to eliminate the seven-person crew limit (five-person limit for small dredge category vessels) for Access Area trips. Limited access vessels on an access area trip would have no limit on the number of crew onboard. This action is intended to eliminate inefficiencies caused by the crew limit for fishing activity that is limited by a possession limit. The crew limit was established to control vessels' shucking capacity when fishing under DAS.

Corrections and Clarifications

This proposed rule includes changes to the scallop regulations to improve compliance with, and understanding of regulations. Several paragraphs with inappropriate references to other paragraphs or sections are proposed to be changed. Some paragraphs contain references to the 2004 and/or 2005 fishing years, which are proposed to be revised. Additional or revised prohibitions in § 648.14 are proposed for clarification. In addition, the following revisions are proposed for the reasons stated:

In § 648.4, paragraph (a)(2)(ii)(D) included initial general category application requirements for the 2005 fishing year to designate a vessel to a VMS general scallop permit category. Since this requirement was for initial designations only, it is deleted. Paragraph (a)(2)(ii)(D) of § 648.4 would instead be reserved for future regulatory revisions, if necessary.

In § 648.4, paragraph (c)(2)(iv)(B) would be revised to make vessel monitoring system (VMS) requirements for permit applications consistent for general scallop and limited access category vessels.

In §§ 648.9 and 648.10, clarifications would be made to VMS requirements for scallop vessels, including general category scallop vessels, to ensure that regulations clearly identify VMS operation requirements for such vessels.

In § 648.11, paragraph (a)(1) would be added to reflect trip notification requirements for scallop vessels for the purpose of deploying at-sea observers.

In § 648.60, paragraph (a) would be revised to be consistent with the Access Area restrictions for general scallop vessels specified in § 648.60(g).

In § 648.60, paragraph (a)(2) would be revised to reference the clarified VMS operation requirements specified in § 648.10(b)(4).

The table of trip allocations in § 648.60(a)(3) would be removed, and replaced with text specifying the number of trips per limited access permit category, and possible distribution of trips for vessels with part-time or occasional permits that have total trip allocations that are less than the number of trips for all areas combined. This revision is proposed because the table in the current regulations is confusing.

In § 648.60, the text in paragraph (a)(9)(iii) would be removed and the paragraph designated as "Reserved" because NMFS's observer program indicated that the requirement for vessel operators to report catch on each observed tow is inconsistent with current observer program protocols.

The yellowtail flounder bycatch TAC allocation for the Area Access Program is specified in the NE multispecies regulations in § 648.85(c). Although Framework 18 is not proposing substantive modifications of the NE multispecies regulations, § 648.85(c) is revised to remove references to the 2004 and 2005 fishing years. In addition, since Framework 16 to the Scallop FMP and Framework 39 to the NE Multispecies FMP (69 FR 63460, November 2, 2004) implemented a permanent allowance for the yellowtail flounder bycatch TAC under the Area Access Program, specific dates in § 648.85(c) would be removed to eliminate the need to modify the paragraph each time a new framework is completed.

Classification

At this time, NMFS has not determined that the action that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA has been prepared pursuant to section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. Data, information, and impacts discussed in the IRFA below are taken from the Framework 18 document (see **ADDRESSES**). A summary of the analysis follows:

Measures proposed in Framework 18 are intended to improve the management of the scallop fishery and to make necessary adjustments to the existing management measures, including the FMP's Area Rotation Program. A full description of the action and why it is being considered is contained in the preamble to this proposed rule. The Magnuson-Stevens Act and the FMP (which allows for framework adjustments and amendments to improve the management of the scallop fishery and to modify the Area Rotation Program), are the legal basis for the proposed action. This proposed rule does not duplicate, overlap, or conflict with any relevant Federal rules.

Description of the Small Business Entities

The proposed regulations of Framework 18 would affect vessels with limited access scallop and general category permits. According to NMFS Northeast Region permit data, 337 vessels were issued limited access scallop permits, with 300 full-time, 30 part-time, and 7 occasional limited access permits in the 2004 fishing year. In addition, 2,801 open access general category permits were issued to vessels in the 2004 fishing year. All of the vessels in the Atlantic sea scallop fishery are considered small business entities because all of them grossed less than $3 million according to landings data for the 2004 fishing year. Complete landings and value information from the 2005 fishing year is not available since the fishing year ends on February 28, 2006. According to the information in Framework 18, annual revenue from scallop landings averaged about $759,816 per full-time vessel, $208,002 per part-time vessel, and $7,193 per occasional vessel during the 1999–2004 fishing years. Total revenues per vessel for all species landed were less than $3 million per vessel. Since December 1, 2005, the general category fleet has been separated into two permit categories under Framework Adjustment 17 to the FMP (70 FR 61233, October 21, 2005). Vessels that possess up to 400 lb (181.4 kg) per trip are required to operate VMS and are issued a VMS general scallop permit. Vessels that do not possess more than 40 lb (18.1 kg) are not required to operate VMS and are issued Non-VMS general scallop permits. There are currently 831 VMS general scallop vessels and 1,949 Non-VMS general scallop vessels. Revenues for these vessels are not available at this time.

Two criteria, disproportionality and profitability, are considered to determine the significance of regulatory impacts. The disproportionality criterion compares the effects of the regulatory action on small versus large entities. All of the vessels permitted to harvest sea scallops are considered to be small entities. The profitability criterion applies if the regulation significantly reduces profit for a substantial number of small entities, and is discussed in the Economic Impacts of the Proposed Action section of the IRFA summary below.

Proposed Reporting, Recordkeeping, and Other Compliance Requirements

Framework 18 proposes one new reporting, recordkeeping, and compliance requirement for limited access scallop vessels. The broken trip program allows vessels to resume an Access Area trip that was terminated before catching the full possession limit, provided the vessel operator complies with the notification requirements, submits a request for a compensation trip, and receives written verification of the compensation trip from the Regional Administrator. Currently, it is difficult for the NMFS Northeast Regional Office to account for vessel trip allocations when a vessel has multiple broken trips and has taken several compensation trips. To address the administrative problem, Framework 18 proposes to require vessels that are resuming an Access Area trip that was previously terminated early (a so-called compensation trip) to enter a trip identification number through their VMS prior to sailing on a compensation trip. The trip identification number would be provided on the letter(s) authorizing compensation trip(s). This requirement would apply only to limited access scallop vessels and would be a minor addition to current reporting requirements that are done through the vessel's VMS. The cost of such a requirement would be approximately $395 based on an estimated 500 compensation trips, fleet-wide.

Economic Impacts of the Proposed Measures and Alternatives

Because total economic impacts of the management measures depend on the overall management scheme implemented in Framework 18, economic impacts of Framework 18 are most relevant in aggregate. Therefore, aggregate impacts are disccussed below, followed by qualitative discussion of the impacts of the individual measures.

The aggregate economic impacts of the proposed measures and other

alternatives considered by the Council are analyzed relative to the no action alternative. Management measures considered in aggregate include Access Area allocations, modified ETAA opening and groundfish closed area access, extended HCAA, area closures (Delmarva), and open area DAS allocations. "No action" refers to open area DAS (24,700 for the fleet), CAI, CAII, and NLCA rotation order, as specified in current regulations, HCAA and ETA reverting to open areas subject to open area DAS, and no additional closures. Total open area DAS under the proposed alternative would be 20,000. The impacts on vessel revenues and profits are expected to be similar to the impacts of the proposed measures on total fleet revenue and producer surplus. Overall fleet revenue, and therefore annual scallop revenue, is estimated to be $545 million under the no action compared to $551 million under the proposed alternative during 2006–2007 (an increase of 1.06 percent). Revenues for each vessel issued a limited access permit would increase by approximately 1.06 percent under the proposed action compared to the no action alternative. Because fishing costs are estimated to increase due to the allocation of more access area trips with the proposed measures, the changes in net revenue (revenue minus variable costs) and vessel profits compared to no action will be negligible (0.1–percent increase per year) over the 2–year period from 2006 to 2007.

The long-term (2008–2019) economic effects of the proposed measures are estimated to be slightly negative on revenues ($901.6 million under the proposed action compared to $913.2 million under no action, an average 1.27–percent decline per year) and negligible on producer surplus (0.1–percent decline per year) compared to no action. Since the no action scenario would result in higher price due to lower landings, revenues under this scenario would exceed the revenues for the proposed measures, depending on the assumptions regarding changes in export, imports, disposable income, consumer preferences, and composition of landings by market size category in the future years. Expansion of the export markets for the U.S. sea scallops, for example, has helped to prevent price declines in the recent years despite the record increase in scallop landings, and could keep prices and scallop revenues higher than historical averages over the long-term as well, benefiting the small business entities in the scallop fishery. However, as noted below for individual measures, there are conservation benefits for scallops and species caught as bycatch that outweigh the minimal losses in economic benefits.

Other measures proposed in this rule are expected to provide additional positive impacts, although not quantified, by providing vessels more flexibility in choosing the areas and time of fishing that will maximize their profits. These measures include one-for-one exchanges of 2006 CAII and NLCA Access Area trips for 2007 ETAA trips, other one-for-one exchanges of Access Area trips, the 60–day carryover of compensation trips, the January 1, 2007, opening of ETAA (rather than March 1, 2007), the September through October closed season for the ETAA, and the elimination of the trip exchange deadline.

1. Revised open area DAS allocations

Open area DAS under the proposed action would be lower than under the no action alternative, reducing potential economic benefits. In addition, 2007 DAS for some vessels may be reduced if such vessels use more DAS initially in 2006 than are ultimately allocated under Framework 18 because such DAS would be deducted from 2007 DAS allocations. However, consistent with the Area Rotation Program and the overall FMP management program, proposed open area DAS allocations would prevent overfishing in open areas and a decline in future yield. It would therefore have long-term positive impacts on revenue and profits of small business entities.

Alternatives to the proposed measures would allocate 15,000 DAS to 30,000 DAS for open areas instead of 20,000 open area DAS under the proposed action. In aggregate, none of the other alternatives would have significantly different impacts than the proposed action in the short and the long-term, as indicated by changes in revenues near 1 percent for all alternatives (compared to the no action alternative).

2. Revised rotational management schedule for the CAI, CAII, and NLCA Access Areas

Because the proposed Area Access schedule allocates five trips in 2006 to CAII and NLCA combined, compared to the no action schedule of a total of two trips in 2006, it would have positive impacts on landings, revenues, and gross profits of small businesses in general. The proposed rotation schedule could have some negative impacts in 2006 compared to no action, and other alternatives allowing access to CAI in 2006. It may not be possible for smaller boats, such as general category scallop vessels, to access CAII to substitute for the CAI trips. The short-term negative impacts could be offset if enough trips can be taken in open areas of Georges Bank and/or the Mid-Atlantic to compensate for the trips that could not be taken in CAI. The closure of the CAI access area in 2006 would protect the smaller biomass of scallops in the modified Access Area from overfishing, and, therefore, would result in higher future benefits for both the limited access and general category vessels when it is reopened to fishing in 2007. These long-term benefits are expected to outweigh short-term losses from the closure of CAI.

The no action and status quo alternatives would allocate fewer trips to the Georges Bank Access Areas than the proposed action, and therefore, would have lower economic benefits compared to the proposed access. The economic impacts on small business entities of the alternative that would have allowed the limited access and general category vessels to fish in all three access areas in 2006 would be similar to the proposed schedule because the total number of controlled access trips are the same under both alternatives. Although this alternative would have provided general category and limited access vessels the opportunity to fish in CAI in 2006, it could also increase the risk of localized overfishing as many vessels could fish within the small area. As a result, this alternative could lower revenues and profits for both limited access and general category vessels over the long-term and when this area is reopened in 2007.

3. Area Specific limits on vessels fishing in Access Areas

The economic impacts of area specific trip allocations and possession limits are unchanged from the no action alternative. Area specific trip allocations and possession limits help prevent overfishing in Access Areas, preventing reduction in future yield, and in social and economic benefits from the scallop fishery. Although trip allocations and possession limits increase fishing costs by lowering flexibility for vessel owners to determine how many trips to take to land the allocated amounts, it also prevents large landings, resulting in more stable landings and less fluctuation in prices over time. Overall, these positive economic impacts are expected to outweigh the negative impacts associated with the reduced flexibility.

The alternative to trip allocations and possession limits would have introduced an overall catch limit for vessels fishing in Access Areas, but

would have allowed vessels to harvest the overall catch limit in as many trips as necessary for each vessel. Therefore, the alternative would have eliminated the trip allocations with trip-by-trip possession limits. This non-preferred alternative could have lowered the fishing costs for some vessels if fewer trips were necessary to land the overall limit for an area. Therefore, this measure could have increased profits and other benefits for those vessels. However, this alternative may also have resulted in large landings lowering prices and reducing economic gains. Combined with the elimination of crew limits in controlled access areas, this measure could reduce the long-term revenues, profits and total economic benefits if vessels with large crews start targeting smaller scallops with lower prices.

4. Open Area DAS Adjustments when yellowtail flounder catches reach the 10–percent TAC limit allocated to scallop vessels fishing in Georges Bank Access Areas

Allowing unutilized Access Area trips to be used as open area DAS would help to minimize the loss in landings and revenue due to the closure of Access Areas before a vessel takes its trip, although impacts would likely be negative compared to no action. Scallop catch in open areas under the proposed alternative is expected to be similar to the overall catch on Access Area trips in terms of numbers of scallops. However, if meat counts (i.e., the number of scallop meats that it takes to weigh one pound (0.45 kg)) are lower in open areas, the landed weight of scallops would be lower than 18,000 lb (8,165 kg) for a full Access Area trip. For example, if the open area meat count averages 17.2 meats per pound in open areas, compared to 12.0 meats per pound in Closed Area II Access Area, catches from the additional open area trips could range from about 11,000 lb (4,990 kg) to close to 13,000 lb (5,897 kg) compared to the 18,000 lb (8,165 kg) from the trip that would have been taken in the Access Area. Compared to the no action alternative, which would have allowed the trips to be reallocated on a one-to-one DAS ratio, this example could result in revenues of $60,000 if 11,000 lb (4,990 kg) are landed or $47,000 if 13,000 lb (5,897 kg) of scallops are landed. However, the higher the meat count, the less the economic loss in comparison to the no action alternative. Vessels with more than 24 DAS reallocated in open areas under the proposed action would have positive economic impacts compared to the no action. The proposed alternative would allow all unused trips to be reallocated to open areas, as opposed to the no action alternative that caps the reallocation at 24 DAS for ful-time vessels. The amount of additional revenue compared to the no action would depend on the amount and size of scallops landed.

One alternative considered for this measure would allocate an equal number of open area trips with an 18,000–lb (8,165–kg) possession limit for each trip not taken before areas close from yellowtail flounder catches. Such trips would not count against the vessel's open area DAS allocation. Although this alternative would minimize the loss in revenue compared to the preferred alternative, it could result in negative long-term impacts on the scallop resource and negative economic benefits for the small business entities since the transferred trips in the open areas could increase fishing mortality and take longer than in the access areas. Another alternative, to allocate half the access trips, would prevent any shift of effort into open areas, but each vessel would be allocated fewer trips if the TAC is reached, thus it would lower revenues as compared to the preferred alternative. The status quo alternative would allow vessels to fish 12 DAS in open areas for up to two trips not taken before areas close from yellowtail flounder catches. This alternative would have a negative economic impact on vessels that could not take three or more of their trips in the controlled access areas.

5. Extension of the current Access Area program in the HCAA through February 2008 for vessels that have unutilized HCAA trips from 2005

Extension of the HCAA program by itself is expected to have positive economic impacts in 2006 and/or 2007 because the vessels could lower their costs and increase their profits by taking trips when catch rates increase relative to the 2005 levels. However, if prices decline, revenue relative to foregone revenue in 2005 would be negative. Nevertheless, the opportunity to complete the trips in the HCAA would provide for additional benefits in 2006 and 2007.

The only significant alternative to the proposed measures is the no action alternative of converting HCAA to a fully open area without allowing vessels to take any 2005 access trips in the future. This would result in slightly lower revenues and profits for small business entities in the short term, and negligible impacts over the long term compared to the proposed action. Given that catch rates of scallops in areas outside of the boundaries of the HCAA are currently higher than catch rates within the HCAA, it is unlikely that vessels would utilize open area DAS to fish in the HCAA under the no action alternative.

6. Opening of the ETAA on January 1, 2007

Opening the ETAA on January 1, 2007, would have positive economic impacts on small entities by helping to spread out fishing effort and landings over time, and by providing vessel owners more flexibility to determine when to fish during the initial year of the ETAA. The fishing revenues would be more stable compared to an opening on March 1, 2007, the beginning of the fishing year.

The alternative to the proposed measure is the status quo opening in March 1, 2007, which has lower benefits than the preferred alternative for the reasons noted above.

7. ETAA trip allocations

The combined impacts of the proposed ETAA trip allocations are expected to be positive. Allocating five trips initially compared to nine trips under the status quo (there is not a no action alternative in this case), would result in slightly higher revenues and profits for small business entities in the short term and negligible impacts over the long term, as summarized above in the discussion of aggregate impacts. This action by itself, therefore, is expected to increase yield from the scallop fishery over the long term, and thus, would have positive economic impacts on small entities. The proposed allocations could have negative economic impacts on the general category scallop vessels because it limits the maximum catch from this vessel category whereas under the status quo alternative, general category vessels would not be constrained by a limit on trips or by the TAC. However, if such controls are not implemented for the general category fleet, the landings from this area could exceed the fishing mortality targets, and reduce the scallop biomass and yield in the future. This could result in lower allocations in the future for both the limited access and general category vessels and reduce the net economic benefits form the scallop resource.

8. Seasonal closure of the ETAA (September October) to reduce sea turtle interactions in the ETAA and reduce scallop and finfish discard mortality

The proposed September through October closed season for the ETAA could have negative economic effects on

scallop fishermen by reducing their flexibility in choosing when to fish. Under no action, vessels could fish in the area year-round, with maximum flexibility. Furthermore, seasonal closures can cause spikes in landings before and after the closure, which can have negative effects on price and revenues. The negative economic impacts of this closure are expected to be minimal, however, because the area will be closed only for 2 months, when vessels could fish in other areas, and vessels will still have the same number of trips to take. The preferred alternative would minimize these negative impacts on fishing costs relative to other closure alternatives. The alternative options would close the ETAA for a longer period, one alternative from July 15 to October 31 and another alternative from June 15 to November 14, and thus could have larger negative impacts on vessels due to the length of the closure.

9. Regulatory procedure to reduce the number of Scallop Access Area trips into the ETAA if updated biomass estimates are available from 2006 resource survey(s) that identify lower exploitable scallop biomass within the ETAA

The adjustment procedure is expected to have positive economic impacts by ensuring that landings and economic benefits are kept to sustainable levels by making timely adjustments to management measures when new ETAA biomass data become available. The no action alternative would reduce economic benefits if the exploitable scallop biomass in the ETAA is determined to be too low to support the allocated number of trips, reducing biomass too rapidly, compromising years 2 and 3 of the ETAA. The economic impacts of the higher versus lower trip allocations are discussed in "Initial ETA Access Area allocations" above.

10. Closure of an area off of Delaware/Maryland/Virginia on January 1, 2007

The impacts of closing the Delmarva area, by itself, could have negative impacts in the short term compared to the no action alternative, which would not close the area. It may also have negative economic impacts on some vessels that mainly fish in Mid-Atlantic areas, by narrowing the fishing grounds they could use for their open-area DAS. Some of these negative economic impacts may be mitigated by the re-opening of the ETAA in 2007. However, the Delmarva area was identified during development of Framework 18 as an area where a concentration of small scallops warranted the establishment of a rotational closed area under the FMP's Area Rotation Program. The Area Rotation Program represents the FMP's management strategy to improve yield over the long term and, consistent with that strategy, positive impacts over the long term are anticipated from the closure. When the area reopens in 2010, increased revenues should be realized because the scallops in the area will be the optimal size for harvesting. When considered in aggregate as discussed above, the impacts will be positive on the revenues and profits of the small entities in the short term, and negligible over the long term (as summarized above in aggregate impacts).

11. Elimination of the Scallop Access Area trip exchange program deadline in order to allow trip exchanges throughout the year

The elimination of the trip exchange deadline is expected to have positive economic impacts by providing greater flexibility for vessel owners to respond to circumstances, and it is expected to lower fishing costs as well as reducing business and safety risks. Vessel owners may find it necessary or advantageous to be able to exchange trips throughout the fishing year as fishery and resource conditions change. The no action alternative of keeping the June 1 deadline would constrain trip exchange activity when no such constraint is necessary.

12. Allowance of trip exchanges of 2006 CAII and/or NLCA Access Area trips for 2007 ETAA trips

Allowing vessel owners to exchange 2007 ETAA trips for 2006 CAII or NLCA Access Area trips will have positive economic impacts on small entities. In particular, vessels in the Mid-Atlantic that would typically not fish in the CAII or NLCA Access Areas would otherwise be forced to take trips on Georges Bank or forego a large number of trips in the 2006 fishing year. The cross-year trip exchange would allow such vessels to forego such trips to Georges Bank in 2006 but make up for them with additional trips in the ETAA in 2007. Exchanging vessel owners could also negotiate compensation for the postponed landings, thus mitigating the short-term costs for one of the exchanging vessels. The revised exchange program is expected to provide flexibility to vessel owners regarding which areas to fish, thereby reducing fishing costs without changing the total number of trips allocated to the fleet in the Access Areas during a fishing year.

There were no significant alternatives other than the no action alternative, which would not have allowed cross-year trip exchanges between CAII, NLCA, and ETAA.

13. Modification of the Scallop Access Area broken trip program to allow unused makeup trips to be carried over to the next fishing year

The proposed broken trip carryover provision action would have positive impacts by reducing the risk associated with trips taken at the end of a fishing year, or at the end of a seasonal access program, and preventing any revenue loss that would result if the compensation trips could not be taken by the end of the same fishing year due to weather or other factors. Under the no action alternative, vessels breaking trips near the end of the fishing year or Access Area season would be required to complete the trip before the end of the fishing year or Access Area season. In prior years, such a restriction has resulted in vessels opting to not break a trip, foregoing the trip and resulting revenues, or forcing compensation trips in poor weather, potentially compromising safety.

14. Elimination of the scallop vessel crew size limit for Scallop Access Area trips only

Eliminating the crew limit for limited access vessels conducting an Access Area trip is expected to lower total fishing costs, increase total benefits for crew and the vessel-owners, but reduce income per crew member. This measure could have negative economic impacts, however, if there is a race to fish by many vessels employing large crews in order to fish before catch rates decline or before the area is closed due to bycatch. Furthermore, if unlimited crew size leads to smaller scallops being landed, then both the immediate impacts (if price falls) and long-term impacts (when harvesting smaller scallops affects future landings) would be negative. On the other hand, the existing possession limits for access areas could mitigate some of these negative impacts by limiting the trip duration.

Economic Impacts of Significant and Other Non-selected Alternatives

As noted above, the economic impacts of the proposed action are most relevant in aggregate. Therefore, the impacts of the significant alternatives to the proposed action are also most relevant when considered in aggregate. Framework 18 considered 10 alternative scenarios, including the proposed action and no action alternative. Status quo differs from the no action in that it specified open area DAS and Access

Area allocations to meet the F=0.2 fishing mortality target for the scallop resource overall, and fishing mortality targets consistent with the area rotation program. Both the status quo and no action alternatives would allocate 24,700 open area DAS. The main difference between status quo and no action would be, that under status quo, the ETAA would become an Access Area with nine trips allocated, whereas under no action, the Elephant Trunk Area would become part of the open area under DAS. Framework 18 considered open area DAS allocations of 30,000; 24,700; 20,000; 18,000; and 15,000, combined with CAI, CAII, and NLCA Access Area Schedule, ETA Access Area trip allocations, HCAA opening to open area DAS, HCAA extension through the 2007 fishing year, and the Delmarva closed area. The difference in overall economic impacts between alternatives compared to the no action alternative are relatively small, with all of the alternative scenarios resulting in total revenues between $540 million to $552 million, compared to $527 million for the no action alternative for 2006 and 2007 combined. The proposed action would result in the second-highest revenues in the short-term, with $551 million in revenues as noted above. The proposed action would result in the second to lowest long-term revenues. The alternative with the highest short-term revenues, at $552 million, would allocate 18,000 DAS, allow access to the CAI, CAII, and NLCA Access Areas in 2006 and the CAI and NLCA Access Areas in 2007, allow five trips in the ETAA in 2007, extend the HCAA, and close the Delmarva area. This alternative also would have the lowest long-term revenues. Long-term impacts would likely be mitigated by required adjustments that will be completed by the Council for the 2008 and 2009 fishing years. The status quo alternative would result in the lowest short-term revenues, at $539 million, and middle-of-the-range long-term revenues. The difference in revenues depended on the total open area DAS allocations (15,000; 18,000; 20,000; 24,700; and 30,000 were considered), the schedule for the CAI, CAII, and NLCA Access Areas, whether the ETAA would be an Access Area or open to fishing under open area DAS in 2006, whether the HCAA would be extended or not, and whether the Delmarva area would be closed or not in 2007.

This proposed rule contains one new collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). Vessels that are resuming an access area trip that was previously terminated early (a so-called compensation trip) would be required to enter a trip identification number through their VMS units prior to sailing on the compensation trip. This requirement would apply to limited access scallop vessels and has been submitted to OMB for approval under OMB 0648–0491. Public reporting burden for this collection-of-information is estimated to be 1 minute per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 23, 2006.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.4, paragraphs (a)(2)(ii)(D), (c)(2)(iv) introductory text, and (c)(2)(iv)(B) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *
(2) * * *
(ii) * * *
(D) [Reserved]
* * * * * *
(c) * * *
(2) * * *
(iv) An application for a scallop permit must also contain the following information:
* * * * * *
(B) If applying for a VMS general scallop permit, or full-time or part-time limited access scallop permit, or if opting to use a VMS unit, a copy of the vendor installation receipt or proof of vendor activation of the VMS from a NMFS-approved VMS vendor. NMFS-approved vendors are described in § 648.9.
* * * * * *

3. In § 648.9, paragraphs (c)(1)(iii) and (c)(2)(i)(D) are revised to read as follows:

§ 648.9 VMS requirements.

(c) * * *
(1) * * *
(iii) At least twice per hour, 24 hours a day, throughout the year, for vessels issued a general scallop permit and subject to the requirements of § 648.4(a)(2)(ii)(B).
* * * * * *
(2) * * *
(i) * * *
(D) The vessel has been issued a general scallop permit and is required to operate VMS as specified in § 648.10(b)(1)(iv), is not in possession of any scallops onboard the vessel, is tied to a permanent dock or mooring, and the vessel operator has notified NMFS through VMS by transmitting the appropriate VMS power down code, that the VMS will be powered down, unless required by other permit requirements for other fisheries to transmit the vessel's location at all times. Such a vessel must repower the VMS prior to moving from the fixed dock or mooring. VMS codes and instructions are available from the Regional Administrator upon request.
* * * * * *

4. In § 648.10, paragraphs (b)(1)(i), (b)(1)(iv), (b)(2), (b)(2)(i), (b)(2)(ii), and (b)(4) are revised and paragraph (e)(2)(v) is added to read as follows:

§ 648.10 DAS and VMS notification requirements.

* * * * * *
(b) * * *
(1) * * *
(i) A scallop vessel issued a Full-time or Part-time limited access scallop permit or a VMS general scallop permit;
* * * * * *

(iv) A scallop vessel issued a VMS or a Non-VMS general scallop permit when fishing under the Sea Scallop Area Access Program specified under § 648.60;

* * * * *

(2) The owner of such a vessel specified in paragraph (b)(1) of this section must provide documentation to the Regional Administrator at the time of application for a limited access permit or general scallop permit that the vessel has an operational VMS unit installed on board that meets those criteria, unless otherwise allowed under this paragraph (b). If a vessel has already been issued a limited access permit without the owner providing such documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VMS unit that meets the criteria and for the owner to provide documentation of such installation to the Regional Administrator. A vessel that is required to, or whose owner has elected to, use a VMS unit is subject to the following requirements and presumptions:

(i) A vessel subject to the VMS requirements of § 648.9 and this paragraph (b) that has crossed the VMS Demarcation Line specified under paragraph (a) of this section is deemed to be fishing under the DAS program, the general category scallop fishery, or other fishery requiring the operation of VMS as applicable, unless the vessel's owner or authorized representative declares the vessel out of the scallop, NE multispecies, or monkfish fishery, as applicable, for a specific time period by notifying NMFS by transmitting the appropriate VMS code through the VMS prior to the vessel leaving port, or unless the vessel's owner or authorized representative declares the vessel will be fishing in the Eastern U.S./Canada Area as described in § 648.85(a)(3)(ii) under the provisions of that program.

(ii) Notification that the vessel is not fishing under the DAS program, the general category scallop fishery, or other fishery requiring the operation of VMS, must be received prior to the vessel leaving port. A vessel may not change its status after the vessel leaves port or before it returns to port on any fishing trip.

* * * * *

(4) *Atlantic sea scallop vessel VMS notification requirements.* (i) Less than 1 hour prior to leaving port, the owner or authorized representative of a scallop vessel that is required to use VMS as specified in paragraph (b)(1) of this section, must notify the Regional Administrator by entering the appropriate VMS code that the vessel will be participating in the scallop DAS program, Area Access Program, or general category scallop fishery. VMS codes and instructions are available from the Regional Administrator upon request.

(ii) To facilitate the deployment of at-sea observers, all sea scallop vessels issued limited access permits fishing in open areas or Sea Scallop Access Areas, and general category vessels fishing under the Sea Scallop Access Area program specified in § 648.60, are required to comply with the additional VMS notification requirements specified in paragraphs (b)(4)(iii) and (iv) of this section, except that scallop vessels issued Occasional scallop permits not participating in the Area Access Program specified in § 648.60 may provide the specified information to NMFS by calling NMFS. All sea scallop vessels issued a VMS general category or Non-VMS general scallop permit that are participating in the Area Access Program specified in § 648.60 are required to comply with the additional VMS notification requirements specified in paragraph (b)(4)(iii) and (iv) of this section.

(iii) Prior to the 25th day of the month preceding the month in which fishing is to take place, the vessel must submit a monthly report through the VMS e-mail messaging system of its intention to fish for scallops, along with the following information: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, and number of trips anticipated for open areas and each Sea Scallop Access Area in which it intends to fish. The Regional Administrator may waive this notification period if it is determined that there is insufficient time to provide such notification prior to a Sea Scallop Access Area opening or beginning of the fishing year. Notification of this waiver of a portion of the notification period shall be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(iv) In addition to the information required under paragraph (b)(4)(iii) of this section, and for the purpose of selecting vessels for observer deployment, each participating vessel owner or operator shall provide notice to NMFS of the time, port of departure, and open area or specific Sea Scallop Access Area to be fished, at least 72 hr, unless otherwise notified by the Regional Administrator, prior to the beginning of any scallop trip.

* * * * *

(e) * * *

(2) * * *

(v) Such vessels must comply with the VMS notification requirements specified in paragraph (b) of this section by notifying the Regional Administrator by entering the appropriate VMS code that the vessel is fishing outside of the scallop fishery. VMS codes and instructions are available from the Regional Administrator upon request.

5. In § 648.11, paragraph (a)(1) and (a)(2) are added to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

(a) * * *

(1) For the purpose of deploying at-sea observers, sea scallop vessels are required to notify NMFS of scallop trips as specified in § 648.10(b)(4). Unless otherwise notified by the Regional Administrator, owners of scallop vessels shall be responsible for paying the cost of the observer for all scallop fishing trips on which an observer is carried onboard the a the vessel, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit.

(2) [Reserved]

* * * * *

6. In § 648.14, paragraphs (h)(27) through (35) are removed and paragraphs (a)(56)(i), (a)(56)(iii), (a)(58), (h)(2), (h)(4), (h)(5), (h)(6), (h)(12), (h)(13), (h)(15), (h)(17), (h)(19), (h)(24), (h)(25), (h)(26), (i)(3), (i)(11) and (i)(12) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(56) Fish for, possess, or land per trip, scallops in excess of 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops unless:

(i) The scallops were fished for and harvested by a vessel that has been issued and carries on board a VMS general scallop or limited access scallop permit;

* * * * *

(iii) The scallops were fished for and harvested by a vessel issued a VMS general scallop permit with an operator on board who has been issued an operator's permit and the permit is on board the vessel and is valid.

* * * * *

(58) [Reserved]

* * * * *

(h) * * *

* * * * *

(2) Land scallops on more than one trip per calendar day after using up the vessel's annual DAS allocation or when not participating under the DAS program pursuant to § 648.10, unless

exempted from DAS allocations as provided in § 648.54.

* * * * *

(4) If the vessel is not subject to VMS requirements specified in § 648.10(b), fail to comply with the requirements of the call-in system specified in § 648.10(c).

(5) Combine, transfer, or consolidate DAS allocations, except as allowed for one-for-one Access Area trip exchanges as specified in § 648.60(a)(3)(ii).

(6) Have an ownership interest in more than 5 percent of the total number of vessels issued limited access scallop permits, except as provided in § 648.4(a)(2)(i)(M).

* * * * *

(12) Possess or use dredge gear that does not comply with the provisions and specifications in § 648.51(b).

(13) Participate in the DAS allocation program with more persons on board the vessel than the number specified in § 648.51(c), including the operator, when the vessel is not docked or moored in port, unless otherwise authorized by the Regional Administrator, or unless participating in the Area Access Program pursuant to the requirements specified in § 648.60.

* * * * *

(15) Fish under the small dredge program specified in § 648.51(e) with more than five persons on board the vessel, including the operator, unless otherwise authorized by the Regional Administrator or unless participating in the Area Access Program pursuant to the requirements specified in § 648.60.

* * * * *

(17) Fail to comply with the notification requirements specified in § 648.10(b)(4) or refuse or fail to carry an observer after being requested to carry an observer by the Regional Administrator.

* * * * *

(19) Fail to comply with any requirement for declaring in and out of the DAS allocation program or other notification requirements specified in § 648.10.

* * * * *

(24) Possess or land more than 50 bu (17.62 hL) of in-shell scallops, as specified in § 648.52(d), once inside the VMS Demarcation Line by a vessel that, at any time during the trip, fished in or transited any area south of 42°20′ N. Lat, or fishing in the Sea Scallop Area Access Program specified in § 648.60, except as provided in § 648.54.

(25) Declare and initiate a trip into the areas specified in § 648.59(b) through (d) after the effective date of the notification published in the **Federal Register** stating that the yellowtail flounder TAC has been harvested as specified in § 648.85(c).

(26) Retain yellowtail flounder in the areas specified in § 648.59(b) through (d) after the effective date of the notification published in the **Federal Register** stating that the yellowtail flounder TAC has been harvested as specified in § 648.85(c).

(i) * * *

(3) Possess or use dredge gear that does not comply with any of the provisions or specification in § 648.51 (b).

* * * * *

(11) Fail to comply with any requirement for declaring in and out of the general category scallop fishery or other notification requirements specified in § 648.10(b).

(12) Fish for or land per trip, or possess at any time, in excess of 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) of in-shell scallops unless the vessel has been issued a VMS general scallop permit and has declared into the general category scallop fishery as specified in § 648.10(b)(4).

* * * * *

7. In § 648.51, paragraphs (b)(3), (c), (e)(3), and (f)(1) are revised to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(b) * * *

(3) *Minimum ring size.* (i) Unless otherwise required under the Sea Scallop Area Access program specified in § 648.60(a)(6), the ring size used in a scallop dredge possessed or used by scallop vessels shall not be smaller than 4 inches (10.2 cm).

(ii) Ring size is determined by measuring the shortest straight line passing through the center of the ring from one inside edge to the opposite inside edge of the ring. The measurement shall not include normal welds from ring manufacturing or links. The rings to be measured will be at least five rings away from the mouth, and at least two rings away from other rigid portions of the dredge.

* * * * *

(c) *Crew restrictions.* Limited access vessels participating in or subject to the scallop DAS allocation program may have no more than seven people aboard, including the operator, when not docked or moored in port, except as follows:

(1) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60;

(2) Vessels participating in the small dredge program are restricted as specified in paragraph (e) of this section;

(3) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.

* * * * *

(e) * * *

(3) The vessel may have no more than five people, including the operator, on board, except as follows:

(i) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60;

(ii) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.

* * * * *

(f) *Restrictions on the use of trawl nets.* (1) A vessel issued a limited access scallop permit fishing for scallops under the scallop DAS allocation program may not fish with, possess on board, or land scallops while in possession of trawl nets, unless such vessel has been issued a limited access trawl vessel permit that endorses the vessel to fish for scallops with trawl nets. A limited access scallop vessel issued trawl vessel permit that endorses the vessel to fish for scallops with trawl nets and general category scallop vessels enrolled in the Area Access Program as specified in § 648.60, may not fish with trawl nets in the Access Areas specified in § 648.59(b) through (d).

* * * * *

8. In § 648.52, paragraphs (a) and (b) are revised to read as follows:

§ 648.52 Possession and landing limits.

(a) Owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10 or that have used up their DAS allocations, and vessels issued a VMS general scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possessing or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, with no more than one scallop trip of 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, allowable in any calendar day.

(b) Owners or operators of vessels without a scallop permit, vessels issued a Non-VMS general scallop permit, and vessels issued a VMS general scallop permit that have declared out of the general scallop fishery as described in § 648.10(b)(4), except vessels fishing for scallops exclusively in state waters, are prohibited from possessing or landing

per trip, more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops. Owners or operators of vessels without a scallop permit are prohibited from selling, bartering, or trading scallops harvested from Federal waters.

* * * * *

9. In § 648.53, paragraphs (b)(1), (b)(2), (b)(4), (b)(5), (c), (d) and (h) are revised to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) * * *

(1) Total DAS to be used in all areas other than those specified in § 648.59, are specified through the framework process as specified in § 648.55.

(2) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(2) (Full-time, Part-time, or Occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category. A vessel whose owner/operator has declared out of the scallop fishery, pursuant to the provisions of § 648.10, or that has used up its maximum allocated DAS, may leave port without being assessed a DAS, as long as it has made appropriate VMS declaration as specified in § 648.10(b)(4), does not fish for or land per trip, or possess at any time, more than 400 lb (181.4 kg) of shucked or 50 bu (17.6 hL) of in-shell scallops and complies with all other requirements of this part. The annual open area DAS allocations for each category of vessel for the fishing years indicated, after deducting DAS for observer and research DAS set-asides, are as follows:

DAS Category	2006	2007
Full-time	52	51
Part-time	21	20
Occasional	4	4

* * * * *

(4) *Additional open area DAS.* If a TAC for yellowtail flounder specified in § 648.85(c) is harvested for an Access Area specified in § 648.59(b) through (d), a scallop vessel with remaining trips in the affected Access Area shall be allocated additional open area DAS according to the calculations specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) For each remaining complete trip in Closed Area I, a vessel may fish an additional 5.5 DAS in open areas during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). For example, a full-time scallop vessel with two complete trips remaining in Closed Area I would be allocated 11 additional open area DAS (2 x 5.5 = 11 DAS) if the TAC for yellowtail flounder allocated to the scallop fishery is harvested in that area. Vessels allocated compensation trips as specified in § 648.60(c) that cannot be made because the yellowtail TAC in Closed Area I allocated to the scallop fishery is harvested shall be allocated 0.458 additional DAS for each unused DAS in the affected access area. Unused DAS shall be calculated by dividing the compensation trip possession limit by 1,500 lb (680 kg), (the catch rate per DAS). For example, a vessel with a 10,000–lb (4,536–kg) compensation trip remaining in Closed Area I would be allocated 3.05 additional open area DAS in that same fishing year (0.458 times 10,000 lb (4,536 kg)/1,500 lb (680 kg) per day).

(ii) For each remaining complete trip in Closed Area II, a vessel may fish an additional 5.4 DAS in open areas during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). For example, a full-time scallop vessel with two complete trips remaining in Closed Area II would be allocated 10.8 additional open area DAS (2 x 5.4 = 10.8 DAS) if the TAC for yellowtail flounder allocated to the scallop fishery is harvested in that area. Vessels allocated compensation trips as specified in § 648.60(c) that cannot be made because the yellowtail TAC in Closed Area II allocated to the scallop fishery is harvested shall be allocated 0.450 additional DAS for each unused DAS in the affected access area. Unused DAS shall be calculated by dividing the compensation trip possession limit by 1,500 lb (680 kg), (the catch rate per DAS). For example, a vessel with a 10,000–lb (4,536–kg) compensation trip remaining in Closed Area II would be allocated 3 additional open area DAS in that same fishing year (0.450 times 10,000 lb (4,536 kg)/1,500 lb (680 kg) per day).

(iii) For each remaining complete trip in the Nantucket Lightship Access Area, a vessel may fish an additional 4.9 DAS in open areas during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). For example, a full-time scallop vessel with two complete trips remaining in Nantucket Lightship Access Area would be allocated 9.8 additional open area DAS (2 x 4.9 = 9.8 DAS) if the TAC for yellowtail flounder allocated to the scallop fishery is harvested in that area. Vessels allocated compensation trips as specified in § 648.60(c) that cannot be made because the yellowtail TAC in Nantucket Lightship Access Area allocated to the scallop fishery is harvested shall be allocated 0.408 additional DAS for each unused DAS in the affected access area. Unused DAS shall be calculated by dividing the compensation trip possession limit by 1,500 lb (680 kg), (the catch rate per DAS). For example, a vessel with a 10,000–lb (4,536–kg) compensation trip remaining in Nantucket Lightship Access Area would be allocated 2.7 additional open area DAS in that same fishing year (0.458 times 10,000 lb (4,536 kg)/1,500 lb (680 kg) per day).

(5) DAS allocations and other management measures are specified for each scallop fishing year, which begins on March 1 and ends on February 28 (or February 29), unless otherwise noted. For example, the 2006 fishing year refers to the period March 1, 2006, through February 28, 2007.

(c) *DAS used in excess of 2006 DAS allocations.* Limited access vessels that use more open area DAS in the 2006 fishing year than specified in this section shall have the DAS used in excess of the 2006 DAS allocation specified in paragraph (b)(2) of this section deducted from their 2007 open area DAS allocation specified in paragraph (b)(2).

(d) *Adjustments in annual DAS allocations.* Annual DAS allocations shall be established for 2 fishing years through biennial framework adjustments as specified in § 648.55. If a biennial framework action is not undertaken by the Council and implemented by NMFS, the DAS allocations and Access Area trip allocations from the most recent fishing year will remain in effect for the next fishing year. The Council may also recommend adjustments to DAS allocations through a framework action at any time.

* * * * *

(h) *DAS set-asides*—(1) *DAS set-aside for observer coverage.* As specified in paragraph (b)(3) of this section, to help defray the cost of carrying an observer, 1 percent of the total DAS will be set aside from the total DAS available for allocation, to be used by vessels that are assigned to take an at-sea observer on a trip other than an Area Access Program trip. The DAS set-aside for observer coverage for the 2006 and 2007 fishing years is 165 DAS for each fishing year. Vessels carrying an observer will be compensated with reduced DAS accrual rates for each trip on which the vessel carries an observer. For each DAS that a vessel fishes for scallops with an

observer on board, the DAS will accrue at a reduced rate based on an adjustment factor determined by the Regional Administrator on an annual basis, dependent on the cost of observers, catch rates, and amount of available DAS set-aside. The Regional Administrator shall notify vessel owners of the cost of observers and the DAS adjustment factor through a permit holder letter issued prior to the start of each fishing year. The number of DAS that are deducted from each trip based on the adjustment factor will be deducted from the observer DAS set-aside amount in the applicable fishing year. Utilization of the DAS set-aside will be on a first-come, first-served basis. When the DAS set-aside for observer coverage has been utilized, vessel owners will be notified that no additional DAS remain available to offset the cost of carrying observers. The obligation to carry an observer will not be waived due to the absence of additional DAS allocation.

(2) *DAS set-aside for research.* As specified in paragraph (b)(3) of this section, to help support the activities of vessels participating in certain research, as specified in § 648.56; the DAS set-aside for research for the 2006 and 2007 fishing years is 330 DAS for each fishing year. Vessels participating in approved research will be authorized to use additional DAS in the applicable fishing year. Notification of allocated additional DAS will be provided through a letter of authorization, or Exempted Fishing Permit issued by NMFS, or will be added to a participating vessel's open are DAS allocation, as appropriate.

10. In § 648.54, paragraphs (a) and (b) are revised to read as follows:

§ 648.54 State waters exemption.

(a) * * *

(1) *DAS requirements.* Any vessel issued a limited access scallop permit is exempt from the DAS requirements specified in § 648.53(b) while fishing exclusively landward of the outer boundary of a state's waters, provided the vessel complies with paragraphs (d) through (g) of this section, and the notification requirements of § 648.10(e).

(2) *Gear and possession limit restrictions.* Any vessel issued a limited access scallop permit that is exempt from the DAS requirements of § 648.53(b) under paragraph (a) of this section, and has complied with the notification requirements of § 648.10(e), is also exempt from the gear restrictions specified in § 648.51(a), (b), (e)(1) and (e)(2), and the possession restrictions specified in § 648.52(a), while fishing exclusively landward of the outer boundary of the waters of a state that has been deemed by the Regional Administrator under paragraph (c) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Scallop FMP, provided the vessel complies with paragraphs (d) through (g) of this section.

(b) *General scallop vessel gear and possession limit restrictions.* Any vessel issued a general scallop permit is exempt from the gear restrictions specified in § 648.51(a), (b), (e)(1) and (e)(2), and the possession limit specified in § 648.52(a), while fishing exclusively landward of the outer boundary of the waters of a state that has been determined by the Regional Administrator under paragraph (b)(3) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Scallop FMP, provided the vessel complies with paragraphs (d) through (g) of this section. Vessels issued a VMS general scallop permit must be declared out of the general category scallop fishery as described in § 648.10(e).

* * * * *

11. In § 648.55, paragraph (b) is revised to read as follows:

§ 648.55 Framework adjustments to management measures.

* * * * *

(b) The preparation of the SAFE Report shall begin on or about June 1of the year preceding the fishing year in which measures will be adjusted. If the biennial framework action is not undertaken by the Council, or if a final rule resulting from a biennial framework is not published in the **Federal Register** with an effective date of March 1, in accordance with the Administrative Procedure Act, the measures from the most recent fishing year shall continue, beginning March 1 of each fishing year.

* * * * *

12. Section 648.58 is revised to read as follows:

§ 648.58 Rotational Closed Areas.

(a) *Elephant Trunk Closed Area.* Through December 31, 2006, no vessel may fish for scallops in, or possess or land scallops from, the area known as the Elephant Trunk Closed Area. No vessel may possess scallops in the Elephant Trunk Closed Area, unless such vessel is only transiting the area as provided in paragraph (c) of this section. The Elephant Trunk Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
ET1	38°50′N.	74°20′W.
ET2	38°10′N.	74°20′W.
ET3	38°10′N.	73°30′W.
ET4	38°50′N.	73°30′W.
ET1	38°50′N.	74°20′W.

(b) *Delmarva Closed Area.* From January 1, 2007, through February 28, 2010, no vessel may fish for scallops in, or possess or land scallops from, the area known as the Delmarva Closed Area. No vessel may possess scallops in the Delmarva Closed Area, unless such vessel is only transiting the area as provided in paragraph (b) of this section. The Delmarva Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
DMV1	38°10′N.	74°50′W.
DMV2	38°10′N.	74°00′W.
DMV3	37°15′N.	74°00′W.
DMV4	37°15′N.	74°50′W.
DMV1	38°10′N.	74°50′W.

(c) *Transiting.* No vessel possessing scallops may enter or be in the area(s) specified in paragraphs (a) and (b) of this section unless the vessel is transiting the area and the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(d) *Vessels fishing for species other than scallops.* A vessel may fish for species other than scallops within the closed areas specified in paragraphs (a) and (b) of this section as allowed in this part provided the vessel does not fish for, catch, or retain scallops or intend to fish for, catch, or retain scallops. Declaration through VMS that the vessel is fishing in the general category scallop fishery is deemed to be an intent to fish for, catch, or retain scallops.

13. Section 648.59 is revised to read as follows:

§ 648.59 Sea Scallop Access Areas.

(a) *Hudson Canyon Sea Scallop Access Area.* (1) Through February 29, 2008, a vessel issued a limited access scallop permit may fish for, possess, and land scallops in or from, the area known as the Hudson Canyon Sea Scallop Access Area, described in paragraph (a)(2) of this section, only if the vessel is participating in, and complies with

the requirements of, the area access program described in § 648.60, and provided the vessel did not complete all of its allocated trips during the 2005 fishing year, as described in § 648.60(a)(3)(i)(E). A vessel issued a general scallop permit may fish in the Hudson Canyon Sea Scallop Access Area in 2006 and 2007 provided it complies with the trip declaration requirements specified in § 648.10(b)(4) and possession restrictions specified in § 648.52.

(2) The Hudson Canyon Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
H1	39°30′N.	73°10′W.
H2	39°30′N.	72°30′W.
H3	38°30′N.	73°30′W.
H4/ET4	38°50′N.	73°30′W.
H5	38°50′N.	73°42′W.
H1	39°30′N.	73°10′W.

(3) *Number of trips.* Based on its permit category, a vessel issued a limited access scallop permit may fish any remaining Hudson Canyon Access Area trips allocated for the 2005 fishing year in the Hudson Canyon Access Area, as specified in § 648.60(a)(3)(i)(C), plus any additional Hudson Canyon Access Area trips acquired through an authorized one-for-one exchange as specified in § 648.60(a)(3)(ii). A vessel with unutilized compensation trips for Sea Scallop Access Area trips terminated early during the 2005 fishing year, pursuant to § 648.60(c), may take such compensation trips in the 2006 and/or 2007 fishing year in the Hudson Canyon Access Area. A vessel owner may exchange complete unutilized trips carried forward to the 2006 and 2007 fishing years with another vessel owner as specified in § 648.60(a)(3)(ii). Compensation trips for prior trips terminated early that are carried forward from the 2005 fishing year as specified in this paragraph may not be exchanged.

(b) *Closed Area I Access Area.* This area shall be managed on a 3–year cycle, with a one-year closure, followed by a two-year Area Access Program as follows:

(1) Through February 28, 2007, and every third fishing year thereafter (i.e., March 1, 2009 through February 28, 2010, etc.) vessels issued scallop permits, except vessels issued a NE Multispecies permit and a general category scallop permit and fishing in an approved SAP under § 648.85 and under multispecies DAS, may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section.

(2) Beginning March 1, 2007, through February 28, 2009, and for every 2–year period after the year-long closure described in paragraph (b)(1) of this section (i.e., March 1, 2010 through February 29, 2012, etc.), and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, a vessel issued a scallop permit may fish for, possess, and land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Closed Area I Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
CAIA1	41°26′N.	68°30′W.
CAIA2	41°09′N.	68°30′W.
CAIA3	41°4.54′N.	69°0.9′W.
CAIA1	41°26′N.	68°30′W.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Sea Scallop Access Area, described in paragraph (b)(3) of this section, except during the period June 15 through January 31 of each year the Closed Area I Sea Scallop Access Area is open to scallop vessels.

(5) *Number of trips*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in 2007 in the Closed Area I Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c).

(ii) *General category vessels.* (A) Except as provided in paragraph (b)(5)(ii)(B) of this section, subject to the possession limit specified in §§ 648.52(a) and (b) and 648.60(g), and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, a vessel issued a general category scallop permit, may not enter in, or fish for, possess, or land sea scallops in or from the Closed Area I Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), that 216 trips in the 2007 fishing year have been taken, in total, by all general category scallop vessels. The Regional Administrator shall notify all general category scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken for the 2007 fishing year.

(B) A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (b)(5)(ii)(A) of this section provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from possessing scallops.

(c) *Closed Area II Access Area.* This area shall be managed on a 3–year cycle, with a one-year closure, followed by a two-year Area Access Program as follows:

(1) From March 1, 2007, through February 29, 2008, and every third fishing year thereafter, (i.e., March 1, 2010, through February 28, 2011, etc.) vessels issued scallop permits, except vessels issued a NE Multispecies permit and a general category scallop permit and fishing in an approved SAP under § 648.85 and under multispecies DAS, may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this section.

(2) Through February 28, 2007, and for every 2–year period after the year-long closure described in paragraph (c)(1) of this section (i.e., March 1, 2008, through February 28, 2010, etc.) and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from, the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Closed Area II Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
CAIIA1	41°00′N.	67°20′W.

Point	Latitude	Longitude
CAIIA2	41°00′N.	66°35.8′W.
CAIIA3	41°18.6′N.	66°24.8′W.
CAIIA4	41°36′N.	66°34.8′W.
CAIIA5	41°30′N.	67°20′W.
CAIIA1	41°00′N.	67°20′W.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, except during the period June 15 through January 31 of each year the Closed Area II Access Area is open to scallop vessels.

(5) *Number of trips*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in 2006 in the Closed Area II Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area II Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area II Access Area trip that was terminated early, as specified in § 648.60(c).

(ii) *General category vessels.* (A) Except as provided in paragraph (c)(5)(ii)(B) of this section, subject to the possession limits specified in §§ 648.52(a) and (b) and 648.60(g), and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a general category scallop permit, may not enter in, or fish for, possess, or land sea scallops in or from the Closed Area II Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), that 865 trips in the 2006 fishing year have been taken, in total, by all general category scallop vessels. The Regional Administrator shall notify all general category scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken for the 2006 fishing year.

(B) A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (c)(5)(ii)(A) of this section provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from possessing scallops.

(d) *Nantucket Lightship Access Area.* (1) From March 1, 2008, through February 28, 2009, and every third fishing year thereafter (i.e., March 1, 2011, through February 29, 2012 2014, etc.) vessels issued scallop permits, except vessels issued a NE Multispecies permit and a general category scallop permit and fishing in an approved SAP under § 648.85 and under multispecies DAS, may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section.

(2) Through February 29, 2008, and for every 2–year period after each the year-long closure described in paragraph (d)(1) of this section (i.e., March 1, 2009, through February 28, 2011, etc.) and subject to the seasonal restrictions specified in paragraph (d)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from, the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Nantucket Lightship Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
NLSA1	40°50′N.	69°00′W.
NLSA2	40°30′N.	69°00′W.
NLSA3	40°30′N.	69°14.5′W.
NLSA4	40°50′N.	69°29.5′W.
NLAS1	40°50′N.	69°00′W.

(4) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, except during the period June 15 through January 31 of each year the Nantucket Lightship Access Area is open to scallop fishing.

(5) *Number of trips*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in 2006 and 2007 in the Nantucket Lightship Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Nantucket Lightship Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Nantucket Lightship Closed Area Access Area trip that was terminated early, as specified in § 648.60(c).

(ii) *General category vessels.* (A) Except as provided in paragraph (d)(5)(ii)(B) of this section, subject to the possession limits specified in §§ 648.52(a) and (b) and 648.60(g), a vessel issued a general category scallop permit, may not enter in, or fish for, possess, or land sea scallops in or from the Nantucket Lightship Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), that 577 trips in the 2006 fishing year, and 394 trips in the 2007 fishing year, have been taken, in total, by all general category scallop vessels. The Regional Administrator shall notify all general category scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken for the 2006 and 2007 fishing years.

(B) A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (d)(5)(ii)(A) of this section provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from possessing scallops.

(e) *Elephant Trunk Sea Scallop Access Area.* (1) From January 1, 2007, through February 29, 2012, and subject to the seasonal restrictions specified in paragraph (e)(3) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from, the area known as the Elephant Trunk Sea Scallop Access Area, described in paragraph (e)(2) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) The Elephant Trunk Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
ETAA1	38°50′N.	74°20′W.
ETAA2	38°10′N.	74°20′W.
ETAA3	38°10′N.	73°30′W.
ETAA4	38°50′N.	73°30′W.
ETAA1	38°50′N.	74°20′W.

(3) *Season.* A vessel issued a scallop permit may not fish for, possess, or land

scallops in or from the area known as the Elephant Trunk Sea Scallop Access Area, described in paragraph (d)(2) of this section from September 1 through October 31 of each year the Elephant Trunk Access Area is open to scallop fishing as a Sea Scallop Access Area.

(4) *Number of trips*—(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Elephant Trunk Sea Scallop Access Area between January 1, 2007, and February 29, 2008, as specified in § 648.60(a)(3)(i), or as adjusted as specified in § 648.60(a)(3)(i)(F), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains an Elephant Trunk Sea Scallop Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Elephant Trunk Access Area trip that was terminated early, as specified in § 648.60(c).

(ii) *General category vessels.* Subject to the possession limits specified in §§ 648.52(a) and (b) and 648.60(g), a vessel issued a general category scallop permit, may not enter in, or fish for, possess, or land sea scallops in or from the Elephant Trunk Sea Scallop Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), that 1,360 trips allocated for the period January 1, 2007, through February 29, 2008, unless adjusted as specified in § 648.60(a)(3)(i)(F), have been taken, in total, by all general category scallop vessels. The Regional Administrator shall notify all general category scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken for the period January 1, 2007 through February 29, 2008.

(f) *Transiting.* A sea scallop vessel that has not declared a trip into the Sea Scallop Area Access Program may enter the Sea Scallop Access Areas described in paragraphs (a), (b), (d), and (e), of this section, and possess scallops not caught in the Sea Scallop Access Areas, for transiting purposes only provided the vessel's fishing gear is stowed in accordance with § 648.23(b), or there is a compelling safety reason to be in such areas without such gear being stowed. A scallop vessel that has declared a trip into the Sea Scallop Area Access Program may transit a Scallop Access Area while steaming to or from another Scallop Access Area, provided the vessel's fishing gear is stowed in accordance with § 648.23(b), or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Access Area, as described in paragraph (c) of this section, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed in accordance with § 648.23(b).

14. Section 648.60 is revised to read as follows:

§ 648.60 Sea scallop area access program requirements.

(a) A vessel issued a limited access scallop permit may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, when fishing under a scallop DAS, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9) and (b) through (f) of this section. A general category scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraphs (g) of this section.

(1) *VMS.* Each vessel participating in the Sea Scallop Access Area Program must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § § 648.9 and 648.10, and paragraph (e) of this section.

(2) *Declaration.* (i) Vessels participating in the Sea Scallop Access Area Program must comply with the trip declaration requirements specified in § 648.10(b)(4).

(ii) To fish in a Sea Scallop Access Area, each participating vessel owner or operator shall declare a Sea Scallop Access Area trip via VMS less than one hour prior to the vessel leaving port, in accordance with instructions to be provided by the Regional Administrator.

(3) *Number of Sea Scallop Access Area trips.*—(i) *Limited Access Vessel trips.* (A) Except as provided in paragraph (c) of this section, and unless the number of trips is adjusted for the Elephant Trunk Access Area as specified in paragraph (a)(3)(i)(F) of this section, paragraphs (a)(3)(i)(B) through (E) specify the total number of trips that limited access scallop vessels may take into Sea Scallop Access Areas during applicable seasons specified in § 648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed the maximum number of trips allocated for such Sea Scallop Access Area as specified in § 648.59, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, been allocated a compensation trip pursuant to paragraph (c) of this section, or unless the Elephant Trunk Access Area trip allocations are adjusted as specified in § 648.60(a)(3)(i)(F).

(B) *Full-time scallop vessels.* In the 2006 fishing year, a full time scallop vessel may take 3 trips in the Closed Area II Access Area, and 2 trips in the Nantucket Lightship Access Area. In the 2007 fishing year, full time scallop vessels may take 1 trip in the Closed Area I Access Area, 1 trip in the Nantucket Lightship Access Area, and 5 trips in the Elephant Trunk Access Area, unless adjusted as specified in paragraph (a)(3)(i)(F) of this section.

(C) *Part-time scallop vessels.* In the 2006 fishing year, a part-time scallop vessel may take 1 trip in the Closed Area II Access Area and 1 trip in the Nantucket Lightship Access Area; or 2 trips in the Closed Area II Access Area; or 2 trips in the Nantucket Lightship Access Area. In the 2007 fishing year, a part-time scallop vessel may take one trip in the Closed Area I Access Area, one trip in the Nantucket Lightship Access Area, and one trip in the Elephant Trunk Access Area; or one trip in the Closed Area I Access Area and 2 trips in the Elephant Trunk Access Area; or one trip in the Nantucket Lightship Access Area and 2 trips in the Elephant Trunk Access Area; or 3 trips in the Elephant Trunk Access Area unless adjusted as specified in paragraph (a)(3)(i)(F) of this section.

(D) *Occasional scallop vessels.* Occasional scallop vessels may take one trip in the 2006 fishing year and one trip in the 2007 fishing year into any of the Access Areas described in § 648.59 that is open during the specified fishing years.

(E) *Hudson Canyon Access Area trips.* In addition to the number of trips specified in paragraph (a)(3)(i)(B) through (C) of this sections, vessels may fish remaining Hudson Canyon Access Area trips allocated for the 2005 fishing year in the Hudson Canyon Access Area in the 2006 and/or 2007 fishing year as specified in § 648.59(a)(3). The maximum number of trips that a vessel could take in the Hudson Canyon Access Area in the 2005 fishing year was 3 trips, unless a vessel acquired additional trips through an authorized one-for-one exchange as specified in paragraph (a)(3)(ii) of this section. Full-time scallop vessels were allocated 3 trips into the Hudson Canyon Access Area. Part-time vessels were allocated 2 trips that could be distributed among Closed Area I, Closed Area II, and the Hudson Canyon Access Areas, not to exceed one trip in the Closed Area I or

Closed Area II Access Areas. Occasional vessels were allocated 1 trip that could be taken in any Access Area that was open in the 2005 fishing year.

(F) *Procedure for adjusting the number of 2007 fishing year trips in the Elephant Trunk Access Area.* (*1*) The Regional Administrator shall reduce the number of Elephant Trunk Access Area trips using the table in paragraph (a)(3)(i)(F)(*2*) provided that an updated biomass projection is available with sufficient time to announce such an adjustment through publication of a final rule in the **Federal Register**, pursuant to the Administrative Procedure Act, on or about December 1, 2006. If information is not available in time for NMFS to publish a final rule on or about December 1, 2006, no adjustment may be made. The adjustment of the 2007 Elephant Trunk Access Area trip allocations shall be based on all available scientific surveys of scallops within the Elephant Trunk Access Area. Survey data must be available with sufficient time for review and incorporation in the biomass estimate. If NMFS determines that a survey is not scientifically sound and unbiased, those results shall not be used to estimate biomass. If no other surveys are available, the annual NOAA scallop resource survey shall be used alone to estimate exploitable scallop biomass for the Elephant Trunk Access Area.

(*2*) *Table of total allowable catch and trip allocation adjustments based on exploitable biomass estimates and revised target total allowable catch levels.* The following table specifies the adjustments that would be made through the procedure specified in paragraph (a)(3)(i)(F)(*1*) of this section under various biomass estimates and adjusted 2007 target total allowable catch (TAC) estimates:

UPDATED ESTIMATES OF ELEPHANT TRUNK ACCESS AREA BIOMASS IN METRIC TONS (MT) AND MILLIONS OF POUNDS (MLB)

	Below 22,920 mt (50.5 mlb)	22,920 28,650 mt (50.5 63.1 mlb)	28,651 34,380 mt (63.2 75.7 mlb)	Above 34,381 mt (75.8 mlb)
Adjusted 2007 Target Total Allowable Catch	5,234 mt (11.5 mlb).	7,851 mt (17.3 mlb).	10,468 mt (23.08 mlb).	13,085 mt (28.8 mlb).
Adjusted 2007 TAC for Research and General Category Fishery	103 mt (0.228 mlb).	157 mt (0.346 mlb).	209 mt (0.461 mlb).	262 mt (0.578 mlb).
Adjusted 2007 Observer TAC	52 mt (0.114 mlb).	78 mt (0.173 mlb).	105 mt (0.231 mlb).	131 mt (0.289 mlb).
Maximum Number of Limited Access Trips per Vessel	2	3	4	No adjustment.
General Category Trips	570	865	1,154	No adjustment.

(ii) *One-for-one area access trip exchanges.* (A) If the total number of trips allocated to a vessel into all Sea Scallop Access Areas combined is more than one, the owner of a vessel issued a limited access scallop permit may exchange, on a one-for-one basis, unutilized trips into one access area for another vessel's unutilized trips into another Sea Scallop Access Area. One-for-one exchanges may be made only between vessels with the same permit category. For example, a full-time vessel may not exchange trips with a part-time vessel and vice versa. Vessel owners must request the exchange of trips by submitting a completed Trip Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Trip exchange forms are available by request from the Regional Administrator. Each vessel involved in an exchange is required to submit a completed Trip Exchange Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has unutilized trips remaining to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the trip exchange has been made effective. A vessel owner may exchange trips between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange trips between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(B) The owner of a vessel issued a limited access scallop permit may exchange, on a one-for-one basis, unutilized Closed Area I and Nantucket Lightship Access Area trips allocated for the 2006 fishing year as specified in paragraph (a)(3)(i) of this section for Elephant Trunk Access Area trips allocated for the 2007 fishing year as specified in paragraph (a)(3)(i) of this section. If Elephant Trunk Access Area allocations are reduced as specified in paragraph (a)(3)(i)(F), vessels that have exchanged 2006 Closed Area I and/or Nantucket Lightship Access Area trips for 2007 Elephant Trunk Access Area trips will have excess Elephant Trunk Access Area trips acquired through the exchange deducted from their available 2007 Elephant Trunk Access Area trip allocation.

(4) *Area fished.* While on a Sea Scallop Access Area trip, a vessel may not fish for, possess, or land scallops in or from areas outside the Sea Scallop Access Area in which the vessel operator has declared the vessel will fish during that trip, and may not enter or exit the specific declared Sea Scallop Access Area more than once per trip. A vessel on a Sea Scallop Access Area trip may not enter or be in another Sea Scallop Access Area on the same trip except such vessel may transit another Sea Scallop Access Area provided its gear is stowed in accordance with § 648.23(b).

(i) *Reallocation of trips into open areas.* If the yellowtail flounder TAC allocated for a Scallop Access Area specified in § 648.59(b) through (d) has been harvested and such area has been closed, a vessel with trips remaining to be taken in such Access Areas may fish the remaining DAS associated with the unused trip(s) in Open Areas, up to the maximum DAS specified in § 648.53(b)(4)(i) through (iii).

(ii) [Reserved]

(5) *Possession and landing limits*—(i) *Scallop possession limits.* Unless

authorized by the Regional Administrator as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel fishing in the Sea Scallop Access Area may possess shoreward of the VMS demarcation line or land, more than 50 bu (17.6 hl) of in-shell scallops.

Fishing Year	Access Area	Possession Limit		
		Full-time	Part-time	Occasional
2006	Closed Area II Nantucket Lightship	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	7,500 lb (3,402 kg)
2007	Closed Area I Nantucket Lightship Elephant Trunk	18,000 lb (8,165 kg)	16,800 lb (7,620 kg)	7,500 lb (3,402 kg)
2006 and 2007	Hudson Canyon	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	7,500 lb (3,402 kg)

(ii) *NE multispecies possession limits and yellowtail flounder TAC.* Subject to the seasonal restriction established under the Sea Scallop Area Access Program and specified in 648.59(b)(4), (c)(4), and (d)(4), and provided the vessel has been issued a scallop multispecies possession limit permit as specified in § 648.4(a)(1)(ii), after declaring a trip into a Sea Scallop Access Area and fishing within the Access Areas described in § 648.59(b) through (d), and provided the vessel has been issued a Scallop NE Multispecies Possession Limit permit as specified in § 648.4(a)(1)(ii), a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, up to a maximum of 1,000 lb (453.6 kg) of all NE multispecies combined, subject to the minimum commercial fish size restrictions specified in § 648.83(a)(2), and the additional restrictions for Atlantic cod, haddock, and yellowtail flounder specified in paragraphs (a)(5)(ii)(A) through (C) of this section.

(A) *Atlantic Cod.* Such vessels may bring onboard and possess only up to 100 lb (45.4 kg) of Atlantic cod per trip, provided such fish is intended for personal use only and cannot be not sold, traded, or bartered.

(B) *Haddock.* Such vessels may possess and land haddock up to the overall possession limit of all NE multispecies combined, as specified in paragraph (a)(5)(ii) of this section except that such vessels are prohibited from possessing or landing haddock from January 1 through June 30.

(C) *Yellowtail flounder—(1) Yellowtail flounder TACs.* Such vessels may catch yellowtail flounder up to the TACs specified in § 648.85(c) for the Closed Area I, Closed Area II, and Nantucket Lightship Access Scallop Areas. The Regional Administrator shall publish notification in the **Federal Register** in accordance with the Administrative Procedure Act, to notify scallop vessel owners that the scallop fishery portion of the TAC for a yellowtail flounder stock has been or is projected to be harvested by scallop vessels in any Access Area. Upon notification in the **Federal Register** that a TAC has been or is projected to be harvested, scallop vessels are prohibited from declaring and initiating a trip within the Access Area(s), where the TAC applies, for the remainder of the fishing year. The yellowtail flounder TACs allocated to scallop vessels may be increased by the Regional Administrator after December 1 of each year pursuant to § 648.85(c)(2).

(2) SNE/MA yellowtail flounder possession limit. Such vessels fishing within the Nantucket Lightship Access Area described in § 648.59(d), may fish for, possess, and land yellowtail flounder up to the overall possession limit of all NE multispecies combined as specified in paragraph (a)(5)(ii) of this section, except that such vessels may not fish for, possess, and land more than 250 lb (113.6 kg) per trip of yellowtail flounder between June 15 and June 30, provided the yellowtail flounder TAC as specified in § 648.85(c)(i) has not been harvested.

(3) GB yellowtail flounder possession limit. After declaring a trip into and fishing within the Closed Area I or Closed Area II Access Area described in § 648.59(b) and (c), the vessel owner or operator of a limited access scallop vessel may fish for, possess, and land up to 1,000 lb (453.6 kg) per trip of yellowtail flounder subject to the amount of other NE multispecies onboard, provided the yellowtail flounder TAC specified in § 648.85(c) has not been harvested. If the yellowtail flounder TAC established for the Eastern U.S./Canada Area pursuant to § 648.85(a)(2) has been or is projected to be harvested, as described in § 648.85(a)(3)(iv)(C)*(3)*, scallop vessels are prohibited from harvesting, possessing, or landing yellowtail flounder in or from the Closed Area I and Closed Area II Access Areas.

(iii) [Reserved]

(6) *Gear restrictions.* (i) The minimum ring size for dredge gear used by a vessel fishing on a Sea Scallop Access Area trip is 4 inches (10.2 cm) in diameter. Dredge or trawl gear used by a vessel fishing on a Sea Scallop Access Area trip must be in accordance with the restrictions specified in § 648.51(a) and (b).

(ii) Vessels fishing in the Closed Area I, Closed Area II, and Nantucket Lightship Closed Area Sea Scallop Access Areas described in § 648.59(b) through (d) are prohibited from fishing with trawl gear as specified in § 648.51(f)(1).

(7) *Transiting.* While outside a Sea Scallop Access Area on a Sea Scallop Access Area trip, the vessel must have all fishing gear stowed in accordance with § 648.23(b), unless there is a compelling safety reason to be transiting the area without gear stowed.

(8) *Off-loading restrictions.* The vessel may not off-load its catch from a Sea Scallop Access Area trip at more than one location per trip

(9) *Reporting.* The owner or operator must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared in the Sea Scallop Area Access Program, including trips accompanied by a NMFS-approved observer. The reports must be submitted in 24–hour intervals, for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day and must include the following information:

(i) Total pounds/kilograms of scallop meats kept, total number of tows and the Fishing Vessel Trip Report log page number.

(ii) Total pounds/kilograms of yellowtail flounder kept and total pounds/kilograms of yellowtail flounder discarded.

(b) [Reserved]

(c) *Compensation for Sea Scallop Access Area trips terminated early.* If a Sea Scallop Access Area trip is terminated before catching the allowed possession limit, the vessel may be authorized to fish an additional trip in the same Sea Scallop Access Area based on the conditions and requirements of paragraphs (c)(1) through (5) of this section.

(1) The vessel owner/operator has determined that the Sea Scallop Access Area trip should be terminated early for reasons deemed appropriate by the operator of the vessel;

(2) The amount of scallops landed by the vessel for the trip must be less than the maximum possession limit specified in paragraph (a)(5) of this section.

(3) The vessel owner/operator must report the termination of the trip prior to leaving the Sea Scallop Access Area by VMS email messaging, with the following information: Vessel name, vessel owner, vessel operator, time of trip termination, reason for terminating the trip (for NMFS recordkeeping purposes), expected date and time of return to port, and amount of scallops on board in pounds.

(4) The vessel owners/operator must request that the Regional Administrator authorize an additional trip as compensation for the terminated trip by submitting a written request to the Regional Administrator within 30 days of the vessel's return to port from the terminated trip.

(5) The Regional Administrator shall authorize the vessel to take an additional trip and shall specify the amount of scallops that the vessel may land on such trip pursuant to the calculation specified in paragraph (c)(5)(i) of this section. Such authorization shall be made within 10 days of receipt of the formal written request for compensation.

(i) The amount of scallops that can be landed on an authorized additional Sea Scallop Access Area trip shall equal the possession limit specified in paragraph (a)(5) of this section minus the amount of scallops landed on the terminated trip. For example, if the possession limit for a full-time vessel is 18,000 lb (8,165 kg) per trip, and the vessel lands 6,500 lb (2,948.4 kg) of scallops and requests compensation for the terminated trip, the possession limit for the additional trip is 11,500 lb (5,216.3 kg) or 18,000 lb (8,165 kg) minus 6,500 lb (2,948.4 kg)).

(ii) If a vessel is authorized more than one additional trip for compensation into any Sea Scallop Access Area as the result of more than one terminated trip in the same Access Area, the possession limits for the authorized trips may be combined, provided the total possession limit on a combined compensation trip does not exceed the possession limit for a trip as specified in paragraph (a)(5) of this section. For example, a vessel that has two broken trips with corresponding compensation trip authorizations of 10,000 lb (4,536 kg) and 8,000 lb (3,629 kg) may combine the authorizations to allow one compensation trip with a possession limit of 18,000 lb (8,165 kg).

(iii) A vessel operator must comply with all notification requirements prior to taking a compensation trip, and for each compensation trip, must enter a trip identification number by entering the number in the VMS for each compensation trip. The trip identification number will be included in the Regional Administrator's authorization for each compensation trip. If a vessel operator is combining compensation trips, the trip identification numbers from each authorization must be entered into VMS.

(iv) *Unutilized 2005 Hudson Canyon Compensation Trips.* A vessel that terminated a 2005 Hudson Canyon Access Area trip shall be issued authorization to take an additional trip as compensation for the trip terminated early pursuant to paragraphs (c)(5) of this section. Such additional trips may be taken at any time during the 2006 or 2007 fishing years, as specified in § 648.59(a)(3).

(v) *Compensation trip carryover.* If an Access Area trip conducted during the last 60 days of the open period or season for the Access Area is terminated before catching the allowed possession limit, and the requirements of paragraph (c) of this section are met, the vessel operator shall be authorized to fish an additional trip as compensation for the terminated trip in the following fishing year. The vessel owner/operator must take such compensation trips, complying with the trip notification procedures specified in paragraph (a)(2)(iii) of this section, within the first 60 days of that fishing year the Access Area first opens in the subsequent fishing year. For example, a vessel that terminates a Nantucket Lightship Access Area trip on December 10, 2006, must declare that it is beginning its compensation trip during the first 60 days that the Access Area is open (June 15, 2007, through August 15, 2007). If an Access Area is not open in the subsequent fishing year, then the compensation trip authorization would expire at the end of the Access Area Season in which the trip was broken. For example, a vessel that terminates a Closed Area II trip on December 10, 2006, may not carry its compensation trip into the 2007 fishing year because Closed Area II is not open during the 2007 fishing year, and must complete any compensation trip by January 31, 2007.

(d) *Possession limit to defray costs of observers*—(1) *Observer set-aside limits by area*—(i) *Hudson Canyon Access Area.* For 2006 and 2007 combined, the observer set-aside for the Hudson Canyon Access Area is 149,562 lb (67.8 mt).

(ii) *Closed Area I Access Area.* For the 2007 fishing year, the observer set-aside for the Closed Area I Access Area is 43,207 lb (20 mt).

(iii) *Closed Area II Access Area.* For the 2006 fishing year, the observer set-aside for the Closed Area II Access Area is 173,085 lb (79 mt).

(iv) *Nantucket Lightship Access Area.* For the 2006 and 2007 fishing years, the observer set-asides for the Nantucket Lightship Access Area are 115,390 lb (52 mt) and 78,727 lb (36 mt), respectively.

(v) *Elephant Trunk Access Area.* From January 1, 2007, through February 29, 2008, the observer set-aside for the Elephant Trunk Access Area is 272,000 lb (123 mt), unless adjusted as specified in paragraph (a)(3)(i)(F) of this section.

(2) *Increase in the possession limit to defray the costs of observers.* The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section to defray costs of at-sea observers deployed on area access trips subject to the limits specified in paragraph (d)(1) of this section. Owners of scallop vessels shall be notified of the increase in the possession limit through a permit holder letter issued by the Regional Administrator. If the observer set-aside is fully utilized prior to the end of the fishing year, the Regional Administrator shall notify owners of scallop vessels that, effective on a specified date, the possession limit will be decreased to the level specified in paragraph (a)(5) of this section. Unless otherwise notified by the Regional Administrator, vessel owners shall be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit.

(e) *Possession limits and/or number of trips to defray the costs of sea scallop research*—(1) *Research set-aside limits and number of trips by area*—(i) *Hudson Canyon Access Area.* For the 2006 and 2007 fishing years combined, the research set-aside for the Hudson Canyon Access Area is 299,123 (135.7 mt).

(ii) *Closed Area I Access Area.* For the 2007 fishing year, the research set-aside for the Closed Area I Access Area is 84,414 lb (38 mt).

(iii) *Closed Area II Access Area.* For the 2006 fishing year, the research set-aside for the Closed Area II Access Area is 346,170 lb (157 mt).

(iv) *Nantucket Lightship Access Area.* For the 2006 and 2007 fishing years, the research set-asides for the Nantucket Lightship Access Area are 230,780 lb (105 mt) and 157,454 lb (71 mt), respectively.

(v) *Elephant Trunk Access Area.* From January 1, 2007, through February 29, 2008, the research set-aside for the Elephant Trunk Access Area is 544,000 lb (247 mt), unless adjusted as specified in (a)(3)(i)(E) of this section.

(2) *Increase of possession limit to defray the costs of sea scallop research.* The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section or allow additional trips into a Sea Scallop Access Area to defray costs for approved sea scallop research up to the amount specified in paragraph (e)(1) of this section.

(3) *Yellowtail flounder research TAC set-aside.* Vessels conducting research approved under the process described in § 648.56, and in the Access Areas specified in § 648.59(b) through (d) may harvest yellowtail flounder up to an amount that equals 0.2 percent of the yellowtail flounder TACs established annually, according to the specification procedure described in § 648.85(a)(2), and subject to the possession limits specified in paragraph (a)(5)(ii)(C) of this section. If vessels participating in approved scallop research harvest an amount of yellowtail flounder equal to 0.2 percent of the yellowtail flounder TACs established annually, according to the specification procedure described in § 648.85(a)(2), research may no longer be authorized in the applicable Access Area and participating vessels may harvest scallops in open areas, under open area DAS. The amount of open area DAS authorized if the 0.2 percent of the yellowtail flounder TAC is harvested shall be determined by multiplying the DAS ratio described in § 648.53(b)(4)(i), (ii), or (iii), by the amount of scallop pounds authorized in the applicable access area, divided by 1,500 lb (680 kg) per day.

(f) *VMS polling.* For the duration of the Sea Scallop Area Access Program, as described in this section, all sea scallop vessels equipped with a VMS unit shall be polled at a minimum of twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program. Vessel owners shall be responsible for paying the costs of polling twice per hour.

(g) *General category scallop vessels.* (1) A vessel issued a general category scallop permit, except a vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the general category Access Area fishery, may only fish in the Closed Area I, Closed Area II, and Nantucket Lightship Sea Scallop Access Areas specified in § 648.59(b) through (d), subject to the seasonal restrictions specified in § 648.59(b)(4), (c)(4), and (d)(4), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (a)(9), (d), (e), (f), and (g) of this section, and § 648.85(c)(3)(ii). A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the Sea Scallop Area Access program as specified in paragraph (a)(2) is not subject to the restrictions and requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and this paragraph (g), and is prohibited from retaining scallops on such trips.

(2) *Gear restrictions.* General category vessels fishing in the Access Areas specified in § 648.59(b) through (d) must fish with dredge gear only. The combined dredge width in use by, or in possession on board, general category scallop vessels fishing in the Access Areas described in § 648.59(b) through (d) may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(3) *Scallop TAC.* General category vessels fishing in the Access Areas specified in § 648.59(b) through (d) are authorized to land scallops, subject to the possession limit specified in § 648.52(a), up to the amount allocated to the scallop TACs for each Access Area specified below. If the scallop TAC for a specified Access Area has been, or is projected to be harvested, the Regional Administrator shall publish notification in the **Federal Register**, in accordance with the Administrative Procedure Act, to notify general category vessels that they may no longer fish within the specified Access Area.

(i) *Closed Area I Access Area.* 86,414 (38 mt) in 2007.

(ii) *Closed Area II Access Area.* 346,170 (157 mt) in 2006.

(iii) *Nantucket Lightship Access Area.* 230,780 lb (105 mt) in 2006, and 157,454 lb (71 mt).

(iv) *Elephant Trunk Access Area.* 544,000 lb (247 mt) from January 1, 2007 through February 29, 2008, unless adjusted as specified in paragraph (a)(3)(i)(E) of this section.

(v) *Possession Limits*—(A) *Scallops.* A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the general category Access Area fishery is prohibited from possessing scallops. General category scallop vessels fishing in the Access Areas specified in § 648.59(b) through (e) may possess scallops up to the possession limit specified in § 648.52(b), subject to a limit on the total number of trips that can be taken by all such vessels into the Access Areas, as specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii). If the number of trips allowed have been or are projected to be taken, the Regional Administrator shall publish notification in the **Federal Register**, in accordance with the Administrative Procedure Act, to notify general category vessels that they may no longer fish within the specified Access Area.

(B) *Other species.* Except for vessels issued a general category scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, general category vessels fishing in the Access Areas specified in § 648.59(b) through (d) are prohibited from possessing any species of fish other than scallops.

(4) *Number of trips.* General category scallop vessels may not fish for, possess, or land scallops in or from the Access Areas specified in § 648.59(b) through (e) after the effective date of the notification published in the **Federal Register**, stating that the total number of trips specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) have been, or are projected to be, taken by general category scallop vessels.

* * * * *

13. In § 648.85, paragraph (c)(1) is revised to read as follows:

§ 648.85 Special management programs.

* * * * *

(c) * * *

(1) *Yellowtail flounder bycatch TAC allocation.* An amount of yellowtail flounder equal to 10 percent of the total yellowtail flounder TAC for each of the stock area specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this section may be harvested by scallop vessels subject to the restrictions of this paragraph. Limited access scallop vessels enrolled in the Sea Scallop Area Access Program and fishing within the Area Access

areas defined at § 648.59(b) through (d) may harvest yellowtail flounder up to 9.8 percent of the applicable yellowtail flounder TAC. Scallop vessels participating in approved research under the process described in § 648.56, and fishing in the Access Areas specified in § 648.59(b) through (d), may harvest 0.2 percent of the applicable yellowtail flounder TAC. The amount of yellowtail flounder that may be harvested in each fishing year under this section shall be specified in a small entity compliance guide.

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[FR Doc. 06–3039 Filed 3–29–06; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060320078–6078–01; I.D. 031506B]

RIN 0648–AU40

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Notice of a Control Date for the Purpose of Limiting Entry to the Charter and Party Fishery; Northeast (NE) Multispecies Fishery Management Plan (FMP)

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

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the open access charter and party boat (charter/party) fishery in the NE multispecies fishery if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to limit the number of participants in this sector of the NE multispecies fishery. This sector of the fishery includes vessels with open access charter/party permits, as well as limited access NE multispecies permits, while not on a NE multispecies day-at-sea (DAS). This announcement is intended, in part, to promote awareness of potential eligibility criteria for future access so as to discourage speculative entry into the fishery while the New England Fishery Management Council (Council) considers whether and how access to the charter/party fishery should be controlled.

DATES: The date of publication of this document, March 30, 2006, shall be known as the "control date" and may be used for establishing eligibility criteria for determining levels of future access to the charter/party fishery subject to Federal authority. Written comments must be received on or before 5 p.m., local time, May 1, 2006.

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

- Written comments (paper, disk, or CD–ROM) should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments on Charter/Party Multispecies Control Date."
- Comments also may be sent via facsimile (fax) to (978) 465–3116.
- E-mail: *MUL_Charter_Party_Control_Date@Noaa.gov*. Include in the subject line the following "Comments on Charter/Party Multispecies Control Date." Federal e-Rulemaking Portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Moira C. Kelly, Fishery Management Specialist, 978–281–9218; fax 978–281–9135; e-mail: *moira.kelly@noaa.gov*.

SUPPLEMENTARY INFORMATION: The recreational fishery historically has landed a significant percentage of the cod caught in the GOM. As a result of the overfished condition of both Georges Bank (GB) and Gulf of Maine (GOM) stocks of Atlantic cod (*Gadus morhua*), the Council has implemented measures to regulate recreational cod fishing since 1994. These measures include minimum fish sizes, limits on the number of hooks per line, and restrictions on the number of cod permitted to be landed (bag limits). More recently, Framework Adjustment 42 to the NE Multispecies Fishery Management Plan (FMP), which, if approved, is expected to be effective during the summer of 2006, would prohibit the possession of Atlantic cod in the recreational fishery from November 1 through March 31, and increase the minimum size for recreationally caught cod from 22 inches (55.88 cm) to 24 inches (60.96 cm). These measures would apply to both charter/party and private recreational vessels and would reduce fishing mortality on GOM cod by approximately 32 percent in order to help achieve the necessary fishing mortality reduction levels required by the FMP. A Secretarial proposed emergency rule was published on March 3, 2006 (71 FR 11060), that would implement these measures at the start of the fishing year, May 1, 2006. In addition to cod, the following NE multispecies are also commonly caught by the charter/party industry: Pollock (*Pollachius virens*); haddock (*Melanogrammus aeglefinus*); and winter flounder (*Pleuronectes americanus*); and, to a lesser extent, white hake (*Urophycis tenuis*), and non-regulated species such as cusk (*Brosme brosme*) and wolffish (*Anarhichas lupus*).

In light of these new proposed restrictions and their impacts, members of the charter/party industry and the Council's Recreational Advisory Panel recommended that the Council restrict new entrants to the charter/party fishery to reduce the need for further restrictions on the recreational catch of cod and other groundfish.

Based on information developed by the Marine Recreational Fishery Statistical Survey (MRFSS) and the Council's Groundfish Plan Development Team, while the number of charter/party open access permits in 2005 (approximately 673) was 5 percent below that in 2002, the highest number of charter/party permits issued in 1 year, the number of charter/party trips landing GOM cod remained relatively constant from 1990 through 2001. However, despite the fact that the number of trips has remained constant, the recreational catch of GOM cod has declined since 1982. The percent decrease in the amount of GOM cod caught by the recreational fishery is similar to the percent change in GOM cod caught by the commercial fishery throughout much of the same time period.

The control date is intended to discourage speculative entry into the charter/party NE multispecies fishery while controlled access restrictions are considered by the Council. The control date will help to distinguish established participants from speculative entrants to the fishery. Although entering the fishery after the control date will not ensure fishing vessels of future access to the NE multispecies resource on the grounds of previous participation, additional and/or other qualifying criteria may be applied. The Council may choose different and variably weighted measures to qualify participants based on the type and length of participation in the charter/party NE multispecies fishery.

This notification establishes March 30, 2006 as the control date for potential use in determining historical or traditional participation in the NE multispecies charter/party fishery. Consideration of a control date does not commit the Council or NMFS to develop

any particular management system or criteria for participation in this fishery. The Council may choose a different control date, or may choose a management program that does not make use of such a date.

Fishers are not guaranteed future participation in the fishery, regardless of their entry dates or level of participation in this fishery before or after the control date. The Council may choose to give variably weighted consideration to fishers active in the fishery before and after the control date. The Council may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council will be taken pursuant to the requirements for the development of FMP amendments established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the NE multispecies charter/party fishery in Federal waters.

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

Dated: March 24, 2006.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. E6–4665 Filed 3–29–06; 8:45 am]

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Notices

Federal Register
Vol. 71, No. 61
Thursday, March 30, 2006

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 24, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Disaster Food Stamp Program.

OMB Control Number: 0584–0336.

Summary of Collection: Section 5(h) of the Food Stamp Act of 1977 and the Disaster Relief Act of 1974 authorizes the Secretary of Agriculture to establish temporary emergency standards of eligibility for victims of a disaster if the commercial channels of food distribution have been disrupted, and if such channels of food distribution have been restored. Section 11(e)(14) of the Food Stamp Act of 1977, authorizes the Secretary to require State agencies to develop a plan of operation that includes, but is not limited to, procedures for informing the public about the Disaster Food Stamp Program (DFSP) and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruct caseworkers in procedures for implementing and operating the DFSP.

Need and Use of the Information: This information collection concerns information obtain from State welfare agencies seeking to operate DFSP's. A State agency's request to operate a DFSP must contain the following information: Procedures for prompt assessment of the geographical limits of the areas in need of disaster food stamp assistance; household responsibilities; a description of post-disaster reviews; procedures to inform both the general public and households already certified under the disaster program if the operation of the DFSP is extended; procedures to issue food stamps during a disaster; and procedures to coordinate with other State agencies to obtain additional workers and other personnel if needed to supplement the State agency's regular staff.

Description of Respondents: State, Local, or Tribal Government; Individuals or households.

Number of Respondents: 8.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 80.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–4615 Filed 3–29–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 27, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Food and Nutrition Service

Title: Status of Claims Against Households.

OMB Control Number: 0584–0069.

Summary of Collection: Section 11, 13, and 16 of the Food Stamp Act of 1977, as amended (the Act) and appropriate Food Stamp Program Regulation are the bases for the information collected on FNS–209. Regulations at 7 CFR 273.18(m)(5) requires State agencies to submit at the end of every quarter the completed FNS–209, Status of Claims Against Households. The information required for the FNS–209 report is obtained from a State accountable system responsible for establishing claims, sending demand letters, collecting claims, and managing other claim activity.

Need and Use of the Information: The Food and Nutrition Service (FNS) will collect information on the outstanding aggregate claim balance; claims established; collections; any balance and collection adjustments; and the amount to be retained for collecting non-agency error claims. The information will be used by State agencies to ascertain aggregate claim balance and collections for determining overall performance, the collection amounts to return to FNS, and claim retention amounts. FNS will receive collections and report collection activity to Treasury.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: Quarterly.

Total Burden Hours: 742.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–4637 Filed 3–29–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday April 12, 2006 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana for a business meeting. The meeting is open to the public.

DATES: April 12, 2006.

ADDRESSES: Forest Supervisor's Office, 1101 US Hwy 2 West, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: Barbara Edgmon, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail *bedgmon@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda topics include report on the National Forest Counties & Rural Schools Coalition Meeting, receiving proposals for 2007, and receiving public comment. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: March 22, 2006.

Cami Winslow,

Acting Forest Supervisor.

[FR Doc. 06–3071 Filed 3–29–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

[File Code: 1350–2]

Notice of Resource Advisory Committee, Sundance, WY, USDA Forest Service

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday, April 10th, 2006 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on April 10th will begin at 6:30 p.m. at the USFS Bearlodge Ranger District office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include a brief message from Forest Supervisor, Craig Bobzien and discussion and determination on project proposals not yet acted upon. A public forum will begin at 8 p.m. (MT).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer at (307) 283–1361.

Dated: March 24, 2006.

Steven J. Kozel,

District Ranger, Bearlodge Ranger District.

[FR Doc: 06–3079 Filed 3–29–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Secure Rural Schools Land Sales Initiative

AGENCY: Forest Service, USDA.

ACTION: Notice; Extension of comment period.

SUMMARY: The Forest Service is extending the comment period 30 days beyond the date of March 30, 2006 identified in the **Federal Register,** Volume 71, No. 39, Tuesday, February 28, 2006, pg. 10004–10006.

DATES: Comments must be received by May 1, 2006 to be assured of consideration. Comments received after that date will be considered only to the extent practicable.

ADDRESSES: You may submit your comments by e-mail to *SRS_Land_Sales@fs.fed.us*, by facsimile to (202) 205–1604, or by mail to USDA Forest Service, SRS Comments, Lands 4S, 1400 Independence Ave., SW., Mailstop 1124, Washington, DC 20250–0003. *Electronic submission is preferred.* If you submit your comments by e-mail or fax, you do not need to send a paper copy by mail.

Your comments may address the entire list of parcels indentified in the President's proposal, or an individual parcel or parcels on that list. If you are commenting about a specific parcel on the list, it would be helpful to provide the parcel's number from the list and all information specifically related to the sale of that parcel.

FOR FURTHER INFORMATION CONTACT: Cynthia R. Swanson, Assistant Director of Lands, Washington Office, 202–205–0099. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Forest Service provides all interested persons an opportunity to view and/or print the contents of this document, the potentially eligible lands listing, and associated maps via the Internet. Information on this proposal

and the **Federal Register** Notice can be found at *http://www.fs.fed.us* via the *Secure Rural Schools and Community Self-Determination Act* link to the "President's FY 2007 Budget Proposal for the Forest Service—Secure Rural Schools and Community Self-Determination Act Extension" page.

List of Potentially Eligible Lands

The following table has been corrected since the original notice and provides a current summary of the number of acres (rounded) identified for each State.

State	Region(s)	Acres of potentially eligible lands
Alabama	8	2,823
Alaska	10	97
Arizona	3	1,022
Arkansas	8	3,599
California	5, 6	75,959
Colorado	2, 4	23,248
Florida	8	973
Georgia	8	4,523
Idaho	1, 4, 6	26,023
Illinois	9	206
Indiana	9	878
Kentucky	8	4,540
Louisiana	8	3,895
Michigan	9	5,677
Minnesota	9	2,644
Mississippi	8	7,479
Missouri	9	21,712
Montana	1	12,039
Nebraska	2	883
Nevada	4	1,991
New Mexico	3	7,390
North Carolina	8	9,833
Ohio	9	419
Oklahoma	8	3,566
Oregon	6	11,270
South Carolina	8	4,656
South Dakota	1, 2	15,107
Tennessee	8	2,996
Texas	3, 8	4,565
Utah	4	5,894
Virginia	8	5,721
Washington	6	7,425
West Virginia	9	4,827
Wisconsin	9	80
Wyoming	2, 4	17,532
Total All States		301,491

Corrections have been made to the potentially eligible lands listing and supporting maps. Interested parties and commenters are encouraged to revisit the Web pages noted above for the most current information related to this proposal.

Dated: March 27, 2006.

Dale N. Bosworth,

Chief.

[FR Doc. 06–3087 Filed 3–29–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601, A–351–603, C–351–604]

Revocation of Antidumping and Countervailing Duty Orders: Brass Sheet and Strip from Brazil and Canada

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

SUMMARY: On April 1, 2005, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty ("AD") orders on brass sheet and strip from Brazil and Canada and the countervailing duty ("CVD") order on brass sheet and strip from Brazil. *See Initiation of Five-year ("Sunset") Reviews*, 70 FR 16800 (April 1, 2005). Pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the International Trade Commission ("the ITC") determined that revocation of these orders would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan*, 71 FR 14719 (March 23, 2006) ("*ITC Final*"). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department is revoking the AD orders on brass sheet and strip from Brazil and Canada and the CVD order on brass sheet and strip from Brazil.

EFFECTIVE DATE: May 1, 2005.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander (AD orders) or Darla Brown (CVD order), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0182, (202) 482–2849, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Orders

The merchandise subject to these AD and CVD orders is coiled, wound–on-reels (traverse wound), and cut–to-length brass sheet and strip (not leaded or tinned) from Brazil and Canada. The subject merchandise has, regardless of width, a solid rectangular cross section over 0.0006 inches (0.15 millimeters) through 0.1888 inches (4.8 millimeters) in finished thickness or gauge. The chemical composition of the covered products is defined in the Copper Development Association ("C.D.A.") 200 Series or the Unified Numbering System ("U.N.S.") C2000; these orders do not cover products with chemical compositions that are defined by anything other than C.D.A. or U.N.S. series. The merchandise is currently classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 7409.21.00 and 7409.29.00. The HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Background

On January 12, 1987, the Department issued the AD orders on brass sheet and strip from Brazil and Canada. *See Antidumping Duty Order: Brass Sheet and Strip from Brazil*, 52 FR 1214 (January 12, 1987) and *Antidumping Duty Order; Brass Sheet and Strip From Canada*, 52 FR 1217 (January 12, 1987). On January 8, 1987, the Department issued the CVD order on brass sheet and strip from Brazil. *See Countervailing Duty Order; Brass Sheet and Strip from Brazil*, 52 FR 698 (January 8, 1987).

On April 1, 2005, the Department initiated, and the ITC instituted, sunset reviews of the AD orders on brass sheet and strip from Brazil and Canada and the CVD order on brass sheet and strip from Brazil. *See Initiation of Five-year ("Sunset") Reviews*, 70 FR 16800 (April 1, 2005).

As a result of its sunset reviews of these orders, the Department found that revocation of the AD orders would be likely to lead to the continuation or recurrence of dumping and that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy. *See Brass Sheet and Strip from Brazil, Canada, France, Italy and Japan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45650 (August 8, 2005); and *Final Results of Expedited Sunset Review: Brass Sheet and Strip from Brazil*, 70 FR 67139 (November 4, 2005). The Department notified the ITC of the magnitude of the margin likely to prevail were the AD orders to be revoked and the level of subsidy likely to prevail were the CVD order to be revoked.

On March 23, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of these orders would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See ITC Final* and USITC Publication 3842 (March 2006), entitled *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan* (Inv. Nos. 701–TA–269 and 731–

TA–311–314, 317 and 379 (Second Review)).

Determination

As a result of the determination by the ITC that revocation of these orders is not likely to lead to the continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d) of the Act, is revoking the AD orders on brass sheet and strip from Brazil and Canada and the CVD order on brass sheet and strip from Brazil. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is May 1, 2005 (*i.e.*, the fifth anniversary of the date of publication in the **Federal Register** of the notices of continuation of these AD and CVD orders). The Department will notify U.S. Customs and Border Protection to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after May 1, 2005, the effective date of revocation of the AD orders and the CVD order. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year sunset reviews and notice are in accordance with section 751(d)(2) and published pursuant to section 777(i)(1) of the Act.

Dated: March 23, 2006.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–4660 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–899]

Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China

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

SUMMARY: On November 7, 2005, the Department of Commerce ("the Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of artist canvas from the People's Republic of China ("PRC"). The period of investigation ("POI") is July 1, 2004, through December 31, 2004. The investigation covers two manufacturers/exporters which are mandatory respondents and two separate–rate status applicants. On February 17, 2006, we issued a preliminary scope ruling with regard to cut and stretched artist canvas made in the PRC from bulk roll canvas woven and primed in India. We invited interested parties to comment on our preliminary determination of sales at LTFV and our preliminary scope ruling. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

EFFECTIVE DATE: March 30, 2006.

FOR FURTHER INFORMATION CONTACT: Michael Holton or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–1324 and (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION

We determine that artist canvas from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

Case History

The Department published its preliminary determination of sales at LTFV on November 7, 2005. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 70 FR 67412 (November 7, 2005) ("*Preliminary Determination*"). The Department conducted verification of both mandatory respondents in both the PRC and the United States (where applicable), and one separate–rate status applicant. See the "Verification" section below for additional information. On February 9, 2006, the Department solicited comments from all interested parties regarding changes to its calculation of financial ratios and the expected wage rate (*i.e.*, $0.97) for the PRC which are based on 2003 income data. On February 17, 2006, the Department issued a memorandum finding that primed bulk rolls of artist canvas produced, coated, and shipped from India to the PRC and stretched and framed in the PRC are not substantially transformed in the PRC and, therefore, not covered by the scope of this investigation. *See Preliminary Decision Regarding the Country of Origin of Artist Canvas Exported by Hangzhou Foreign Economic Relations & Trade Service Co., Ltd., - Certain Artist Canvas from the People's Republic of China from Jon Freed to Wendy Frankel*, dated February 17, 2006 ("*Scope Memorandum*").

We invited parties to comment on the *Preliminary Determination* and *Scope Memorandum*. We received comments from the Petitioner, the mandatory respondents, the separate–rate status applicant, and other interested parties to this investigation.

On February 27, 2006, parties submitted case briefs. On March 1, 2006, parties submitted rebuttal briefs. On December 7, 2005, Wuxi Phoenix Artist Materials Co., Ltd. ("Phoenix Materials") requested the Department hold a public hearing in this proceeding. On March 1, 2006, Phoenix Materials withdrew its request for a public hearing.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum, dated March 22, 2006, which is hereby adopted by this notice ("*Issues and Decision Memorandum*"). A list of the issues which parties raised and to which we respond in the *Issues and Decision Memorandum* is attached to this notice as an Appendix. The Decision Memorandum is a public document and is on file in the Central Records Unit ("*CRU*"), Main Commerce Building, Room B–099, and is accessible on the Web at *http://ia.ita.doc.gov*. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculation for Phoenix Materials. *See Issues and Decision Memorandum* at Comments 3, 4, and 6.

Phoenix Materials

- In the *Preliminary Determination*, the Department used facts available for the distance from Phoenix Material's factory to two of its coal suppliers. As facts available, the Department used the distance to the nearest port as the distance from the factory to the coal suppliers. However, based on information found at verification, for the final determination, we have used the actual distances between the producer and its two coal suppliers.

See Issues and Decision Memorandum at Comment 6 for a thorough discussion of this issue and "Analysis Memorandum for the Final Determination in the Investigation of Artist Canvas from the People's Republic of China: Wuxi Phoenix Artist Materials Co., Ltd." from Michael Holton, Case Analyst through Robert Bolling, Program Manager, to the File, dated March 22, 2006 ("*Phoenix Materials Final Analysis Memorandum*").

- For the final determination, the Department has updated the surrogate value for labor and made changes to the surrogate financial ratio calculation. *See Phoenix Materials Final Analysis Memorandum.*
- One of Phoenix Material's affiliated suppliers (*i.e.*,Shuyang Phoenix Artist Materials Co. Ltd. ("Shuyang Phoenix")) presented minor corrections to its reported labor consumption at verification. For the final determination, the Department has incorporated this change into the margin calculation program. *See Phoenix Materials Final Analysis Memorandum.*
- Due to the change in labor consumption, a resulting change in the allocation of electricity was also required for Shuyang Phoenix. *See Phoenix Materials Final Analysis Memorandum.*
- At verification, Phoenix Materials presented a minor correction to its reported coal consumption. For the final determination, the Department has incorporated this change into its margin calculation program. *See Phoenix Materials Final Analysis Memorandum.*
- At verification, the Department found that Phoenix Materials had not reported all of its indirect labor hours (*i.e.*, supervisors, office cleaners, security guards, and doormen). For the final determination, the Department has incorporated all of Phoenix Material's indirect labor hours into its margin calculation program. *See Phoenix Materials Final Analysis Memorandum.*
- At verification, the Department found that Phoenix Materials did not report diesel as a factor of production. For the final determination, the Department has applied the diesel consumption factor in the margin calculation program. *See Phoenix Materials Final Analysis Memorandum.*

Scope of Investigation

The products covered by this investigation are artist canvases regardless of dimension and/or size, whether assembled or unassembled, that have been primed/coated, whether or not made from cotton, whether or not archival, whether bleached or unbleached, and whether or not containing an ink receptive top coat. Priming/coating includes the application of a solution, designed to promote the adherence of artist materials, such as paint or ink, to the fabric. Artist canvases (*i.e.*, pre–stretched canvases, canvas panels, canvas pads, canvas rolls (including bulk rolls that have been primed), printable canvases, floor cloths, and placemats) are tightly woven prepared painting and/or printing surfaces. Artist canvas and stretcher strips (whether or not made of wood and whether or not assembled) included within a kit or set are covered by this proceeding.

Artist canvases subject to this investigation are currently classifiable under subheadings 5901.90.20.00 and 5901.90.40.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Specifically excluded from the scope of this investigation are tracing cloths, "paint–by-number" or "paint–it-yourself" artist canvases with a copyrighted preprinted outline, pattern, or design, whether or not included in a painting set or kit.[1] Also excluded are stretcher strips, whether or not made from wood, so long as they are not incorporated into artist canvases or sold as part of an artist canvas kit or set. While the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Additionally, we have determined that canvas woven and primed in India but cut and stretched in the PRC and exported from the PRC is not subject to the investigation covering artist canvas from the PRC.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the mandatory respondents and one separate–rate status applicant for use in our final determination. *See* the Department's verification reports on the record of this investigation in the CRU with respect to Ningbo Conda Import & Export Co., Ltd. ("Ningbo Conda"), Jinhua Universal Canvas Manufacturing Co., Ltd. ("Jinhua Universal"), Wuxi Silver Eagle Cultural Goods Co. Ltd., Wuxi Pegasus Cultural Goods Co. Ltd., ColArt Americas Inc. ("ColArt US"), Hangzhou Foreign Relation & Trade Service Co. Ltd. ("HFERTS"), and Phoenix Materials. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. *See Preliminary Determination*, 70 FR at 67415–16. For the final determination, we made no changes to our findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving non–market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Determination*, we found that Ningbo Conda and its affiliated exporters, Conda (Ningbo) Painting Material Mfg. ("Conda Painting") and Jinhua Universal; Phoenix Materials and its affiliated exporter Wuxi Phoenix Stationary Co. Ltd ("Phoenix Stationary"); and Jiangsu Animal By–products Import & Export Group Corp. ("Jiangsu By–products") demonstrated their eligibility for separate–rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by Ningbo Conda and its affiliated exporters, Phoenix Materials and its affiliated exporter, and Jiangsu By–products demonstrate an absence of government control, both in law and in fact, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

[1] Artist canvases with a non-copyrighted preprinted outline, pattern, or design are included in the scope, whether or not included in a painting set or kit.

Additionally, in the *Preliminary Determination*, because the Department found that Jiangsu By–products demonstrated its eligibility for a rate separate from the PRC–wide rate, but was not a mandatory respondent, the margin we established in the *Preliminary Determination* for Jiangsu By–products was based on a weighted–average of the margins calculated for the two mandatory respondents. Because we are applying facts available to one of the selected mandatory respondents for the final determination, we have recalculated the rate applicable to Jiangsu By–products based on the rate calculated for the remaining mandatory respondent.

Further, in the *Preliminary Determination*, although we determined that HFERTS demonstrated an absence of government control, both in law and in fact, with respect to its exports of artist canvas, we had not yet determined the country of origin of the merchandise exported by HFERTS, and thus had not made a determination with respect to whether HFERTS was eligible to apply for a separate rate. For the final determination, we have determined that the merchandise that HFERTS exported to the United States is not of Chinese origin. Thus, HFERTS did not export subject merchandise and, therefore, is not eligible for a separate rate.

Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available ("AFA"), information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See* Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Sess. Vol.1 at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See* SAA at 869.

The Department finds that the information necessary to calculate an accurate and otherwise reliable margin is not available on the record with respect to Ningbo Conda. As the Department finds that Ningbo Conda failed to act to the best of its ability, withheld information, failed to provide information requested by the Department in a timely manner and in the form required, and significantly impeded the proceeding, (*e.g.*, provided unverifiable information, failed to reported certain U.S. sales and certain factors of production, and failed to substantiate an unaffiliated supplier's reported factor consumption rates, etc.). Therefore, pursuant to sections 776(a)(2)(A), (B), (C) and (D) of the Act, the Department is resorting to facts otherwise available. In addition, in accordance with section 776(b) of the Act, the Department is applying an adverse inference in selecting the facts available rate as it has determined that Ningbo Conda did not act to the best of its ability to cooperate with the Department in this investigation.

Corroboration

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our AFA margin using information submitted by both mandatory respondents. *See Memorandum to The File Through Robert Bolling, Program Manager, China/NME Group, Corroboration for the Preliminary Determination of Certain Artist Canvas from the People's Republic of China*, dated October 28, 2005, ("*Corroboration Memo*"). For the final determination, we are no longer using the information submitted by Ningbo Conda (see "Adverse Facts Available" section above).

To assess the probative value of the total AFA rate it has chosen for Ningbo Conda and the PRC–wide entity, the Department compared the final margin calculations of Phoenix Materials in this investigation with the rate of 264.09 percent from the petition. We find that the rate is within the range of the highest margins we have determined in this investigation. *See Final Determination in the Investigation of Artist Canvas from the People's Republic of China, Corroboration Memorandum from Michael Holton, Analyst, through Robert Bolling, Program Manager*, ("*Final Corroboration Memo*"), dated March 22, 2006. Since the record of this investigation contains margins within the range of the petition margin, we determine that the rate from the petition continues to be relevant for use in this investigation. As discussed therein, we found that the margin of 264.09 percent has probative value. *See Final Corroboration Memo*. Accordingly, we find that the rate of 264.09 percent is corroborated within the meaning of section 776(c) of the Act.

The PRC–Wide Rate

Because we begin with the presumption that all companies within a NME country are subject to

government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate - the PRC–wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706 (May 3, 2000). The PRC–wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted).

Combination Rates

In the *Notice of Initiation*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Notice of Initiation*, 70 FR 21996, 21999. This change in practice is described in *Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries*, (April 5, 2005), ("*Policy Bulletin 05.1*") available at *http://ia.ita.doc.gov/*. The *Policy Bulletin 05.1*, states:

> "[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation."

Policy Bulletin 05.1, at page 6.

Therefore, for the final determination, we have assigned a combination rate to respondents that are eligible for a separate rate. *See* Final Determination Margins, below.

Final Determination Margins

We determine that the following percentage weighted–average margins exist for the POI:

ARTIST CANVAS FROM THE PRC - WEIGHTED–AVERAGE DUMPING MARGINS

Exporter	Producer	Weighted–Average Deposit Rate
Ningbo Conda	Jinhua Universal	264.09
Ningbo Conda	Wuxi Silver Eagle Cultural Goods Co. Ltd.	264.09
Conda Painting	Wuxi Pegasus Cultural Goods Co. Ltd.	264.09
Jinhua Universal	Jinhua Universal	264.09
Phoenix Materials	Phoenix Materials	77.90
Phoenix Materials	Phoenix Stationary	77.90
Phoenix Materials	Shuyang Phoenix	77.90
Phoenix Stationary	Phoenix Materials	77.90
Phoenix Stationary	Phoenix Stationary	77.90
Phoenix Stationary	Shuyang Phoenix	77.90
Jiangsu By–products	Wuxi Yinying Stationery and Sports Products Co. Ltd. Corp.	77.90
Jiangsu By–products Su Yang	Yinying Stationery and Sports Products Co. Ltd. Corp.	77.90
China–Wide Rate		264.09

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after November 7, 2005, the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation (*i.e.*, November 7, 2005).

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 22, 2006.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–4657 Filed 3–29–06; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–504]

Petroleum Wax Candles from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the review of petroleum wax candles ("candles") from the People's Republic of China ("PRC"). This review covers the period August 1, 2004, through July 31, 2005.

EFFECTIVE DATE: March 30, 2006.

FOR FURTHER INFORMATION CONTACT: Cindy Lai Robinson, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3797.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Background

On September 28, 2005, the Department published a notice of initiation of a review of candles from the PRC covering the period August 1, 2004, through July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 56631 (September 28, 2005).

Extension of Time Limit of Preliminary Results

The Department determines that this review is extraordinarily complicated and that completion of the preliminary results of this review within the 245-day period is not practicable. Specifically, the Department requires additional time to examine whether the respondent, Qingdao Youngson Industrial Co., Ltd. ("Youngson"), is affiliated with other PRC producers and to conduct verification of Youngson's questionnaire responses.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the completion of the preliminary results of the review by 45 days to June 17, 2006. However, June 17, 2006, falls on Saturday, and it is the Department's long–standing practice to issue a determination the next business day when the statutory deadline falls on a weekend, federal holiday, or any other day when the Department is closed. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005). Accordingly, the deadline for completion of the preliminary results is June 19, 2006. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2) and 777(i)(1) of the Act.

Dated: March 23, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–4658 Filed 3–29–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Certain Softwood Lumber Products from Canada: Notice of Rescission of Antidumping Duty Changed Circumstances Review

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

EFFECTIVE DATE: March 30, 2006.

SUMMARY: On January 19, 2006, the Department of Commerce (the Department) published in the **Federal Register** a notice announcing the initiation of a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada. *See Initiation of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada* 71 FR 4350 (January 19, 2006) (*Initiation Notice*). The review was requested by Weyerhaeuser Company Limited and Weyerhaeuser Saskatchewan Limited (collectively, Weyerhaeuser). We are now rescinding this review as a result of Weyerhaeuser's withdrawal of its request for a changed circumstances review.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala or Constance Handley at (202) 482–1784 or (202) 482–0631, respectively, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 19 CFR 351.216(b), Weyerhaeuser, a Canadian producer of softwood lumber products, filed a request for a changed circumstances review of the antidumping duty order on certain softwood lumber products from Canada. On January 19, 2006, in accordance with 19 CFR 351.221(c)(3), we published the initiation of a changed circumstances review of this order. *See Initiation Notice.* On March 6, 2006, Weyerhaeuser withdrew its request for a changed circumstances review.

Rescission of Changed Circumstances Review

The Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws the request within ninety days of the date

of publication of the notice of initiation of the requested review. Section 351.213(d)(1) of the Department's regulations regarding review request withdrawals does not specifically reference changed circumstances administrative reviews. In this case, Weyerhaeuser withdrew its request for a changed circumstances review within ninety days of the review being initiated, the time period the Department generally considers reasonable for withdrawing requests for administrative reviews. Therefore, the Department has accepted Weyerhaeuser's withdrawal request in this case as timely.[1]

The Department is now rescinding this antidumping duty changed circumstances review. U.S. Customs and Border Protection will continue to suspend entries of subject merchandise at the appropriate cash deposit rate for all entries of certain softwood lumber products from Canada.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with 19 CFR 351.213(d)(4) and section 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: March 23, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–4659 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Islands Logbook Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 30, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, 808–944–2275, or *walter.ikehara@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fishery Services Pacific Islands Region (PIR) manages the U.S. fisheries of the Exclusive Economic Zone (EEZ) in the western Pacific under five fishery management plans (FMPs), prepared by the Western Pacific Fishery Management Council pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMPs are found at 50 CFR part 660.

The record keeping and reporting requirements at 50 CFR part 660 form the basis for this collection of information. PIR requests information from participants in the fisheries and interested persons. This information, upon receipt, results in an increasingly more efficient and accurate database for the management and monitoring of fisheries of the EEZ in the western Pacific.

II. Method of Collection

Paper submissions, electronic reports, and telephone calls are required from participants. Other methods of submittal include Internet and facsimile transmission of paper forms.

III. Data

OMB Number: 0648–0214.

Form Number: None.

Type of Review: Regular submission.

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

Estimated Number of Respondents: 207.

Estimated Time Per Response: 5 minutes for catch and effort logbooks; 3 minutes for protected species interaction reports; 5 minutes for pre-trip and post-landing notifications; 4 hours for experimental fishing reports; 5 minutes for sales and transshipment reports; 5 minutes for report on gear left at sea; 4 hours for claim for reimbursement for lost fishing time; 1 hour for request for pelagics area closure exemption; and 1 hour for observer placement meetings.

Estimated Total Annual Burden Hours: 2,483.

Estimated Total Annual Cost to Public: $1,048.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 24, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–4613 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Basic Requirements for All Marine Mammal Special Exception Permits To Take, Import and Export Marine Mammals, and for Maintaining a Captive Marine Mammal Inventory Under the Marine Mammal Protection Act, the Fur Seal Act, and the Endangered Species Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing

[1] See *Notice of Rescission of Changed Circumstances Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Pipe and Tube Fittings from Japan*, 67 FR 53777 (August 19, 2002).

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 30, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Amy Sloan, (301) 713–2289 or *Amy.Sloan@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marine Mammal Protection Act (MMPA), Fur Seal Act (FSA), and Endangered Species Act (ESA) prohibit certain actions affecting marine mammals and endangered and threatened species, with exceptions. Permits can be obtained for scientific research, enhancing the survival or recovery of a species or stock, commercial and educational photography, and import and capture for public display; authorizations can be obtained for scientific research that involves minimal disturbance. The applicants desiring a permit or authorization must provide certain information in order for the National Marine Fisheries Service to determine whether a proposed activity is consistent with the purposes, policies, and requirements of these laws, and that the activity is in the best interest of the protected species and the public. The permit holders and authorized researchers must report on activities conducted to ensure compliance with permit conditions and protection of the animals. Holders of captive marine mammals must report changes to their animal inventory.

Scientific research and enhancement permit applications for non-salmonid endangered and threatened species previously submitted under OMB No. 0648–0402, will be combined with permit applications for marine mammals in order to streamline the process for requesting takes of multiple species and to accommodate an online application system currently in development. The regulations implementing permit, authorization, and inventory requirements under the MMPA and FSA are at 50 CFR part 216; the regulations for permit requirements under the ESA are at 50 CFR part 222.

The respondents will be researchers, photographers, and other members of the public seeking exceptions to prohibited activities on marine mammals and endangered and threatened species, excluding salmonids, through permits or authorizations for purposes described above; and holders of marine mammals in captivity.

II. Method of Collection

Permit and authorization application materials and reports are paper and in some cases, electronic, and are written to respond to a required format. Inventory materials and reports are paper forms. Methods of submittal include mail, facsimile transmission, and electronic submission.

III. Data

OMB Number: 0648–0084.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; not-for-profit institutions; business or other for-profit organizations; Federal Government; and State, Local, or Tribal Government.

Estimated Number of Respondents: 518.

Estimated Time Per Response: 32 hours for an application for a scientific research or enhancement permit; 20 hours for an application for a public display permit; 10 hours for an application for a photography permit or a General Authorization; 20 hours for a major amendment or modification to a permit; 3 hours for a minor amendment or modification to a permit or for a change to a General Authorization; 12 hours for a scientific research or enhancement permit report; 8 hours for a General Authorization report; 2 hours for public display or photography permit report; 2 hours for a request to retain or transfer a rehabilitated marine mammal; 2 hours for a marine mammal inventory (1 hour for a transport notification; 30 minutes each for a data sheet and a person/holder/facility sheet); and 2 hours for recordkeeping.

Estimated Total Annual Burden Hours: 6,678.

Estimated Total Annual Cost to Public: $1,700.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 24, 2006.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–4614 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032706B]

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2006 Georges Bank Cod Hook Sector Operations Plan and Agreement and Allocation of Georges Bank Cod Total Allowable Catch

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

ACTION: Notice; request for comments.

SUMMARY: Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) (Amendment 13) authorized allocation of up to 20 percent of the annual Georges Bank (GB) cod total allowable catch (TAC) to the GB Cod Hook Sector (Sector). Pursuant to that authorization, the Sector has submitted an Operations Plan and Sector Contract entitled, "Amendment 2 to Georges Bank Cod Hook Sector Operations Plan and Agreement" (together referred to as the Sector Agreement), and a Supplemental Environmental Assessment (EA), and has requested an allocation of GB cod, consistent with regulations implementing Amendment 13. This notice provides interested parties an opportunity to comment on the proposed Sector Agreement prior to final approval or disapproval of the Sector Operations Plan and allocation of

GB cod TAC to the Sector for the 2006 fishing year (FY).

DATES: Written comments must be received on or before April 14, 2006.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on GB Cod Hook Sector Operations Plan." Comments may also be sent via fax to (978) 281–9135, or submitted via e-mail to: *codsector@NOAA.gov.*

Copies of the Sector Agreement and the EA are available from the NE Regional Office at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, phone (978) 281–9347, fax (978) 281–9135, e-mail *Thomas.Warren@NOAA.gov.*

SUPPLEMENTARY INFORMATION: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination that the Sector Agreement, which contains the Sector Contract and Operations Plan, is consistent with the goals of the FMP and other applicable law and is in compliance with the regulations governing the development and operation of a sector as specified under 50 CFR 648.87. The final rule implementing Amendment 13 (69 FR 22906, April 27, 2004) specified a process for the formation of sectors within the NE multispecies fishery and the allocation of TAC for a specific groundfish species (or days-at-sea (DAS)), implemented restrictions that apply to all sectors, authorized the GB Cod Hook Sector, established the GB Cod Hook Sector Area (Sector Area), and specified a formula for the allocation of GB cod TAC to the Sector.

The principal Amendment 13 regulations applying to the Sector specify that: (1) All vessels with a valid limited access NE multispecies DAS permit are eligible to participate in the Sector, provided they have documented landings of GB cod through valid dealer reports submitted to NMFS of GB cod during FY 1996 through 2001 when fishing with hook gear (i.e., jigs, demersel longline, or handgear): (2) membership in the Sector is voluntary, and each member would be required to remain in the Sector for the entire fishing year and could not fish outside the NE multispecies DAS program during the fishing year, unless certain conditions are met; (3) vessels fishing in the Sector (participating vessels) would be confined to fishing in the Sector Area, which is that portion of the GB cod stock area north of 39°00′ N. lat. and east of 71°40′ W. long; and (4) participating vessels would be required to comply with all pertinent Federal fishing regulations, unless specifically exempted by a Letter of Authorization, and the provisions of an approved Operations Plan.

While Amendment 13 authorized the Sector, in order for GB cod to be allocated to the Sector and the Sector authorized to fish, the Sector must submit an Operations Plan and Sector Contract to the Regional Administrator annually for approval. The Operations Plan and Sector Contract must contain certain elements, including a contract signed by all Sector participants and a plan containing the management rules that the Sector participants agree to abide by in order to avoid exceeding the allocated TAC. An additional analysis of the impacts of the Sector's proposed operations may be required in order to comply with the National Environmental Policy Act. Further, the public must be provided an opportunity to comment on the proposed Operations Plan and Sector Contract. The regulations require that, upon completion of the public comment period, the Regional Administrator will make a determination regarding approval of the Sector Contract and Operations Plan. If approved by the Regional Administrator, participating vessels would be authorized to fish under the terms of the Operations Plan and Sector Contract.

The Sector was authorized for FY 2005 and, based upon the GB cod landings history of its 49 members, was allocated 455 mt of cod, which is 11.12 percent of the total FY 2005 GB cod TAC.

On March 8, 2006, the Sector Manager submitted to NMFS Amendment 2 to the 2004 Sector Agreement and a supplemental EA entitled "The Georges Bank Cod Hook Sector Operations Plan," which analyzes the impacts of the proposed Sector Agreement.

With three substantive exceptions, the proposed 2006 Sector Agreement contains the same elements as the 2005 Sector Agreement. The first modification to the 2005 Sector Agreement is an exemption from the differential DAS requirements proposed in both the Secretarial emergency action (71 FR 11060, March 3, 2006) and Framework Adjustment (FW) 42, which has been approved by the New England Fishery Management Council, but not yet proposed through **Federal Register** publication. If approved, implementation of the emergency action is expected to occur in time for the start of the May 1, 2006, fishing year, followed by FW 42 in mid-summer 2006. Under the Sector Agreement, Sector vessels would be subject to the following trip limits during FY 2006: A 100–lb (45.4–kg) trip limit for Cape Cod, GB, and Southern New England (SNE)/Mid-Atlantic (MA) yellowtail flounder; a 2,000–lb (907.2–kg) GB winter flounder trip limit; and a 1,000–lb (453.6–kg)/DAS white hake trip limit. These trip limits are more restrictive or, in the case of white hake, comparable, to the trip limits proposed under FW 42 and, therefore, substitute for differential DAS accounting under both the proposed Secretarial emergency action and FW 42. The proposed FW 42 differential DAS areas within inshore GOM and the SNE/MA Regulated Mesh Area are proposed primarily to protect yellowtail flounder and, in the case of GOM, cod. Because Sector vessels are subject to a hard cod TAC, and because they catch very little yellowtail flounder (a total of 7 lb (3.2 kg) of yellowtail flounder was landed by Sector vessels in FY 2004), an exemption from differential DAS counting would not compromise the FMP fishing mortality objectives for these stocks of concern.

The second modification proposed in the 2006 Sector Agreement is an exemption from the 72–hr observer notification requirement when fishing under an A DAS in the Western U.S./Canada Area. Vessels are currently required to notify the Observer Program 72 hr prior to leaving the dock when intending to fish under a NE multispecies DAS in the U.S./Canada Management Area. This measure was implemented under Amendment 13 in order to help monitor the hard TACs for the U.S./Canada shared stocks of GB cod, haddock, and yellowtail flounder. All three of these stocks are shared in the Eastern U.S./Canada Area; however, only GB yellowtail flounder is shared in the Western U.S./Canada Area. Therefore, because Sector vessels catch virtually no yellowtail flounder, the Sector Agreement proposes to exempt Sector vessels from the 72–hr notification requirement in the Western U.S./Canada Area. This exemption would not impact the ability of NMFS to monitor the U.S./Canada GB yellowtail flounder TAC.

The third modification proposed in the 2006 Sector Agreement is an exemption from the DAS Leasing Program vessel size restrictions. Under the current DAS Leasing Program, vessels may only lease DAS to a lessee vessel with a baseline engine horsepower rating that is no more than 20 percent greater, and a baseline length overall (LOA) that is no more than 10

percent greater, than the baseline engine horsepower and the LOA, respectively, of the lessor vessel. Under the Sector Agreement, Sector vessels would be allowed to lease DAS to other Sector vessels without being subject to these vessel size restrictions. This exemption is not expected to increase effort within the Sector, since the size of the vessel is not the limiting factor with respect to the number of hooks that can be fished on board each vessel. Rather, the limiting factor to the number of hooks that can be fished is the tidal flow velocity between tides when vessels set and retrieve hooks. Because Sector vessels are currently constrained to leasing DAS only to the small pool of vessels within the Sector (50 vessels as indicated in the 2006 Sector Agreement), this exemption would provide additional flexibility while not compromising conservation objectives.

The Sector Agreement would be overseen by a Board of Directors and a Sector Manager. The Sector Agreement specifies, in accordance with Amendment 13, that the Sector's GB cod TAC would be based upon the number of Sector members and their historic landings of GB cod. The GB cod TAC is a "hard" TAC, meaning that, once the TAC is reached, Sector vessels could not fish under a DAS, possess or land GB cod or other regulated species managed under the FMP (regulated species), or use gear capable of catching groundfish (unless fishing under charter/party or recreational regulations).

As of March 8, 2005, 50 prospective Sector members had signed the 2006 Sector Contract. The GB cod TAC calculation is based upon the historic cod landings of the participating Sector vessels, using all gear. The allocation percentage is calculated by dividing the sum of total landings of GB cod by Sector members for the FY 1996 through 2001, by the sum of the total accumulated landings of GB cod harvested by all NE multispecies vessels for the same time period (113,278,842 lb (51,383.9 mt)). The resulting number is 11.53 percent. Based upon these 50 prospective Sector members, the Sector TAC of GB cod would be 707 mt (11.53 percent times the fishery-wide GB cod target TAC of 6,132 mt, respectively). The fishery-wide GB cod target TAC of 6,132 mt is less than the GB cod target TAC proposed for 2006 (7,458 mt) because the 7,458 mt includes Canadian catch. That is, the fishery-wide GB cod target TAC of 6,132 mt was calculated by subtracting the GB cod TAC specified for Canada under the U.S./Canada Resource Sharing Understanding for FY 2006 (1,326 mt), from the overall GB cod target TAC of 7,458 mt proposed by the Council for FY 2006 (71 FR 12665, March 13, 2006). If prospective members of the Sector change their minds after the publication of this notice and prior to a final decision by the Regional Administrator, it is possible that the total number of participants in the Sector and the TAC for the Sector may be reduced from the numbers above.

The Sector Agreement contains procedures for the enforcement of the Sector rules, a schedule of penalties, and provides the authority to the Sector Manager to issue stop fishing orders to members of the Sector. Participating vessels would be required to land fish only in designated landing ports and would be required to provide the Sector Manager with a copy of the Vessel Trip Report (VTR) within 48 hours of offloading. Dealers purchasing fish from participating vessels would be required to provide the Sector Manager with a copy of the dealer report on a weekly basis. On a monthly basis, the Sector Manager would transmit to NMFS a copy of the VTRs and the aggregate catch information from these reports. After 90 percent of the Sector's allocation has been harvested, the Sector Manager would be required to provide NMFS with aggregate reports on a weekly basis. A total of 1/12 of the Sector's GB cod TAC, minus a reserve, would be allocated to each month of the fishing year. GB cod quota that is not landed during a given month would be rolled over into the following month. Once the aggregate monthly quota of GB cod is reached, for the remainder of the month, participating vessels could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies. Once the annual TAC of GB cod is reached, Sector members could not fish under a NE multispecies DAS, possess or land GB cod or other regulated species, or use gear capable of catching regulated NE multispecies for the rest of the fishing year. The harvest rules would not preclude vessels from fishing under the charter/party or recreational regulations, provided the vessel fishes under the applicable charter/party and recreational rules on separate trips. For each fishing trip, participating vessels would be required to fish under the NE multispecies DAS program to account for any incidental groundfish species that they may catch while fishing for GB cod. In addition, participating vessels would be required to call the Sector Manager prior to leaving port. There would be no trip limit for GB cod for participating vessels. All legal-sized cod caught would be retained and landed and counted against the Sector's aggregate allocation. Participating vessels would not be allowed to fish with or have on board gear other than jigs, non-automated demersal longline, or handgear, and could use an unlimited number of hooks in the Sector Area. NE multispecies DAS used by participating vessels while conducting fishery research under an Exempted Fishing Permit during the FY 2006 would be deducted from that Sector member's individual DAS allocation. Similarly, all GB cod landed by a participating vessel while conducting research would count toward the Sector's allocation of GB cod TAC. Participating vessels would be exempt from the GB Seasonal Closure Area during May.

The EA prepared for the Sector operations concludes that the biological impacts of the Sector will be positive because the hard TAC and the use of DAS will provide two means of restricting both the landings and effort of the Sector. Implementation of the Sector would have a positive impact on essential fish habitat (EFH) and bycatch by allowing a maximum number of hook vessels to remain active in the hook fishery, rather than converting to (or leasing DAS to) other gear types that have greater impacts on EFH. The analysis of economic impacts of the Sector concludes that Sector members would realize higher economic returns if the Sector were implemented. The EA asserts that fishing in accordance with the Sector Agreement rules enables more efficient harvesting of GB cod with hook gear than would be possible if the vessels were fishing in accordance with the common pool (non-Sector) rules. The social benefits of the Sector would accrue to Sector members as well as the Chatham/Harwichport, MA, community, which is highly dependent upon groundfish revenues. The EA concludes that the self-governing nature of the Sector and the development of rules by the Sector enables stewardship of the cod resource by Sector members. The cumulative impacts of the Sector are expected to be positive due to a positive biological impact, neutral impact on habitat, and a positive social and economic impact. In contrast, the cumulative impact of the no action alternative is estimated to be neutral, with negative social and economic impacts.

Should the Regional Administrator approve the Sector Agreement as proposed, a Letter of Authorization would be issued to each member of the Sector exempting them, conditional upon their compliance with the Sector Agreement, from the GB cod possession

restrictions and the requirements of the GOM trip limit exemption program, limits on the number of hooks, the GB Seasonal Closure Area, the 72–hr observer notification requirement, the DAS Leasing Program vessel size restrictions, and proposed differential DAS requirements as specified in § 648.86(b), 648.80(a)(4)(v), 648.81(g), 648.85(a)(3)(ii)(C), 648.82(k)(4)(ix), and 648.82, respectively.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on proposed TAC allocations and plans of operation of sectors.

Dated: March 24, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–4664 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 060313063–6063–01; I.D. 032206B]

Financial Assistance To Administer NOAA's Faculty and Student Intern Research Program and Notice of Availability of Funds and Solicitation for Proposals for These Funds

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of criteria to administer the NOAA Faculty and Student Intern Research; notice of availability of funds; solicitation for funding proposals.

SUMMARY: The purpose of this document is to advise the public that NOAA's Office of Civil Rights is soliciting proposals from non-profit organizations to design and provide administrative services for NOAA-sponsored internship program aimed at providing training, educational, and research opportunities to faculty, as well as graduate and undergraduate students pursuing degrees related to NOAA's mission. NOAA is seeking applicants with the capacity to design and implement a program that will improve NOAA's outreach and recruitment efforts of underrepresented individuals in the scientific mission-related occupational fields, i.e., fishery biology, environmental law, meteorology, cartography, oceanography, hydrology, computer science, ecology, environmental economics, and engineering. When implemented, the program will provide both student and faculty member participants with stipends, housing assistance, and limited travel expenses. Applicants to design and implement the program must demonstrate a focused and effective outreach and recruitment strategy targeting minority serving institutions and others. It is expected that approximately $250,000 to $300,000 annually will be available for the project.

DATES: Proposals are due to NOAA by 5 p.m., EST, 15 days after date of publication of this document in the **Federal Register**.

ADDRESSES: It is strongly encouraged that applications submitted in response to this announcement are submitted through the Grants.gov Web site. Electronic access to the Full Funding Opportunity Announcement for this program is available via the Grants.gov Web site: *http://www.grants.gov*. Applicants must comply with all requirements contained in the Full Funding Opportunity Announcement. Paper applications (a signed original and two copies) may also be submitted to the following address: NOAA Civil Rights Office/OFA51,1305 East West Highway, Room 12222, Silver Spring, MD 20910. No facsimile or electronic mail applications will be accepted.

FOR FURTHER INFORMATION CONTACT: Victoria G. Dancy, (301) 713–0500, ext. 136.

SUPPLEMENTARY INFORMATION: NOAA is committed to recruiting and retaining individuals from underrepresented communities as part of its workforce. With such a limited pool of potential minority employees trained in NOAA-related sciences, it is important that NOAA seek new ways to make students aware of the mission of the agency and to support activities that increase opportunities to attract highly qualified faculty members and college students pursuing degrees or who have obtained degrees in NOAA-related sciences.

Since approximately 40 percent of minority students receive their undergraduate degrees at Minority Serving Institutions (MSIs), targeted recruitment efforts at MSIs are an effective way to increase the number of students from underrepresented communities trained and graduated in NOAA related sciences. For the purposes of this announcement, MSIs are defined as Historically Black Colleges and Universities, Hispanic Serving Institutions, Tribal Colleges and Universities, Alaska Native and Native Hawaiian Serving Institutions as defined by the Department of Education 2004 list *http://www.ed.gov/about/offices/list/ocr/minorityinst2004.pdf*.

The NOAA Faculty and Student Intern Research Program will be a competitive program designed to provide opportunities to participate in hands-on research, education, and training activities in NOAA-related sciences. The program must be designed to improve NOAA's outreach and recruitment efforts toward underrepresented individuals in the scientific mission-related occupational fields, i.e., fishery biology, environmental law, meteorology, cartography, oceanography, hydrology, computer science, ecology, environmental economics, and engineering. The program will aim to introduce or reintroduce these NOAA-related sciences to the universities and colleges and integrate them into campus-based instruction and research programs. Program activities include summer and academic year internships at NOAA facilities. Faculty stipends will be based on faculty members' regular university salaries. NOAA scientists will be assigned as mentors to participants during the internship period. Participants in the program, both students and faculty members, must be U.S. citizens. Faculty participants must be full-time faculty employed at a U.S. college or university and must hold a degree in the life or physical sciences or engineering. Faculty participants must have research interests in areas related to NOAA's mission. Undergraduate and graduate participants in the program must be enrolled in a U.S. college or university and be pursuing a degree in a science or engineering discipline related to NOAA's mission.

Electronic Access

Applicants can access, download and submit electronic grant applications, including the Full Funding Opportunity Announcement, for NOAA programs at the Grants.gov Web site: *http://www.grants.gov* or by contacting the program official identified above. The closing date will be the same as for paper submissions noted in this announcement. NOAA strongly recommends that Applicants do not wait until the application deadline date to begin the application process through Grants.gov. If Internet access is unavailable, hard copies of proposals will also be accepted—a signed original and two copies at time of submission. This includes color or high-resolution graphics, unusually sized materials, or otherwise unusual materials submitted as part of the proposal. For color graphics, submit either color originals or

color copies. Facsimile transmissions and electronic mail submission of proposals will not be accepted.

Funding Availability

The Office of Civil Rights anticipates that funding will be available at $250,000 to $300,000 a year for a 3-year period. The proposal is limited to a total of $900,000 for a maximum of 3 years and one proposal will be funded. Up to 25 percent of $300,000 is allowed for administrative overhead and at least 75 percent of $300,000 is allocated for student support. It is anticipated that the funding instrument will be a cooperative agreement since NOAA will be substantially involved in identifying NOAA facilities to place students each year during the three-year period of internships, and with collaboration, participation, or intervention in project performance.

Authority: 15 U.S.C. 1540.

Catalog of Federal Domestic Assistance: 11.481.

Eligibility: Proposals will only be accepted from not-for-profit organizations.

Cost Sharing Requirements: None.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Evaluation Criteria and Selection Procedures

NOAA published its agency-wide solicitation entitled "Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2006" for projects for Fiscal Year 2006 in the **Federal Register** on June 30, 2005 (70 FR 37766). The evaluation criteria and selection procedures for projects contained in that omnibus notice are applicable to this solicitation. Copies of this notice are available on the Internet at *http://www.ofa.noaa.gov%7Eamd/SOLINDEX.HTML*. Further details on evaluation and selection criteria can be found in the full funding opportunity announcement.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover pre-award costs.

Limitation of Liability

In no event will NOAA or the Department of Commerce accept responsibility for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds. Recipients and sub-recipients are subject to all Federal laws and agency policies, regulations and procedures applicable to Federal financial assistance awards.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA Federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *(http://www.nepa.noaa.gov/)*, including our NOAA Administrative Order 216–6 for NEAP, *(http://www.nepa.noaa.gov/NAO216_6_TOC.pdf)*, and the Council on Environmental Quality implementation regulations, *(http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm)*. Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application. In some cases if additional information is required after application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

Paperwork Reduction Act (PRA)

This notification involves collection-of-information requirements subjects to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF–LLL and CD–346 has been approved by the Office of Management and Budget (OMB) under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046 and 0605–0001, respectively. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

It has been determined that this notice is not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Executive Order Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and an opportunity for public comment re not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comments are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 27, 2006.

Alfred A. Corea,

Director, Civil Rights Office, National Marine Fisheries Service.

[FR Doc. 06–3084 Filed 3–29–06; 8:45 am]

BILLING CODE 3510–12–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: Commission on Civil Rights.

DATE AND TIME: Friday, April 7, 2006, 9 a.m.

PLACE: 226 Dirksen Senate Office Building, First Street and Constitution Avenue, NE., Washington, DC 20510.

STATUS:

Briefing Agenda

Commission Briefing: Racial Categorization in the 2010 Census

- Introductory Remarks by Chairman.
- Speakers' Presentations.
- Questions by Commissioners and Staff Director.

Agenda

I. Approval of Agenda
II. Approval of Minutes of March 10, 2006 meeting
III. Announcements
IV. Staff Director's Report
V. Program Planning
- Voting Rights Act Statutory Report
- Report from the Briefing on the Native Hawaiian Government Reorganization Act
- Report from the Briefing on Disparity Studies
- Annual Program Planning

VI. Management and Operations
- Web site: Posting Commissioner letters to the U.S. Department of Education expressing concerns with the American Bar Association's new diversity standards and regarding the ABA's petition for renewal of reaccreditation authority.

VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Audrey Wright, Office of the Staff Director (202) 376–7700.

Kenneth L. Marcus,

Staff Director, Acting General Counsel.

[FR Doc. 06–3150 Filed 3–28–06; 3:29 pm]

BILLING CODE 6335–01–M

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 20 April 2006 at 10 a.m. in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street, NW., Washington, DC 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *http://www.cfa.gov*. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, March 23, 2006.

Thomas Luebke, AIA,

Secretary.

[FR Doc. 06–3069 Filed 3–29–06; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Policy Board Advisory Committee

AGENCY: Department of Defense, Defense Policy Board Advisory Committee.

ACTION: Notice.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session at the Pentagon on April 20, 2006 from 0900 to 1830 and April 21, 2006 from 0830 to 1400.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App II (1982)], it has been determined that this meeting concerns matters listed in 5 U.S.C. 552B(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: March 24, 2006.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 06–3074 Filed 3–29–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2006–OS–0053]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense is altering a system of records to its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on May 1, 2006 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 696–4940.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted March 23, 2006 to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 24, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

DHA 07

SYSTEM NAME:

Military Health Information System (August 3, 2005, 70 FR 44574).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add the following to the paragraph titled "CLINICAL ENCOUNTER DATA": "The Protected Health Management Information Tool (PHMIT), an electronic disclosure-tracking tool, assists in complying with the HIPAA Privacy disclosure accounting requirement. The PHIMT stores information about all disclosures, complaints, authorizations, restrictions and confidential communications that are made about or requested by a particular patient."

* * * * *

DHA 07

SYSTEM NAME:

Military Health Information System.

SYSTEM LOCATION:

Primary location: Defense Enterprise Computing Center—Denver/WEE, 6760 E. Irvington Place Denver, CO 80279–5000. Secondary locations: Directorate of Information Management, Building 1422, Fort Deitrick, MD 21702–5000; Service Medical Treatment Facility Medical Centers and Hospitals: Uniformed Services Treatment Facilities; Defense Enterprise Computing Centers; TRICARE Management Activity, Department of Defense, 5111 Leesburg Pike, Skyline 6, Suite 306, Falls Church, VA 22041–3206;

Joint Medical Information Systems Office, 5109 Leesburg Pike, Suite 900, Skyline Building 6, Falls Church, VA 22041–3241, and contractors under contract to TRICARE. Program Executive Officer, Joint Medical Information Systems Office, 5109 Leesburg Pike, Suite 900, Skyline Building 6, Falls Church, Virginia 22041–3241. Joint Task Force Sexual Assault Prevention and Response Office (JTF–SAPR), 1401 Wilson Blvd., Suite 402, Arlington, VA 22209–2318. For a complete listing of all facility addresses write to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Uniformed services medical beneficiaries enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) who receive or have received medical care at one or more of DoD's medical treatment facilities (MTFs), Uniformed Services Treatment Facilities (USTFs), or care provided under TRICARE programs. Uniformed services medical beneficiaries who receive or have received care at one or more dental treatment facilities or other system locations including medical aid stations, Educational and Developmental Intervention Services clinics and Service Medical Commands. Uniformed service members serving in a deployed status and those who receive or received care through the Department of Veterans Affairs (VA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal Identification Data: Selected electronic data elements extracted from the Defense Enrollment and Eligibility Reporting System (DEERS) beneficiary and enrollment records that include data regarding personal identification including demographic characteristics.

Eligibility and Enrollment Data: Selected electronic data elements extracted from DEERS regarding personal eligibility for and enrollment in various health care programs within the Department of Defense (DoD) and among DoD and other federal healthcare programs including those of the Department of Veterans Affairs (DVA), the Department of Health and Human Services (DHHS), and contracted health care provided through funding provided by one of these three Departments.

Clinical Encounter Data: Electronic data regarding beneficiaries' interaction with the MHS including health care encounters, health care screenings and education, wellness and satisfaction surveys, and cost data relative to such healthcare interactions. Electronic data regarding Military Health System beneficiaries' interactions with the DVA or DHHS healthcare delivery programs where such programs effect benefits determinations between these Department-level programs, continuity of clinical care, or effect payment for care between Departmental programs inclusive of care provided by commercial entities under contract to these three Departments. Electronic data regarding dental tests, pharmacy prescriptions and reports, data incorporating medical nutrition therapy and medical food management, data for young MHS beneficiaries eligible for services from the military medical departments covered by the Individuals with Disabilities Educations Act (IDEA). Data collected within the system also allows beneficiaries to request an accounting of who was given access to their medical records prior to the date of request. It tracks disclosure types, treatment, payment and other Health Care Operations (TPO) versus non-TPO, captures key information about disclosures, process complaints, process and track request for amendments to records, generates disclosure accounting and audit reports, retains history of disclosure accounting processing. The Protected Health Management Information Tool (PHMIT), an electronic disclosure-tracking tool, assists in complying with the HIPAA Privacy disclosure accounting requirement. The PHIMT stores information about all disclosures, complaints, authorizations, restrictions and confidential communications that are made about or requested by a particular patient.

Budgetary and Managerial Cost Accounting Data: Electronic budgetary and managerial cost accounting data associated with beneficiaries' interactions with the MHS, DVA, DHHS or contractual commercial healthcare providers.

Clinical Data: Inpatient and outpatient medical records, diagnosis procedures, and pharmacy records.

Occupational and Environmental Exposure Data: Electronic data supporting exposure-based medical surveillance; reports of incidental exposures enhanced industrial hygiene risk reduction; improved quality of occupational health care and wellness programs for the DoD workforce; hearing conservation, industrial hygiene and occupational medicine programs within the MHS; and timely and efficient access of data and information to authorized system users.

Medical and Dental Resources: Electronic data used by the MHS for resource planning based on projections of actual health care needs rahter than projections based on past demand.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulation; 10 U.S.C., Chapter 55; Pub. L. 104–91, Health Insurance Portability and Accountability Act of 1996; DoD 6025.18–R, DoD Health Information Privacy Regulation; 10 U.S.C. 1071–1085, Medical and Dental Care; 42 U.S.C. Chapter 117, Sections 11131–11152, Reporting of Information; 10 U.S.C. 1097a and 1097b, TRICARE Prime and TRICARE Program; 10 U.S.C. 1079, Contracts for Medical Care for Spouses and Children; 10 U.S.C. 1079a, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); 10 U.S.C. 1086, Contracts for Health Benefits for Certain Members, Former Members, and Their Dependents; DoD Instruction 6015.23, Delivery of Healthcare at Military Treatment Facilities (MTFs); DoD 6010.8–R, CHAMPUS; 10 U.S.C. 1095, Collection from Third Party Payers Act; and E.O. 9397 (SSN).

PURPOSE(S):

Data collected within and maintained by the Military Health Information System supports benefits determination for MHS beneficiaries between DoD, DVA, and DHHS healthcare programs, provides the ability to support continuity of care across Federal programs including use of the data in the provision of care, ensures more efficient adjudication of claims and supports healthcare policy analysis and clinical research to improve the quality and efficiency of care within the MHS.

The electronic medical records portion of the system (EMR) addresses documenting and tracking environmental health readiness data located in arsenals, depots, and bases. Data collected and maintained is used to assess the medical and dental

deployability of Service members for the purposes of pre- and post-deployment exams. This assists in recording health conditions before deployment and any changes during and after deployment.

Data collected and maintained in the EMR system is used to perform disease management and the prevention of exacerbations and complications using evidence-based practice guidelines and patient empowerment strategies. Data collected and maintained in the EMR system is used in proactive health intervention activities for the active duty and non-active duty beneficiary population. Data collected and maintained is used to capture data on hearing loss and occupational exposures, to perform noise exposure surveillance and injury referrals to assess auditory readiness.

Data collected and maintained in the EMR system is used to establish individual longitudinal exposure records using predeployment exposure records. These records are used as a baseline against new exposures to facilitate post-deployment follow-up and workplace injury root-cause analysis in an effort to mitigate lost work time within the DoD.

Data collected within and maintained in the system is used for patient administration (including registration, admission, disposition and transfer); patient appointing and scheduling delivery of managed care; workload and medical services accounting; and quality assurance.

Data collected will be provided to Special Oversight Boards created by applicable DoD authorities to investigate special circumstances and conditions resulting from a deployment of DoD personnel to a theater of operations.

Data collected and maintained in electronic and paper records is used to track victims of sexual assault crimes, and medical and other support services provided to them. Data collected and maintained is also used to capture demographics and perform trend analysis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To permit the disclosure of records to the Department of Health and Human Services (HHS) and its components for the purpose of conducting research and analytical projects, and to facilitate collaborative research activities between DoD and HHS.

To the Congressional Budget Office for projecting costs and workloads associated with DoD Medical benefits.

To the Department of Veterans Affairs (DVA) for the purpose of providing medical care to former service members and retirees, to determine the eligibility for or entitlement to benefits, to coordinate cost sharing activities, and to facilitate collaborative research activities between the DoD and DVA.

To the National Research Council, National Academy of Sciences, National Institutes of Health, Armed Forces Institute of Pathology, and similar institutions for authorized health research in the interest of the Federal Government and the public. When not essential for longitudinal studies, patient identification data shall be deleted from records used for research studies. Facilities/activities releasing such records shall maintain a list of all such research organizations and an accounting disclosure of records released thereto.

To local and state government and agencies for compliance with local laws and regulations governing control of communicable diseases, preventive medicine and safety, child abuse, and other public health and welfare programs.

To federal offices and agencies involved in the documentation and review of defense occupational and environmental exposure data, including the National Security Agency, the Army corps of Engineers, National Guard, and the Defense Logistics Agency.

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system, except as identified below.

Note 1: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

Note 2: Personal identity, diagnosis, prognosis or treatment information of any patient maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, except as provided in 42 U.S.C. 290dd–2, will be treated as confidential and will be disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd–2. The "Blanket Routine Uses" do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on optical and magnetic media.

RETRIEVABILITY:

Records may be retrieved by individual's Social Security Number, sponsor's Social Security Number, Beneficiary ID (sponsor's ID, patient's name, patient's DOB, and family member prefix or DEERS dependent suffix), diagnosis codes, admission and discharge dates, location of care or any combination of the above.

SAFEGUARDS:

Automated records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of a cipher lock. Back-up data maintained at each location is stored in a locked room. The system will comply with the DoD Information Technology Security Certification and Accreditation Process (DITSCAP). Access to HMIS records is restricted to individuals who require the data in the performance of official duties. Access is controlled through use of passwords.

RETENTION AND DISPOSAL:

Records are maintained until no longer needed for current business.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Executive Information/Decision Support Program Office, Six Skyline Place, Suite 809, 5111 Leesburg Pike, Falls Church, VA 22041–3201.

Program Manager, Joint Task Force Sexual Assault Prevention and Response, 1401 Wilson Blvd., Suite 402, Arlington, VA 22209–2318.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquires to the TRICARE Management Activity Privacy Office, Skyline 5, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3201 or Commander, Joint Task Force Sexual Assault Prevention and Response, 1401 Wilson Blvd., Suite 402, Arlington, VA 22209–2318.

Requests should contain the full names of the beneficiary and sponsor,

sponsor Social Security Number, sponsor service, beneficiary date of birth, beneficiary sex, treatment facility(ies), and fiscal year(s) of interest.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written requests to TRICARE Management Activity Privacy Office, Skyline 5, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3201 or Commander, Joint Task Force Sexual Assault Prevention and Response, 1401 Wilson Blvd., Suite 402, Arlington, VA 22209–2318.

Requests should contain the full names of the beneficiary and sponsor, sponsor's Social Security Number, sponsor's service, beneficiary date of birth, beneficiary sex, treatment facility(ies) that have provided care, and fiscal year(s) of interest.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual data records that are assembled to form the MHIS are submitted by the Military Departments' medical treatment facilities, commercial healthcare providers under contract to the MHS, the Defense Enrollment Eligibility Reporting System, the Uniformed Service Treatment Facility Managed Care System, the Department of Health and Human Services, the Department of Veterans Affairs, and any other source financed through the Defense Health Program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–3076 Filed 3–29–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

[DOD–2006–OS–0054]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 1, 2006, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on March 23, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: March 24, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

NM04066–2

SYSTEM NAME:

Commercial Fidelity Bond Insurance Claims (September 20, 1993, 58 FR 48852).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with: "10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN)."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete the following: "To the insurance carrier (Fidelity Bond Underwriter) to ensure appropriate coverage."

* * * * *

STORAGE:

Delete entry and replace with: "Paper and automated records."

* * * * *

SAFEGUARDS:

Delete entry and replace with: "Password controlled system. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers."

* * * * *

NO4066–2

SYSTEM NAME:

Commercial Fidelity bond Insurance Claims.

SYSTEM LOCATION:

Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724 (for all Navy exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel assigned to Navy exchanges, who the duly constituted authority (usually a Board of Investigation appointed by the base Commanding Officer) has established to be guilty of a dishonest act which has resulted in a loss of money, securities or other property, real or personal, for which the exchange is legally liable.

CATEGORIES OF RECORDS IN THE SYSTEM:

Equipment Loss Reports, Cash and/or Merchandise Loss Reports from Navy exchanges, included correspondence relating to losses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN).

PURPOSE(S):

To render proper assistance in processing insurance claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name, payroll number, Social Security Number, and activity.

SAFEGUARDS:

Password controlled system. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records are kept for four years and then retired to the Federal Records Centers, St. Louis, MO.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, 3280 Virginia Boulevard, Virginia Beach, VA 23452–5724.

In the initial inquiry the requester must provide full name, payroll or military service number and activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Resale and Services Support Office, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

The request should contain full name, payroll or military service number and activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual; the insurance underwriter; audit reports; investigatory reports and/or activity loss records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–3075 Filed 3–29–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

President's Board of Advisors on Tribal Colleges and Universities; Notice of Meeting

AGENCY: President's Board of Advisors on Tribal Colleges and Universities, Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Board of Advisors on Tribal Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

DATES AND TIMES: Monday, April 10, 2006—8:30 a.m.–5 p.m. Tuesday, April 11, 2006—9 a.m.–2:30 p.m.

ADDRESSES: The Board will meet at the Willard Intercontinental Hotel, 1401 Pennsylvania Avenue, NW., Washington, DC 20004. Phone (202) 628–9100; Fax: (202) 637–7326.

FOR FURTHER INFORMATION CONTACT: Deborah Cavett, Executive Director, White House Initiative on Tribal Colleges and Universities, 1990 K Street, NW., Room 7014, Washington, DC 20006; telephone: (202) 219–7040, fax: 202–219–7086.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Tribal Colleges and Universities is established under Executive Order 13270, dated July 2, 2002, and Executive Order 13385 dated September 25, 2005. The Board is established (a) to report to the President annually on the results of the participation of tribal colleges and universities (TCUs) in Federal programs, including recommendations on how to increase the private sector role, including the role of private foundations, in strengthening these institutions, with particular emphasis also given to enhancing institutional planning and development, strengthening fiscal stability and financial management, and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions; (b) to advise the President and the Secretary of Education (Secretary) on the needs of TCUs in the areas of infrastructure, academic programs, and faculty and institutional development; (c) to advise the Secretary in the preparation of a Three-Year Federal plan for assistance to TCUs in increasing their capacity to participate in Federal programs; (d) to provide the President with an annual progress report on enhancing the capacity of TCUs to serve their students; and (e) to develop, in consultation with the Department of Education and other Federal agencies, a private sector strategy to assist TCUs.

Agenda

The purpose of the meeting is to update the Board's Strategic Plan through a review of collaborative efforts and to discuss relevant issues to be addressed in the Board's annual report.

Additional Information

The President's Board on Tribal Colleges and Universities is giving less than 15 days notice due to scheduling difficulties.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, or material in alternative format) should notify Norma Hardie at (202) 219–7040, no later than Monday, April 3, 2006. We will attempt to meet requests for accommodations after this date, but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

An opportunity for public comment is available on Tuesday, April 10, 2006, between 1:30 p.m.–2:30 p.m. Those members of the public interested in submitting written comments may do so at the address indicated above by Monday, April 3, 2006.

Records are kept of all Board proceedings and are available for public inspection at the Office of the White House Initiative on Tribal Colleges and Universities, U.S. Department of Education, 1990 K Street, NW., Washington, DC 20006, during the hours of 8 a.m. to 5 p.m.

Dated: March 27, 2006.

Margaret Spellings,

Secretary of Education, U.S. Department of Education.

[FR Doc. 06–3077 Filed 3–29–06; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC06–500–000; FERC–500]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

March 23, 2006.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due May 30, 2006.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filing/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–500–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on "Make an E-filing", and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–500 "Application for License/Relicense for Water Projects With More Than 5 MW Capacity" (OMB No. 1902–0058) consists of the filing requirements as defined in 18 CFR Sections 4.32, 4.38, 4.40–41, 4.50–51, 4.61, 4.71, 4.93, 4.107–108, 4.201–202, 16.1, 16.10, 16.20, 292.203 and 292.208. The information collected under the requirements of FERC–500 is used by the Commission to determine the broad impact of a hydropower license application. In deciding whether to issue a license, the Commission gives equal consideration to full range of licensing purposes related to the potential value of a stream or river. Among these purposes are: Hydroelectric development; energy conservation; fish and wildlife resources; including their spawning grounds and habitat; visual resources; cultural resources; recreational opportunities; other aspects of environmental quality; irrigation; flood control and water supply.

Submission of the information is necessary to fulfill the requirements of the Federal Power Act in order for the Commission to make the required finding that the proposal is economically sound and is best adapted to a comprehensive plan for improving/developing a waterway or waterways. Under Part I of the Federal Power Act (FPA), (16 U.S.C. sections 791a *et seq.*), the Commission has the authority to issue licenses for hydroelectric projects on the waters over which Congress has jurisdiction. The Electric Consumers Protection Act (Pub. L. 99–495, 100 Stat. 1243) provides the Commission with the responsibility of issuing licenses for nonfederal hydroelectric plants. ECPA also amended the language of the FPA concerning environmental issues to ensure environmental quality.

In Order No. 2002 (68 FR 51070, August 25, 2003; *FERC Statutes and Regulations* ¶31,150 at p. 30,688) the Commission revised its regulations to create a new licensing process in which a potential license applicant's pre-filing consultation and the Commission's scoping process pursuant to the National Environmental Policy Act (42 U.S.C. 4321) are conducted concurrently rather than sequentially. The Commission estimated that if an applicant chooses to use the new licensing process, this could result in a reduction of 30% from the traditional licensing process. The reporting burden related to Order No 2002 would be on average 32,200 hours as opposed to 46,000 hours per respondent in the traditional licensing process or 39,000 hours for the alternative licensing process. It has been nearly three years since Order No. 2002 was issued and applicants have experienced the opportunity to gain the benefits from the revised licensing process. In particular, applicants have benefited from (a) increased public participation in pre-filing consultation; (b) increased assistance from Commission staff to the potential applicant and stakeholders during the development of a license application; (c) development by the potential applicant of a Commission-approved study plan; (d) elimination of the need for post-application study requests; (e) issuance of public schedules and enforcement of deadlines; (f) better coordination between the Commission's processes, including the NEPA document preparation, and those of Federal and state agencies and Indian tribes with authority to require conditions for Commission-issued licenses. It is for these reasons, that the Commission will use the estimates projected in the table below.

The information collected is needed to evaluate license application pursuant to the comprehensive development standard of FPA sections 4(e) and 10(a)(1), to consider the comprehensive development analysis of certain factors with respect to the new license set forth in section 15, and to comply with NEPA, Endangered Species Act (16 U.S.C. section 1531 *et seq.*) and the National Historic Preservation Act (16 U.S.C. section 470 *et seq.*).

Commission staff conducts a systematic review of the prepared application with supplemental documentation provided by the solicitation of comments from other agencies and the public.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
13	1	35,620	15,744,040

Estimated cost burden to respondents is $62,430,000. ($7,800,000 (traditional process) + $17,600,000 (alternative process) + $37,030,000 (integrated process). These costs were determined by the percentage of applicants that would be using each of these processes. Annualized costs per project $2,600,000 (traditional); $2,200,000 (alternative licensing) and $1,610,000 (integrated licensing).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities, which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4591 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC06–714–000; FERC Form 714]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

March 23, 2006.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due May 30, 2006.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filing/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–714–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on "Make an E-filing", and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *ferconlinesupport@ferc.gov* or toll-free at (866) 208–3676. or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form–714 "Annual Electric Control and Planning Area Report" (OMB No. 1902–0140, expiration date October 31, 2006) is used by the Commission to carry out its responsibilities in implementing the statutory provisions of sections 202, 207, 210, 211–213 of the Federal Power Act (FPA), as amended (49 Stat. 838; 16 U.S.C. 791a–825r) and particularly sections 304–309 and 311, as well as Energy Policy Act sections 1211, 1221, 1231, 1241 and 1242. The Commission implements the Form 714 filing requirements in the Code of Federal Regulations (CFR) under 18 CFR section 141.51.

Through FERC Form 714, the Commission gathers electric transmission system operating and planning information, from control area operations and from utilities charged with resource planning and demand forecasting for planning areas that have an annual peak demand greater than 200 megawatts. This information is used in evaluating transmission system reliability and performance, wholesale rate investigations, and wholesale market under emerging competitive forces.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
215	1	50	10,750

The estimated total annual cost to respondents is $606,347. (10,750 burden hours/2080 work hours per year × $117,321 annual average salary per employee). The estimated annual cost per respondent is $2,820.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities, which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4592 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–849–003]

California Independent System Operator Corporation; Notice of Compliance Filing

March 23, 2006.

Take notice that on March 16, 2006, the California Independent System Operator Corporation tendered for filing in compliance with Commission Order issued June 22, 2005, Amendment No. 68 that allows generators operating under the ISO tariff to self-supply their Station Power requirements from either on-site or remote supply.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 6, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4590 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–41–003]

Dominion Transmission, Inc.; Notice of Filing

March 23, 2006.

Take notice that on March 15, 2006, Dominion Transmission, Inc. (Dominion), 120 Tredegar Street, Richmond, Virginia 23219, filed an abbreviated application pursuant to section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's Rules and Regulations, seeking to clarify the nameplate horsepower ratings for the turbine engine/compressor units at Mockingbird Hill and Quantico compressor stations in Wetzel County, West Virginia and Fauquier County, Virginia, respectively. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

On September 11, 2003, the Commission issued a certificate in Docket No. CP03–41–000 authorizing Dominion to construct, install, own, operate, and maintain the Mockingbird Hill compressor station with a 5,000 nominal horsepower (HP) turbine engine/compressor unit; and the

Quantico compressor station with a 6,000 nominal HP turbine engine/compressor unit. In the September 11, 2003 application, Dominion proposed to refurbish and install the units from Dominion's existing Crayne compressor station, at Mockingbird Hill and Quantico. After refurbishing, the units have the nameplate HP ratings of 5,800 HP and 6,100 HP, respectively. Dominion does not request an increase in capacity, or any other certificated level. The units were placed in service on November 1, 2004.

Any questions regarding the application are to be directed to Matthew R. Bley, Manager, Gas Transmission Certificates, Dominion Transmission, Inc., 120 Tredegar Street, Richmond, Virginia 23219; phone number (804) 819–2877.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper, see, 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. Eastern Time on April 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4594 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–365–002]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 24, 2006.

Take notice that on March 22, 2006, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective the later of April 1, 2006, or the commencement date of incremental storage services offered as part of its Northeast Storage Project:

Fifth Revised Sheet No. 36
First Revised Sheet No. 36A
Original Sheet No. 41
Sheet Nos. 42–99

The proposed changes would increase revenues from jurisdictional incremental storage service by approximately $2 million based on the 12-month period ending March 31, 2007, as adjusted.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 30, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4655 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR06–6–000 and Enbridge Offshore Facilities, LLC]

Notice of Petition for Declaratory Order

March 24, 2006.

Take notice that on March 17, 2006, Enbridge Offshore Facilities, LLC (Enbridge) filed in Docket No. OR06–6–000, a petition for declaratory order, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)). Enbridge requests that the Commission issue an expedited decision on this petition no later than mid-June 2006.

Enbridge states that it is planning to construct a 20-inch diameter, 26-mile crude oil pipeline Enbridge Oil Pipeline from production facilities servicing the Neptune oil field in the Atwater Valley area approximately 170 miles south of New Orleans, Louisiana in the deepwater Gulf of Mexico, to Caesar Oil Pipeline. Enbridge Oil Pipeline is expected to commence service in 2007. Enbridge Oil Pipeline will also be available to serve fields to be developed in the future in the western Atwater Valley and eastern Green Canyon areas.

Enbridge states that the Enbridge Oil Pipeline will function in effect as an extension of Caesar Oil Pipeline. The Commission has approved contract carriage on Caesar Oil Pipeline,[1] and Caesar Oil Pipeline has entered into transportation agreements with producers in the Neptune Field under which Caesar Oil Pipeline has agreed to transport up to 60,000 barrels of oil per day from the Neptune Field on contract carriage terms. Enbridge asserts that if those shippers and others who may ship on Enbridge Oil Pipeline in the future are to be assured that they can take advantage of their full contract rights to ship on Caesar Oil Pipeline, they must also be able to contract for rights to ship on Enbridge Oil Pipeline. Without such complementary contractual rights to ship on Enbridge Oil Pipeline, shippers will be concerned about the possibility that common-carrier type pro rata allocation might be required on

[1] Caesar Oil Pipeline, 102 FERC ¶ 61,339 at PP 1, 37–38 (2003).

Enbridge Oil Pipeline under the provisions of 43 U.S.C. 1334(e)–(f) (2004). This would create a mismatch between the capacity for which shippers have contracted on Caesar Oil Pipeline and the capacity to which they have access on Enbridge Oil Pipeline to transport their oil to Caesar Oil Pipeline.

Enbridge is concerned that in the absence of the declaratory order that it seeks, the potential for common-carrier type pro rata allocation on Enbridge Oil Pipeline will (1) result in shippers refusing to transport volumes on Enbridge Oil Pipeline due to such shippers' concern that they will be prevented from tendering their contracted-for volumes to Caesar Oil Pipeline, and (2) encourage shippers to build their own isolated, duplicative pipeline capacity as insurance against having to restrict production from their fields as a result of prorationing on Enbridge Oil Pipeline. Enbridge maintains that such uncertainty and unnecessary expense would discourage development of oil production and construction of efficient large-scale pipelines in the deepwater Gulf of Mexico.

Accordingly, Enbridge seeks the following:

A Commission declaration that Enbridge Oil Pipeline will be authorized to function as a contract carrier, hold on open season, enter into long-term transportation contracts reflecting contract carriage principles, give those contracts precedence in allocating capacity, and contract for capacity that remains available after the open season closes on a first-come, first-served basis, consistent with the Commission's ruling in Caesar Oil Pipeline, 102 FERC ¶ 61,339, at PP 1, 37 (2003).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on April 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4645 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–32–002]

Northwest Pipeline Corporation; Notice of Amendment

March 23, 2006.

Take notice that on March 16, 2006, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP05–32–002, an application pursuant to sections 7(b) and (c) of the Natural Gas Act (NGA) to amend the certificate of public convenience and necessity that was issued for its Capacity Replacement Project by Commission order dated September 13, 2005 in Docket Nos. CP05–32–001 and CP05–32–001, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Northwest requests that the Commission authorize minor scope changes for its Capacity Replacement Project, including: (i) Abandonment by removal of three additional segments of 26-inch diameter pipeline, totaling 0.20 miles; (ii) abandonment of related connection facilities at eight additional locations, elimination of such abandonments at seven previously authorized locations, and correction of the abandonment descriptions for two previously authorized locations; and (iii) the elimination of a previously authorized 30-inch diameter valve on Northwest's existing 30-inch diameter mainline.

Any questions regarding this application should be directed to Gary K. Kotter, Manager, Certificates and Tariffs-3C1, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158–0900, at (801) 584–7117 or fax (801) 584–7764.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be

required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: April 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4589 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–62–000]

H–P Energy Resources, LLC, Complainant v. PJM Interconnection, LLC, Respondent, Notice of Complaint

March 24, 2006.

Take notice that on March 23, 2006, H–P Energy Resources, LLC (Energy Resources), pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e, and sections 206 and 212 of the Commission's Rules of Practice and Procedures, 18 CFR 385.206 and 385.212, filed a complaint against PJM Interconnection, LLC (PJM) alleging that, in contravention of PJM's Open Access Transmission Tariff, PJM has failed to provide an appropriate quantity of Incremental Auction Revenue Rights for a merchant transmission project on the Bedington-Black Oak circuit.

Energy Resources certifies that a copy of the complaint has been served on PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time April 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4644 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 23, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER02–2559–004; ER01–1071–005; ER02–669–005; ER02–2018–005; ER01–2074–005; ER98–2494–009; ER02–1903–004; ER03–179–005; ER02–1838–005; ER02–2120–003; ER03–155–004; ER02–2166–004.

Applicants: Backbone Mountain Windpower LLC; Badger Windpower, LLC, Bayswater Peaking Facility, LLC; Blythe Energy, LLC; Calhoun Power Company I, LLC; ESI Vansycle Partners, L.P.; FPL Energy Marcus Hook, L.P.; FPL Energy New Mexico Wind, LLC; FPL Energy Seabrook, LLC; FPLE Rhode Island State Energy, L.P.; High Winds, LLC; Pennsylvania Windfarms, Inc.

Description: FPL Energy Affiliates amends their June 17, 2005 compliance filing pursuant to FERC's May 25, 2005 Order.

Filed Date: March 17, 2006.

Accession Number: 20060321–0044.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 28, 2006.

Docket Numbers: ER03–746–000; EL00–95–081; EL00–98–069.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp. submits its Twenty-Sixth Status Report on Re-Run Activity re San Diego Gas & Electric Co.

Filed Date: March 16, 2006.

Accession Number: 20060320–0064.

Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–564–001.

Applicants: American Electric Power Service Corp.

Description: American Electric Power Service Corp, submits changes to the Original Sheet 16 of the Agreement filed on January 27, 2006 with the Village of Shiloh, OH.

Filed Date: March 17, 2006.

Accession Number: 20060321–0031.

Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–587–001.

Applicants: Interstate Power and Light Company.

Description: Interstate Power and Light Co. submits Substitute Sheets Nos. 1 through 17 of its RES–5 tariff.

Filed Date: March 17, 2006.

Accession Number: 20060321–0032.

Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–614–001.

Applicants: Western Electricity Coordinating Council.

Description: Western Electricity Coordinating Council submits its FERC Electric Rate Schedule No. 1, in compliance with FERC's March 6, 2006 Order.

Filed Date: March 15, 2006.

Accession Number: 20060321–0001.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 5, 2006.

Docket Numbers: ER06–732–000.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co. submits a proposed Joint Investment and Ownership Agreement for Quad Cities West Flowgate Upgrades.

Filed Date: March 15, 2006.

Accession Number: 20060317–0270.

Comment Date: 5 p.m. Eastern Time on Wednesday, April 5, 2006.

Docket Numbers: ER06–734–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits an unexecuted Large Generator Interconnection Agreement among FPL Energy Green Lake Wind, LLC and American Transmission Co., LLC.

Filed Date: March 17, 2006.
Accession Number: 20060321–0038.
Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–735–000.
Applicants: Auburndale Power Partners, L.P.
Description: Auburndale Power Partners L.P. petitions the Commission for order accepting market-based rate schedule and granting waivers and blanket approvals.
Filed Date: March 17, 2006.
Accession Number: 20060321–0039.
Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–736–000.
Applicants: Midway Sunset Cogeneration Company.
Description: Petition of Midway Sunset Cogeneration Co. petitions the Commission for order accepting market-based rate schedule and granting waivers and blanket approvals.
Filed Date: March 17, 2006.
Accession Number: 20060321–0040.
Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–737–000.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Co. submits First Rev. Sheet Nos. 1, 3, 11, and 13 and Original Sheet Nos. 33a–33h to First Rev. FERC Rate Schedule 19 which is an Interconection Agreement with Central Iowa Power Coop.
Filed Date: March 17, 2006.
Accession Number: 20060321–0041.
Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–738–000; ER06–739–000.
Applicants: Cogen Technologies Linden Venture, L.P.; East Coast Power Linden holding L.L.C.
Description: Cogen Technologies Linden Venture, L.P. and East Coast Power Linden Holding L.L.C. petition the Commission for order accepting market-based rate schedules and granting waivers and blanket approvals.
Filed Date: March 17, 2006.
Accession Number: 20060321–0042.
Comment Date: 5 p.m. Eastern Time on Friday, April 7, 2006.

Docket Numbers: ER06–741–000; ER06–742–000.
Applicants: KIAC Partners; Nissequogue Cogen Partners.
Description: KIAC Partners and Nissequogue Cogen submit proposed market-based rate schedules.
Filed Date: March 16, 2006.
Accession Number: 20060322–0155.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–743–000.
Applicants: Air Liquide Large Industries US LP.
Description: Air Liquide Large Industries US, LP submits an application to make wholesale sales of energy and capacity and ancillary services at negotiated market based rates.
Filed Date: March 16, 2006.
Accession Number: 20060322–0171.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–744–000.
Applicants: Sabine Cogen, LP.
Description: Sabine Cogen, LP submits application for authorization to make wholesale sales of energy and capacity and ancillary services at negotiated, market-based rates.
Filed Date: March 16, 2006.
Accession Number: 20060322–0170.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–745–000.
Applicants: MASSPOWER.
Description: MASSPOWER submits an application for authorization to make market-based wholesale sales of energy, capacity and ancillary services.
Filed Date: March 16, 2006.
Accession Number: 20060322–0156.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–746–000.
Applicants: Equilon Enterprises LLC.
Description: Equilon Enterprises, LLC dba Shell Oil Products US submits its proposed market-based rate tariff for its qualifying cogeneration facility located at Los Angeles, CA.
Filed Date: March 16, 2006.
Accession Number: 20060322–0151.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–747–000.
Applicants: Equilon Enterprises LLC.
Description: Equilon Enterprises, LLC dba Shell Oil Products US submits its proposed market-based rate tariff for its qualifying cogeneration facility located at Martinez, CA.
Filed Date: March 16, 2006.
Accession Number: 20060322–0152.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–748–000.
Applicants: Shell Chemical LP.
Description: Shell Chemical LP submits its proposed market-based rate tariff for its qualifying cogeneration facility located at Geismar, LA.
Filed Date: March 16, 2006.
Accession Number: 20060322–0158.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–749–000; ER06–750–000; ER05–751–000; ER06–752–000; ER06–753–000; ER06–754–000.
Applicants: Carville Energy LLC; Morgan Energy Center, LLC; Columbia Energy LLC; Pine Bluff Energy, LLC; CPN Pryor Funding Corporation; Auburndale Power Partners, L.P.
Description: Carville Energy LLC, et al. submits proposed market based rate schedules.
Filed Date: March 16, 2006.
Accession Number: 20060322–0153.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Docket Numbers: ER06–755–000; ER06–756–000.
Applicants: Calpine Gilroy Cogen, L.P.; Los Medanos Energy Center LLC.
Description: Calpine Gilroy Cogen, LP & Los Medanos Energy Center, LLC submit proposed market-based rate schedules for qualifying facilities.
Filed Date: March 16, 2006.
Accession Number: 20060322–0154.
Comment Date: 5 p.m. Eastern Time on Thursday, April 6, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4596 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EF06–4011–000, et al.]

Southwestern Power Administration, et al.; Electric Rate and Corporate Filings

March 22, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Southwestern Power Administration

[Docket No. EF06–4011–000]

Take notice that on February 3, 2006, the Deputy Secretary, U.S. Department of Energy, pursuant to the authority vested on the Deputy Secretary by Delegation Order Nos. 00–037.00, effective December 6, 2001, and 00.001–00B, effective July 28, 2005, submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis, the following Southwestern Power Administration (Southwestern) Integrated System Rate Schedule for the period February 1, 2006, through September 30, 2009.

Rate Schedule P–05, Wholesale Rates for Hydro Peaking Power.

Rate Schedule NFTS–05, Wholesale Rates for Non-Federal Transmission/ Interconnection Facilities Service.

Rate Schedule EE–05, Wholesale Rate for Excess Energy.

The document submitted by the Deputy Secretary states that the System Rates will increase the annual revenue from $124,325,100 to $133,342,029 primarily to recover increased expenditures in operation and maintenance (O&M) and investment. In addition, the proposed rate schedule indicates the need for an annual increase of $227,100 in revenues received through the Purchased Power Adder to recover increased purchased energy costs. The proposal also includes a continuation of the Administrator's Discretionary Purchased Power Adder Adjustment, to adjust the purchased power adder annually up to $0.0011 per kilowatthour annually. The adder will be $0.0029 per kWh beginning February 1, 2006.

Comment Date: April 3, 2006.

2. Midway Sunset Cogeneration Company

[Docket No. EL06–59–000]

Take notice that on March 17, 2006, Midway Sunset Cogeneration Company (MSCC) filed with the Commission a Petition for Declaratory Order and Request for Expedited Consideration pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207 (2005).

Comment Date: 5 p.m. Eastern Time on April 17, 2006.

3. Indeck Energy Services of Silver Springs, Inc.

[Docket No. ER06–740–000]

Take notice that on March 10, 2006, Indeck Energy Services of Silver Springs, Inc. tendered for filing an application for market-based rate authority.

Comment Date: 5 p.m. Eastern Time on March 31, 2006.

4. BayCorp Holdings, Ltd.

[Docket No. PH06–30–000]

Take notice that on March 17, 2006, BayCorp Holdings, Ltd. filed a notice pursuant to 18 CFR 366.4(b)(1) claiming exemption from the requirements of the Public Utility Holding Company Act of 2005 pursuant to 18 CFR 366.3(a) and 18 CFR 366.3(b).

Comment Date: 5 p.m. Eastern Time on April 7, 2006.

5. UniSource Energy Corporation; UniSource Energy Services, Inc.

[Docket No. PH06–31–000]

Take notice that on March 16, 2006 UniSource Energy Corporation and UniSource Energy Services, Inc. (collectively, Applicants) submitted for filing a FERC–65B Waiver Notification. Applicants state that on August 1, 2003, the Securities and Exchange Commission granted UniSource Energy Corporation in conjunction with its acquisition of the Arizona electric and gas utility assets of Citizens Communications Company exemptions under section 3(a)(1) from all provisions of the Public Utility Holding Company Act of 1935, as amended.

Comment Date: 5 p.m. Eastern Time on April 6, 2006.

6. Windpower Partners 1993, L.P.

[Docket No. QF85–561–005]

Take notice that on March 17, 2006, Windpower Partners 1993, L.P. submitted a notice of self-recertification to inform the Commission of ownership changes to occur on or after March 20, 2006.

Comment Date: 5 p.m. Eastern Time on April 7, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4597 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 24, 2006.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER06–255–002.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator Inc submits a Large Generator Interconnection Agreement among FirstEnergy Generation Corp and American Transmission System, Inc.
Filed Date: 03/15/2006.
Accession Number: 20060324–0039.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 05, 2006.

Docket Numbers: ER06–757–000.
Applicants: Eastman Cogeneration L.P.
Description: Application for blanket authorization, certain waivers and order approving rate schedule on behalf of Eastman Cogeneration, LP.
Filed Date: 03/16/2006.
Accession Number: 20060324–0017.
Comment Date: 5 p.m. Eastern Time on Thursday, April 06, 2006.

Docket Numbers: ER06–758–000.
Applicants: Chambers Cogeneration, Limited Partnership.
Description: Petition of Chambers Cogeneration, LP for order accepting market-based rate schedule for filing and granting waivers of blanket approvals.
Filed Date: 03/16/2006.
Accession Number: 20060324–0018.
Comment Date: 5 p.m. Eastern Time on Thursday, April 06, 2006.

Docket Numbers: ER06–759–000.
Applicants: Selkirk Cogen Partners, L.P.
Description: Petition of Selkirk Cogen Partners, LP for order accepting market-based rate schedule for filing and granting waivers and blanket approvals.
Filed Date: 03/16/2006.
Accession Number: 20060324–0019.
Comment Date: 5 p.m. Eastern Time on Thursday, April 06, 2006.

Docket Numbers: ER06–760–000.
Applicants: North American Energy Credit and Clearing—Risk Management LLC.
Description: North American Energy Credit & Clearing—Risk Management LLC submits its petition for acceptance of initial rate schedule, waivers and blanket authority.
Filed Date: 03/15/2006.
Accession Number: 20060324–0020.
Comment Date: 5 p.m. Eastern Time on Wednesday, April 05, 2006.

Docket Numbers: ER06–761–000.
Applicants: Rumford Paper Company.
Description: Rumford Paper Company submits its Petition for Market-Based Rate Authority and Acceptance of Initial Rate Schedule.
Filed Date: 03/16/2006.
Accession Number: 20060324–0022.
Comment Date: 5 p.m. Eastern Time on Thursday, April 06, 2006.

Docket Numbers: ER06–764–000.
Applicants: The Premcor Refining Group Inc.
Description: The Premcor Refining Group, Inc., submitted an application for market-based authorization and request for waivers and blanket authorizations.
Filed Date: 03/16/2006.
Accession Number: 20060324–0024.
Comment Date: 5 p.m. Eastern Time on Thursday, April 06, 2006.

Docket Numbers: ER06–769–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator Inc submits revisions to its OATT and its Market Administration and Control Area Services Tariff.
Filed Date: 03/17/2006.
Accession Number: 20060324–0050.
Comment Date: 5 p.m. Eastern Time on Friday, April 07, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.
[FR Doc. E6–4656 Filed 3–29–06; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2071–013; Project No. 2111–018; Project No. 935–053; Project No. 2213–011 Washington]

PacifiCorp, Cowlitz PUD; Notice of Availability of the Final Environmental Impact Statement for the Lewis River Projects

March 24, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Lewis River Projects (Yale, FERC No. 2071; Merwin, FERC No. 935; Swift No. 1, FERC No. 2111; and Swift No. 2, FERC No. 2213), located on the North Fork Lewis River in Cowlitz, Clark, and Skamania Counties, Washington and has prepared a Final Environmental Impact Statement (final EIS) for the project. The projects occupy 522.69 acres of Bureau of Land Management (BLM) and Forest Service land: the Yale Project occupies 84.00 acres of BLM land, the Swift No. 1 Project occupies 63.25 acres of BLM

land and 229.00 acres of Forest Service land, the Merwin Project occupies 142.65 acres of BLM land, and the Swift No. 2 Project occupies 3.79 acres of Forest Service land.

The final EIS contains staff evaluations of the applicant's proposal and the alternatives for relicensing the Lewis River Projects. The final EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

A copy of the final EIS is available for review in the Commission's Public Reference Branch, Room 2A, located at 888 First Street, NE., Washington, DC 20426. The final EIS also may be viewed on the Commission's Web site at *http://www.ferc.gov* under the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Ann-Ariel Vecchio at (202) 502–6351 or at *ann-ariel.vecchio@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4648 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–417]

South Carolina Electric & Gas Company; Notice of Availability of Draft Environmental Assessment

March 23, 2006.

A draft environmental assessment (EA) is available for public review. The draft EA analyzes the environmental impacts of an application for non-project use of project lands and waters filed for the Saluda Project. The project is located on Lake Murray in Lexington County, South Carolina.

The draft EA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission, and is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Anyone may file comments on the draft EA. The public as well as federal and state resource agencies are encouraged to provide comments. All written comments must be filed within 30 days of the issuance date of this notice shown above. Send an original and eight copies of all comments marked with the project number, P–516–417, to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

If you have any questions regarding this notice, please call Shana High at (202) 502–8674.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4588 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF06–16–000]

Kinder Morgan Louisiana Pipeline, L.L.C.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Kinder Morgan Pipeline Project and Request for Comments on Environmental Issues

March 24, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) for the Kinder Morgan Pipeline Project proposed in southwest Louisiana by Kinder Morgan Louisiana Pipeline, L.L.C. This notice describes the proposed project, the EIS process and how the public can participate in our [1] analysis.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. We encourage government representatives to notify their constituents of this proposed project and encourage them to comment on their areas of concern.

Summary of the Proposed Project

Kinder Morgan proposes to construct, operate and maintain approximately 133 miles of natural gas pipeline in Cameron, Calcasieu, Jefferson Davis, Acadia and Evangeline Parishes, Louisiana. According to Kinder Morgan, the purpose of this project is to provide an additional source of long-term, competitively priced natural gas from the Sabine Pass Liquefied Natural Gas (LNG) Terminal to intrastate and interstate natural gas markets. Kinder Morgan has stated that this project is necessary to help meet the growing imbalance between national supply and demand.

Specifically, Kinder Morgan is proposing to construct, operate and maintain:

- 130 miles of 42-inch-diameter pipeline beginning within the Sabine Pass LNG Terminal in Cameron Parish and extending northward and easterly through Calcasieu, Jefferson Davis and Acadia Parishes until it connects with an existing Columbia Gulf Transmission interstate pipeline in Evangeline Parish, Louisiana.
- 1 mile of 36-inch-diameter bi-directional pipeline beginning within the Sabine Pass LNG Terminal and extending northward until it connects with the existing Natural Gas Pipeline Company of America pipeline approximately one mile north of the LNG terminal in Cameron Parish, Louisiana.
- 2.2 miles of 24-inch-diameter pipeline extending eastwardly from approximately Milepost 109 of the 130-mile leg described above until it connects with the existing Florida Gas Transmission Company's Compressor Station #7 near the town of Williams in Acadia Parish, Louisiana.
- Associated mainline block valves, metering, tie-in and pigging facilities.

The Kinder Morgan Pipeline would deliver approximately 3.4 million decatherms (Dth) of natural gas per day and would connect with fourteen intrastate and interstate pipeline facilities. No compressor stations would be included as part of the project.

A general location of the proposed pipeline is provided in Appendix 1.[2]

[1] "We," "us," and "our" refer to the environmental staff of the FERC's Office of Energy Projects.

Land Requirements

Kinder Morgan is proposing that construction of the 42-inch-diameter and 36-inch-diameter pipelines would require between 85–130 feet of construction right-of-way (ROW). Construction of the 24-inch-diameter pipeline would require the use of 75–95 feet of construction ROW. Temporary work spaces (TWS) would also be required for construction of the proposed project. The size of construction ROW and TWS required for construction would vary depending on land type and construction method. Approximately 1,600 acres of land would be temporarily affected by construction of the proposed project. In addition, during construction additional lands would also be temporarily affected by pipeline storage yards, contractor staging areas, temporary work spaces and access roads.

Kinder Morgan proposes that 50 feet of permanent ROW would be necessary for all three pipeline segments. Approximately 800 acres of land would be permanently affected by operation of the proposed project.

If you are a landowner receiving this notice, you may be contacted by a Kinder Morgan representative about the acquisition of an easement to construct, operate and maintain the proposed project facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from the approval of an interstate natural gas pipeline. The FERC will use the EIS to assess the environmental impact that could result if the Kinder Morgan Pipeline Project is authorized under section 7 of the Natural Gas Act. NEPA also requires us to discover and address concerns the public may have about proposals under consideration by the Commission. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. With this Notice of Intent, the Commission staff is requesting public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during preparation of the EIS. Please note that the scoping period will close on April 24, 2006.

In the EIS, we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Water resources;
- Wetlands and vegetation;
- Fish and wildlife;
- Threatened and endangered species;
- Land use, recreation and visual resources;
- Air quality and noise;
- Cultural resources;
- Socioeconomics;
- Reliability and safety; and
- Cumulative impacts.

In the EIS, we will also evaluate possible alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on affected resources.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, State and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. We will consider all comments on the final EIS before we make our recommendations to the Commission. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this notice.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under its Pre-filing Process. The purpose of the Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed.

With this notice, we are asking Federal, State and local governmental agencies with jurisdiction and/or special expertise with respect to environmental issues to express their interest in becoming cooperating agencies for the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating status should send a letter expressing that interest and expected level of involvement to the Secretary of the Commission at the address provided in the public participation section of this notice.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction, operation and maintenance of the proposed project. We have already identified several issues that we think deserve attention based on a preliminary review of the project site and the facility information provided by Kinder Morgan. This preliminary list of issues may be changed based on your comments and our analysis.

- Potential impacts to Sabine Lake, including oyster reefs.
- Potential impacts to perennial and intermittent waterbodies, including waterbodies with Federal and/or State designations.
- Evaluation of temporary and permanent impacts on wetlands and development of appropriate mitigation.
- Potential impacts to fish and wildlife habitat, including the potential for impacts to federally and state-listed threatened and endangered species, as well as the potential for impacts to wildlife refuges.
- Potential impacts to existing land uses, including residences, agricultural and managed forested lands.
- Potential impacts and potential benefits of construction workforce on local housing, infrastructure, public services and economy.
- Alternative alignments for the pipeline route, alternative construction methods and alternative sites for associated surface facilities, such as staging areas temporarily used during construction.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the "eLibrary" link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the Public Participation section of this notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Kinder Morgan.

alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please carefully follow these instructions:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of your comments for the attention of Gas Branch 2, DG2E.
- Reference Docket No. PF06–16–000 on the original and both copies.
- Mail your comments so that they will be received in Washington, DC on or before April 24, 2006.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. The Commission strongly encourages electronic filing of any comments in response to this Notice of Intent. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide, as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can submit comments you will need to create a free account, which can be created on-line.

Public scoping meetings are designed to provide another opportunity to offer comments on the proposed project. The FERC is arranging and will announce plans for public scoping meetings in the vicinity of the proposed project before the close of the scoping period on April 24, 2006. Interested groups and individuals are encouraged to attend these meetings and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of each meeting will be generated so that your comments will be accurately recorded.

Once Kinder Morgan formally files its application with the Commission, you may want to become an official party to the proceeding known as an "intervenor." Intervenors play a more formal role in the process and are able to file briefs, appear at hearings and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "e-filing" link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

If you received this notice, you are on the environmental mailing list for this project. If you do not want to send comments at this time, but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be removed from the Commission's environmental mailing list.

Availability of Additional Information

Additional information about this project can be obtained by contacting the Commission's Office of External Affairs, at 1–866–208–FERC (3372). Additional information is also available on the Internet at *http://www.ferc.gov*. The "eLibrary link" on the FERC Web site provides access to documents submitted to and issued by the Commission, such as comments, orders, notices and rulemakings. Once on the FERC website, click on the "eLibrary link," select "General Search" and in the "Docket Number" field enter the project docket number excluding the last three digits (PF06–16). When researching information be sure to select an appropriate date range. In addition, the FERC now offers a free e-mail service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

For assistance with the FERC Web site or with eSubscription, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or TTY, contact (202) 502–8659.

Kinder Morgan has also established an Internet Web site for this project at *http://www.kindermorgan.com/business/gas_pipelines/KMLP*. This Web site includes a description of the project, a map of the proposed pipeline route and answers to frequently asked questions. You can also request additional information or provide comments directly to Kinder Morgan at 1–877–751–7626 or by e-mail at *kmlpinfo@kindermorgan.com*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4643 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF06–14–000; COTP Savannah–06–04]

Southern LNG, Inc. and Elba Express Company, L.L.C.; Notice of Intent To Prepare an Environmental Impact Statement and U.S. Coast Guard Letter of Recommendation for the Proposed Elba III Project, Request for Comments on Environmental Issues, and Notice of Public Comment Meetings

March 24, 2006.

The Federal Energy Regulatory Commission (FERC or Commission) and the U.S. Department of Homeland Security, U.S. Coast Guard (Coast Guard) are in the process of evaluating the Elba III Project planned by Southern LNG, Inc. and Elba Express Company, L.L.C., both wholly-owned subsidiaries of Southern Natural Gas Company (SNG). The project would consist of an expansion of SNG's existing onshore Elba Island Liquefied Natural Gas (LNG) Import Terminal on the Savannah River in Georgia, and construction and operation of onshore natural gas pipeline and compressor facilities in various counties in Georgia and South Carolina.

As a part of this evaluation, the FERC staff will prepare an environmental impact statement (EIS) that will address the environmental impacts of the project. The Commission will use the EIS in its decision-making process to determine whether or not to authorize the project. The Coast Guard will assess the safety and security of the import terminal expansion portion of the project and issue a Letter of Recommendation. As described below, the FERC and the Coast Guard will hold

public comment meetings to allow the public to provide input to these assessments.

This Notice of Intent (Notice) explains the scoping process that will be used to gather information on the project from the public and interested agencies, and summarizes the Coast Guard's process. Your input will help identify the issues that need to be evaluated in the EIS and in the Coast Guard's safety and security assessment. Please note that the scoping period for the project will close on April 24, 2006.

The FERC will be the lead federal agency in the preparation of an EIS that will satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA). Two other federal agencies have already agreed to serve as cooperating agencies during preparation of the EIS: the Coast Guard and the U.S. Army Corps of Engineers (COE). The COE (Savannah and Charleston Districts) has agreed to participate as a cooperating agency in the preparation of this EIS to satisfy its NEPA responsibilities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act. In addition, we have invited the U.S. Fish & Wildlife Service; the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service; the Georgia Department of Natural Resources; and the South Carolina Department of Natural Resources to serve as cooperating agencies in the preparation of this EIS.

With this Notice, we [1] are asking other Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues in the project area to formally cooperate with us in the preparation of this EIS. These agencies may choose to participate once they have evaluated the planned project relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments described in the **Public Participation** section of this Notice.

We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern. Comments on the project may be submitted in written form or verbally. Instructions for the submission of written comments are provided in the *Public Participation* section of this Notice. In lieu of sending written comments, we invite you to attend the public scoping meetings that we have scheduled as follows:

SCHEDULE AND LOCATIONS FOR PUBLIC MEETINGS

Date and time	Location
Monday, April 10, 2006, at 7:00 p.m.	Comfort Inn & Suites Conference Center (Southburg Chateau Room), 301 Governor Truetlen Drive, Pooler, GA 31322; Phone: (912) 748–6464.
Tuesday, April 11, 2006, at 7:00 p.m.	Sylvania Recreation Building, 605 Millen Highway, Sylvania, GA 30467; Phone: (912) 863–2388.
Wednesday, April 12, 2006 at 7:00 p.m.	Thomson High School Cafeteria, 1160 White Oak Road, Thomson, GA 30824; Phone: (706) 986–4200.
Thursday, April 13, 2006 at 7:00 p.m.	Washington-Wilkes High School Cafeteria, 304 Gordon Street, Washington, GA 30673; Phone: (706) 678–2426.

The scoping meeting in Pooler, Georgia, will be combined with the Coast Guard's public meeting regarding the safety and security of the import terminal expansion. At that meeting, the Coast Guard will discuss the process for assessing the suitability of the Savannah River to accommodate increased LNG carrier traffic, and the comprehensive review of the facility's operations manual, emergency response plan, and security plan. The Coast Guard's Letter of Recommendation process is further described below.

This Notice is being sent to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; commentors and other interested parties; and local libraries and newspapers. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern. To ensure that your comments are considered, please follow the instructions in the *Public Participation* section below.

If you are a landowner receiving this Notice, you may be contacted by an SNG representative about the acquisition of an easement to construct, operate, and maintain the proposed pipeline facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the pipeline portion of the project is approved by the FERC, that approval conveys with it the right of eminent domain to secure easements for the facilities. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility on My Land? What Do I Need to Know?" is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*. This fact sheet addresses a number of typically asked questions, including the use of eminent domain for pipeline facilities and how to participate in the FERC's proceedings.

Summary of the Planned Project

Southern LNG, Inc. plans to construct and operate an expansion of its existing Elba Island LNG Import Terminal on the Savannah River in Georgia (Elba Terminal Expansion), and Elba Express Company, L.L.C. plans to construct and operate a natural gas transmission pipeline in Georgia and South Carolina (Elba Express Pipeline). The general location of the project is shown in appendix 1.

Elba Terminal Expansion

Southern LNG Inc. plans to construct and operate an expansion to its existing LNG import terminal on Elba Island near Savannah, in Chatham County, Georgia. The expansion would (a) more than double the site's LNG storage capacity by adding 400,000 cubic meters

[1] "We," "us," and "our" refer to the environmental staff of the FERC's Office of Energy Projects.

(m^3) of new storage; (b) substantially increase the facility's existing vaporization capacity; (c) upgrade the terminal's send-out meter station to increase the natural gas send-out capacity of the facility by an additional 900 million cubic feet per day (MMcfd); and (d) modify the terminal's LNG tanker berthing and unloading facilities to accommodate larger tankers and provide faster and simultaneous unloading of two LNG tankers. All of the planned facilities would be located entirely within the existing 190-acre facility site on Elba Island.

The LNG terminal expansion would be constructed in two phases, A and B. Phase A would be completed as early as January 2010 and would include the following facilities:

a. One new 200,000 m^3 LNG storage tank, one associated boil-off gas condenser, and three boil-off gas compressors;

b. Three submerged combustion vaporizers, each with a peak capacity of 180 MMcfd, providing an incremental peak send-out capacity of 540 MMcfd (or a total peak send-out capacity of 1,755 MMcfd for the full facility at the completion of phase A); and

c. Modifications to the unloading docks to accommodate new, larger LNG tankers and to allow simultaneous unloading of two LNG tankers. The modifications to the dual berthing slip include:

- Adding four mooring dolphins (two for each berth);
- Dredging approximately 20,500 cubic yards of material from the slope at the back of the existing slip (and disposing of dredged material into the existing spoil disposal area adjacent to the terminal); and
- Installing a sheetpile bulkhead at the back of the slip. These modifications would allow the slip to accommodate larger LNG tankers with an approximate overall length of 345 meters (m) (compared to the current 288 m), breadth of 55 m (compared to the current 49 m), design laden draft of 12.0 m (compared to the current 11.7 m), and displacement of 177,000 metric tons (compared to the current 128,000 metric tons).

Phase B would be completed no later than December 2012 and would include the following facilities:

a. One new 200,000 m^3 LNG storage tank; and

b. Three submerged combustion vaporizers (two for service and one spare), each with a peak capacity of 180 MMcfd, providing an incremental peak send-out capacity of 360 MMcfd (or a total peak send-out capacity of 2,115 MMcfd for the full facility at the completion of phase B).

Each of the two phases would include all necessary ancillary equipment including related pumps, piping, controls and appurtenances, and associated systems (electrical, mechanical, civil, instrumentation, hazard detection, and fire protection) and buildings necessary to accommodate the associated tanks and vaporizer units. Southern LNG estimates that following the expansion, the terminal would receive LNG shipments about every 5 to 10 days, depending on natural gas demand and LNG carrier size.

Elba Express Pipeline

Elba Express Company, L.L.C. plans to construct and operate about 188 miles of new natural gas pipeline and appurtenant facilities in Georgia and South Carolina. The pipeline would be constructed in two phases, extending between an interconnection with SNG near Port Wentworth, Chatham County, Georgia on the southern end and an interconnection with Transcontinental Gas Pipe Line Corporation (Transco) in Anderson County, South Carolina on the northern end.

The first phase is proposed to be placed in service as early as January 2010 with a design capacity of 945 MMcfd, and would consist of:

a. The "Southern Segment," which includes about 104.6 miles of 42-inch-diameter pipeline extending from Port Wentworth to the existing SNG Wrens Compressor Station (Wrens) in Jefferson County, Georgia (to be collocated with the existing SNG pipelines); and

b. The "Northern Segment," which includes about 83.8 miles of 36-inch-diameter pipeline extending from Wrens to interconnects with Transco in Hart County, Georgia, and Anderson County, South Carolina.

The second phase would also involve construction and operation of a new compressor station of about 1,000 horsepower near Woodcliff, Screven County, Georgia, where SNG currently operates other aboveground facilities. The compressor station would increase the pipeline design capacity by 230 MMcfd to a total of 1,175 MMcfd, and is proposed to be placed in service no later than December 2012 (corresponding to the in-service date for Phase B of the Elba terminal expansion).

Land Requirements for Construction

Construction workspace for the Elba Terminal Expansion is undetermined at this time, but would be located entirely within the existing 190-acre facility site. SNG estimates that construction of the Elba Express Pipeline facilities would require about 1,600 acres of land, not including warehouses, staging areas, pipe storage yards, contractor yards, and access roads. The typical construction right-of-way for the Southern Segment would be 125 feet wide (for the 42-inch-diamter pipeline) and would overlap the existing SNG rights-of-way by varying widths based upon the existing right-of-way configuration. The typical construction right-of-way for the Northern Segment would be 110 feet wide (for the 36-inch-diameter pipeline) and, as currently planned, would not be located adjacent to existing rights-of-way. Temporary extra workspace would also be required outside the typical construction right-of-way at certain feature crossings (*e.g.*, roads, railroads, waterbodies) and in areas requiring extensive topsoil segregation or special construction techniques.

The construction and operation workspace at the compressor station would be on a 15-acre site and used for certain miscellaneous facilities (*i.e.*, metering, mainline valves, pig launching and receiving equipment). This site would be primarily within, or adjacent to, the proposed right-of-way.

Following construction, new permanent right-of-way would be required for the pipeline, compressor station, and miscellaneous facilities. Temporary workspace that is used outside existing rights-of-way would be restored and allowed to revert to its current use.

The EIS Process

NEPA requires the FERC to take into account the environmental impacts that could result from an action when it considers whether an LNG import terminal expansion or an interstate natural gas pipeline should be approved. The FERC will use the EIS to consider the environmental impacts that could result if it issues project authorizations to SNG under sections 3 and 7 of the Natural Gas Act. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives. With this Notice, we are requesting public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction, operation, maintenance, and abandonment of the project. We will also evaluate possible alternatives

to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on various resource areas. The EIS will be used by the Commission in its decision-making process to determine whether the project is consistent with the public interest. If it finds such, it will issue an order authorizing the project.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all timely comments on the draft EIS and revise the document, as necessary, before issuing a final EIS.

Although no formal application has been filed with the FERC, we have already initiated our NEPA review under the Commission's Pre-Filing Process. The purpose of the Pre-Filing Process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. The Coast Guard, which will be responsible for reviewing the safety and security aspects of the planned terminal expansion and regulating safety and security if the project is approved, has initiated its review as well.

Coast Guard Letter of Recommendation Process

In accordance with the requirements of Title 33 of the Code of Federal Regulations, part 127.009 (33 CFR 127.009), the Coast Guard Captain of the Port (COTP) Savannah is preparing a Letter of Recommendation as to the suitability of the Savannah River for a potential increase in LNG marine traffic. The Letter of Recommendation is in response to a Letter of Intent submitted by Southern LNG, Inc. to expand its LNG import terminal facility on Elba Island near Savannah, Georgia. The COTP Savannah is soliciting written comments and related material, and will hold a public meeting in conjunction with the FERC seeking comments, pertaining specifically to maritime safety and security aspects of the proposed LNG facility expansion. In preparation for issuance of a Letter of Recommendation and the completion of certain other regulatory mandates, the COTP Savannah will consider comments received from the public as input into a formalized risk assessment process. This process will assess the safety and security aspects of the facility, adjacent port areas, and navigable waterways.

Background and Purpose

In accordance with the requirements of 33 CFR 127.007, Southern LNG, Inc. submitted a Letter of Intent on January 12, 2006, to expand its LNG import facility on Elba Island near Savannah, Georgia. This portion of the overall project is referred to as the Elba III Terminal Expansion Project.

Southern LNG, Inc.'s Elba Island facility is designed for marine receipt of LNG for storage, re-gasification, and delivery into the interstate natural gas pipeline network. The proposed expansion is described in the *Summary of Planned Project—LNG Terminal Expansion* section of this Notice. The Coast Guard exercises regulatory authority over LNG facilities which affect the safety and security of port areas and navigable waterways under Executive Order 10173, the Magnuson Act (50 U.S.C. 191), the Port and Waterways Safety Act of 1972, as amended (33 U.S.C. 1221 *et seq.*) and the Maritime Transportation Security Act of 2002 (46 U.S.C. 701). The Coast Guard is responsible for matters related to navigation safety, vessel engineering and safety standards, and all matters pertaining to the safety of facilities or equipment located in or adjacent to navigable waters up to the last valve immediately before the receiving tanks. The Coast Guard also has authority for LNG facility security plan review, approval, and compliance verification as provided in 33 CFR part 105, and recommendation for siting as it pertains to the management of vessel traffic in and around the LNG facility.

Upon receipt of a Letter of Intent from an owner or operator intending to build or expand an LNG facility, the Coast Guard COTP conducts an analysis that results in a Letter of Recommendation issued to the owner or operator and to the state and local governments having jurisdiction, addressing the suitability of the waterway to accommodate an increase of LNG carrier traffic. Specifically, the Letter of Recommendation addresses the suitability of the waterway based on:

- The physical location and layout of the facility and its berthing and mooring arrangements;
- The LNG vessels characteristics and the frequency of LNG shipments to the facility;
- Commercial, industrial, environmentally sensitive, and residential areas in and adjacent to the waterway used by LNG vessels en route to the facility;
- Density and character of marine traffic on the waterway;
- Bridge or other manmade obstructions in the waterway;
- Depth of water;
- Tidal range;
- Natural hazards, including rocks and sandbars;
- Underwater pipelines and cables; and
- Distance of berthed LNG vessels from the channel, and the width of the channel.

In addition, the Coast Guard will review and approve the updated facility operations manual and emergency response plan (33 CFR 127.019), as well as the updated facility security plan (33 CFR 105.410). The Coast Guard will also provide input to other Federal, state, and local government agencies reviewing the project. Under an interagency agreement, the Coast Guard will provide input to FERC—the lead Federal agency for authorizing the siting and construction of onshore LNG facilities—on the maritime safety and security aspects of the Elba III Terminal Expansion Project. To help FERC make sure that the EIS covers the Coast Guard's Letter of Recommendation and other actions under this proposal, the Coast Guard will serve as a cooperating agency.

In order to complete a thorough analysis and fulfill the regulatory mandates cited above, the COTP Savannah will be conducting a formal risk assessment and evaluation of various safety and security aspects associated with the Elba III Terminal Expansion Project. This assessment will be accomplished through workshops focusing on waterways safety, port security, and consequence management, with involvement from a broad cross-section of government and port stakeholders with expertise in each of the respective areas. The workshops will be by invitation only, but comments received during the public comment period will be considered as input into the risk assessment process.

Currently Identified Environmental Issues

We have already identified issues that we think deserve attention based on attendance at SNG's Open House meetings, verbal comments and comment letters received thus far, a preliminary review of the project area, and information provided by SNG. This preliminary list of issues will be revised based on your comments and our continuing analyses.

- Conversion of the planned pipeline right-of-way from private/commercial and forested land uses to pipeline

easement, and associated economic impact;

- Potential impacts on watersheds and associated wetlands, tributaries and streams, and sensitive aquatic and terrestrial wildlife;
- Potential biological impacts from ballast water intake by the LNG carriers;
- Potential impacts on federally listed threatened and endangered species;
- Potential impacts on essential fish habitat;
- Consistency with Georgia Coastal Zone Management program;
- Potential impacts on air quality resulting from operation of the pipeline compressor station, expanded LNG terminal, and increased LNG carrier traffic;
- Potential impacts of increased LNG carrier traffic and associated support vessels on other river users;
- Potential impacts on cultural resources;
- Risks associated with the transport and storage of LNG;
- Alternative locations for the LNG terminal expansion and pipeline route alignment, respectively; and
- Assessment of the cumulative effects of the project when combined with other past, present, or reasonably foreseeable future actions in the project area.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the planned project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impacts. In addition, the Coast Guard encourages you to submit written comments and related material pertaining specifically to marine safety and security aspects associated with the proposed LNG facility expansion. To maintain a single administrative record and public comment repository, all original written comments and related material associated with the Coast Guard's Letter of Recommendation process must be submitted to the FERC. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please follow these instructions:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of your comments for the attention of Gas Branch 1, DG2E;
- Reference Docket No. PF06–14–000 on the original and both copies; and
- Mail your comments so that they will be received in Washington, DC on or before April 24, 2006.

If you submit comments by mail, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. However, the Commission strongly encourages electronic filing of any comments in response to this Notice. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link and the link to the User's Guide as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can file comments you will need to create a free account, which can be accomplished online.

Comment letters received by the FERC regarding the Coast Guard's safety and security assessment and Letter of Recommendation will be forwarded to the Coast Guard. Although original written comments must be submitted to the FERC, you may submit an identical copy of your written comments to: Commanding Officer, U.S. Coast Guard Marine Safety Unit Savannah, 100 W. Oglethorpe, Savannah, GA 31401.

Marine Safety Unit Savannah maintains a file for this Notice. Comments and material received will become part of this file and will be available for inspection and copying at Marine Safety Unit Savannah between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. The Coast Guard's comment period will run concurrently with the FERC's 30-day public scoping period.

The public scoping meetings (details provided above) are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues that they believe should be addressed in the EIS. A transcript of each meeting will be generated so that your comments will be accurately recorded.

To provide the public an opportunity to comment on the planned LNG facility expansion, the Coast Guard will hold a public meeting in conjunction with the FERC staff in Pooler, Georgia, on April 10, 2006. Organizations and members of the public may provide oral statements regarding the suitability of the Savannah River for an increase in LNG vessel traffic at the Pooler public meeting. In the interest of time and use of the public meeting facility, oral statements may be limited to five minutes (depending on the number of speakers). Persons wishing to make oral statements should notify the FERC when signing in at the meeting. Written comments may be submitted at the meeting or to the FERC as discussed above.

When SNG formally files its application to site, construct, and operate its proposed project, the Commission will publish a Notice of Application in the **Federal Register**. The applicant will provide a copy of this notice to affected landowners within 3 days of its issuance. The Notice of Application will establish a deadline for interested parties to intervene in the proceeding. Because the Commission's Pre-Filing Process occurs before an application to begin a proceeding is officially filed, petitions to intervene during this process are premature and will not be accepted by the Commission.

Environmental Mailing List and EIS Format

If you do not wish to remain on the environmental mailing list to receive notices or the EIS for this planned project, please return the mailer attached as appendix 2.

To reduce printing and mailing costs, the draft and final EIS will be issued in both compact disk (CD–ROM) and hard copy formats. The FERC strongly encourages the use of CD–ROM format in its publication of large documents. Thus, all recipients will automatically receive the EIS on CD–ROM. If you wish to receive a paper copy of the draft EIS instead of a CD–ROM, you must indicate that choice on the return mailer.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the "eLibrary" link. Click on the eLibrary link, select "General Search" and enter the project docket number excluding the last three digits (*i.e.*, PF06–14) in the "Docket Number" field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or by e-mail at *FercOnlineSupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

If you have any questions about the Coast Guard's safety and security assessment or its Letter of Recommendation process, contact Lieutenant Andy Meyers or Charlie Johnson at Marine Safety Unit Savannah, (912) 652–4353 or (912) 652–4180 (fax).

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, SNG has established an Internet Web site for this project at *http://www.elba3.com.* The Web site includes a description of the project, additional maps of the project area, and answers to frequently asked questions. You can also request additional information or provide comments directly to SNG at (800) 793–4514.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4654 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2145–060]

Public Utility District No. 1 of Chelan County, WA (Chelan PUD); Notice of Settlement Agreement, Soliciting Comments, and New Procedural Schedule

March 23, 2006.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Final Comprehensive Settlement Agreement.

b. *Project No.:* P–2145–060.

c. *Date Filed:* March 20, 2006.

d. *Applicant:* Public Utility District No. 1 of Chelan County, Washington (Chelan PUD).

e. *Name of Project:* Rocky Reach Hydroelectric Project (Project).

f. *Location:* On the mid-Columbia River, near the city of Wenatchee, in Chelan and Douglas Counties, Washington.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Gregg Carrington, Director of Hydro Services, 327 N. Wenatchee Avenue, Wenatchee, WA 98801, (509) 661–4178, *gregg@chelanpud.org.*

i. *FERC Contact:* Kim A. Nguyen, (202) 502–6105, *kim.nguyen@ferc.gov.*

j. The deadline for filing comments on the Settlement Agreement is 20 days from the date of this notice, or April 12, 2006. The deadline for filing reply comments is 30 days from the date of this notice, or April 24, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. Chelan PUD filed the settlement agreement on behalf of themselves and the U.S. Fish and Wildlife Service, the Washington Department of Ecology, the U.S. National Park Service, the U.S. Bureau of Land Management, the Washington Department of Fish and Wildlife, the Washington State Parks and Recreation Commission, the City of Entiat, the Entiat Coalition, and Alcoa Power Generating, Inc. The purpose of the settlement agreement is to resolve among the signatories issues regarding the relicensing of the Rocky Reach Hydroelectric Project. The signatories have agreed that the settlement agreement is fair and reasonable and in the public interest. On behalf of the signatories, Chelan PUD requests that the Commission approve the settlement agreement and adopt it as part of a new license without material modification.

l. A copy of the settlement agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. We are modifying our processing schedule for the relicensing of the Project. The schedule given in our Notice on January 30, 2006 is replaced with the following schedule:

Target Date: Issue Final Environmental Impact Statement July, 2006; Ready for Commission Action October, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4593 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2006.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Preliminary Permit (Competing).

b. *Applicants, Project Numbers, and Dates Filed:*

Wilkesboro Hydroelectric Company LLC filed the application for Project No. 12642–000 on January 25, 2006.

Yadkin Hydropower LLC filed the application for Project No. 12651–000 on February 9, 2006.

c. *Name of the Project:* W. Kerr Scott Hydroelectric Project. The project would be located on the Yadkin River in Wilkes County, North Carolina. It would use the U.S. Army Corps of Engineers' (Corps) existing W. Kerr Scott Dam.

d. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

e. *Applicants Contacts:* For Wilkesboro Hydroelectric Company: M. Clifford Phillips, Wilkesboro

Hydroelectric Company, 150 North Miller Road Suite 450C, Failawn, Ohio 44333, phone (330)–869–8151. For Yadkin Hydropower LCC: Mr. Kevin Edwards, 1000 C&N Smith Mill Road, Stoneville, North Carolina 27048, phone (336)–427–2136.

f. *FERC Contact:* Chris Yeakel, (202) 502–8132.

g. *Deadline for Filing Comments, Protests, and Motions to Intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

h. *Description of Projects:* The project proposed by Wilkesboro Hydroelectric Company would use the Corps' W. Kerr Scott Dam and would consist of: (1) A proposed powerhouse containing 2 generating units with a total installed capacity of 4 megawatts , (2) one proposed 10-foot-diameter steel penstock, (3) a proposed transmission line, and (4) appurtenant facilities. The Wilkesboro Hydroelectric Company's W. Kerr Scott Project would have an average annual generation of 19 gigawatt-hours and would be sold to a local utility.

The project proposed by Yadkin Hydropwer, LLC would use the Corps' W. Kerr Scott Dam and would consist of: (1) A proposed powerhouse containing 2 generating units with a total installed capacity of 5 megawatts, (2) one proposed 11.5-foot-diameter steel penstock, (3) a proposed transmission line, and (4) appurtenant facilities. The Yadkin Hydropower LCC W. Kerr Scott Project would have an average annual generation of 21.2 gigawatt-hours and would be sold to a local utility.

i. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE, Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

j. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

k. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

l. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

m. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

n. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under "e-filing" link. The Commission strongly encourages electronic filing.

p. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4646 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

March 24, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12646–000.

c. *Date filed:* February 1, 2006.

d. *Applicant:* City of Broken Bow, Oklahoma.

e. *Name of Project:* Pine Creek Lake Hydroelectric Project.

f. *Location:* The project would be located at the existing Army Corps of Engineers Pine Creek Lake Dam on the Little River in McCurtain County, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* City of Broken Bow, Oklahoma, 210 N. Broadway, Broken Bow, Oklahoma 74728, (580)–584–2885.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for Filing Comments, Protests, and Motions to Intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would use the existing Army Corps of Engineers' Pine Creek Lake Dam and consist of: (1) A powerhouse containing two generating units with an installed capacity of 6.4 megawatts, (2) a proposed 13-foot-diameter steel penstock (3) a proposed switchyard, (4) a proposed diversion structure, (5) a proposed tailrace, (6) a proposed 14.4 kilovolt transmission line; and (7) appurtenant facilities. The project would have an annual generation of 16.2 gigawatt-hours, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE, Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 C.F.R. 385.2001 (a)(1)(iii) and the instructions on the Commission's web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST","COMPETING APPLICATION" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4647 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2593–026.

c. *Date Filed:* March 3, 2006.

d. *Applicants:* Beaver Falls Hydro Associates and Wilmington Trust Company (transferors); and Algonquin Power (Beaver Falls), LLC (transferee)

e. *Name and Location of Project:* The Upper Beaver Falls Project is located on the Beaver River in Lewis County, New York.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contacts:* For the transferors: Joseph B. Feil, Wilmington Trust Company, 1100 North Market Street, Wilmington, DE 19890–0001, (302) 636–6466, and Terry L. Ott, Beaver Falls Hydro Associates, Swissvale Drive, Manlius, NY 13104 and P.O. Box 101, Skaneteles, NY 13153.

For the Transferee: Sean Fairfield, Algonquin Power (Beaver Falls), LLC, 2845 Oakville Bristol Circle, Ontario, Canada, L6H7H4, (905) 465–4518, and June Broadstone, Skadden, Arps, Slate, Meagher, and Flom, LLR, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371–7000.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. *Deadline for Filing, Comments, Protests, and Motions to Intervene:* April 24, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. Description of Application: Applicants seek Commission approval to transfer the license for the Upper Beaver Falls Project from Beaver Falls Hydro Associates and Wilmington Trust Company (Wilmington) to Algonquin Power (Beaver Falls), LLC (Algonquin). The application was filed by Algonquin and co-licensee Wilmington. The other co-licensee, Beaver Falls Hydro Associates, did not respond to Wilmington's certified letter (Exhibit F–4 of the application) requesting it to be an applicant. However, Beaver Falls Hydro Associates executed an agreement (Exhibit F–3 of the application) with Wilmington that provides Wilmington with power of attorney to apply for approval to transfer the license on behalf of Beaver Falls Hydro Associates.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "FERRIS" link. Enter the docket number (P–9985) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g. above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4649 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 271–088 (Notice Re-Issuance).

c. *Date filed:* February 9, 2006.

d. *Applicant:* Entergy Arkansas, Inc.

e. *Name of Project:* Carpenter-Remmel Project.

f. *Location:* The project is located on the Quachita River in Hot Springs and Garland Counties, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and §§ 799 and 801.

h. *Applicant Contact:* Blake Hogue, 141 West County Line Rd., Malvern, AR 72104, (501) 844–2148.

i. *FERC Contact:* Rebecca Martin at 202–502–6012, or e-mail *Rebecca.martin@ferc.gov.*

j. *Deadline for filing comments and or motions:* April 24, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–271–088 or P–271–089) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages e-filings.

k. *Description of Application:* This is a reissue of a public notice issued March 1, 2006. The licensee requests Commission approval of a permit application, filed by Lincoln Street Partners, to build 18 stationary boat slips attached to a new boardwalk to be built on pilings along the shoreline and a 15 foot by 25 foot enlargement of an existing boat ramp on Lake Hamilton for the Bayshore Estates Subdivision. Construction may require the dredging of 8 cubic yards of material.

l. *Location of Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "e-Library" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCOnlineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4650 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2823–012.

c. *Date Filed:* March 3, 2006.

d. *Applicants:* Beaver Falls Hydro Associates and Wilmington Trust Company (transferors); and Algonquin Power (Beaver Falls), LLC (transferee).

e. *Name and Location of Project:* The Lower Beaver Falls Project is located on the Beaver River in Lewis County, New York.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contacts:* For the transferors: Joseph B. Feil, Wilmington Trust Company, 1100 North Market Street, Wilmington, DE 19890–0001, (302) 636–6466, and Terry L. Ott, Beaver Falls Hydro Associates, 4450 Swissvale Drive, Manlius, NY 13104 and P.O. Box 101, Skaneteles, NY, 13153.

For the transferee: Sean Fairfield, Algonquin Power (Beaver Falls), LLC, 2845 Oakville Bristol Circle, Ontario, Canada, L6H7H4, (905) 465–4518, and June Broadstone, Skadden, Arps, Slate, Meagher, and Flom, LLR, 1440 New York Avenue NW, Washington, DC 20005, (202) 371–7000.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. *Deadline for filing comments, protests, and motions to intervene:* April 24, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Applicants seek Commission approval to transfer the license for the Lower Beaver Falls Project from Beaver Falls Hydro Associates and Wilmington Trust Company (Wilmington) to Algonquin Power (Beaver Falls), LLC (Algonquin). The application was filed by Algonquin and co-licensee Wilmington. The other co-licensee, Beaver Falls Hydro Associates, did not respond to Wilmington's certified letter (Exhibit F–4 of the application) requesting it to be an applicant. However, Beaver Falls Hydro Associates executed an agreement (Exhibit F–3 of the application) with Wilmington that provides Wilmington with power of attorney to apply for approval to transfer the license on behalf of Beaver Falls Hydro Associates.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "FERRIS" link. Enter the docket number (P–9985) in the

docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g. above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4651 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of Conduit Exemption and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Conduit Exemption.

b. *Project No:* 5714–001.

c. *Date Filed:* February 7, 2006.

d. *Applicant:* Lake Hemet Municipal Water District.

e. *Name of Project:* Oakcliff Project.

f. *Location:* The project is located on the Lake Hemet Municipal Water District's pipeline in Riverside County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Mr. Mitchell J. Freeman, Lake Hemet Municipal Water District, 2480 East Florida Avenue, P.O. Box 5039, Hemet, CA 92544, (951) 658–3241.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing comments and or motions:* April 24, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–5714–001) on any comments or motions filed.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link. The Commission strongly encourages electronic filings.

l. *Description of Application:* Lake Hemet Municipal Water District proposes to surrender the exemption from licensing for the Oakcliff Project. As part of its request, Lake Hemet Municipal Water District proposes to decommission the project. The Lake Hemet Municipal Water District will remove all generating and electrical equipment from the site and water deliveries will continue through the same conduits that have been historically used.

m. *Location of the Application:* This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, here P–5714, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4652 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of Conduit Exemption and Soliciting Comments, Motions To Intervene, and Protests

March 24, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Conduit Exemption.

b. *Project No:* 7426–002.

c. *Date Filed:* February 7, 2006.

d. *Applicant:* Lake Hemet Municipal Water District.

e. *Name of Project:* North Fork Project.

f. *Location:* The project is located on the Lake Hemet Municipal Water District's pipeline in Riverside County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r

h. *Applicant Contact:* Mr. Mitchell J. Freeman, Lake Hemet Municipal Water District, 2480 East Florida Avenue, P.O. Box 5039, Hemet, CA 92544, (951) 658–3241.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Status of Environmental Analysis:* This application is ready for analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing comments and or motions:* April 24, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–7426–002) on any comments or motions filed.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link. The Commission strongly encourages electronic filings.

l. *Description of Application:* Lake Hemet Municipal Water District proposes to surrender the exemption from licensing for the North Fork Project. As part of its request, Lake Hemet Municipal Water District proposes to decommission the project. The Lake Hemet Municipal Water District will remove all generating and electrical equipment from the site and water deliveries will continue through the same conduits that have been historically used.

m. *Location of the Application:* This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at using the "eLibrary" link. Enter the docket number, here P–7426, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–4653 Filed 3–29–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8051–2]

Annual Meeting of the Mid-Atlantic/Northeast Visibility Union (MANE–VU)

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing the 2006 Annual Board Meeting of the Mid-Atlantic Northeast Visibility Union (MANE–VU). This meeting will deal with matters relative to Regional Haze and visibility improvement in Federal Class I areas within MANE–VU.

DATES: The meeting will be held on May 10, 2006, starting at 9 a.m. (EDT).

ADDRESSES: Omni William Penn, 530 William Penn Place, Pittsburgh, Pennsylvania 15219; (412) 281–7100.

FOR FURTHER INFORMATION CONTACT: Questions regarding the agenda and registration for this meeting and all press inquiries should be directed to: Kromeklia Bryant, Ozone Transport Commission/MANE–VU Office, 444 North Capitol Street NW., Suite 638, Washington, DC 20001; (202) 508–3840; e-mail: *ozone@otcair.org*, Web site: *http://www.manevu.org*.

SUPPLEMENTARY INFORMATION:

The Mid-Atlantic/Northeast Visibility Union (MANE–VU) was formed in 2001, in response to EPA's issuance of the Regional Haze rule. MANE–VU's members include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the Penobscot Indian Nation, the St. Regis Mohawk Tribe along with EPA and Federal Land Managers.

Type of Meeting: This is the Annual Board Meeting and is open to the public.

Agenda: Questions regarding the agenda, registration and logistics of this meeting should be directed to the Executive Office of the Ozone Transport Commission/MANE–VU at (202) 508–3840, by e-mail: *ozone@otcair.org* or via the MANE–VU Web site at *http://www.manevu.org*.

Dated: March 22, 2006.

William Early,

Acting Regional Administrator, Region III.

[FR Doc. 06–3040 Filed 3–29–06; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities: Reinstatement of Existing Collection; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") intends to conduct a survey of parents who have one or more children, aged eight to 16, who play video or personal computer games. The FTC will also survey children aged eight to 16, who play video or personal computer games. The surveys are a follow-up to the Commission's surveys conducted in 2000 on consumers' use of and familiarity with the Entertainment Software Rating Board ("ESRB") electronic game rating system. The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA") (44 U.S.C. 3501–3520).

DATES: Comments must be received on or before May 1, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Entertainment Industry Study: FTC File No. P994511" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex E), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions, please consider submitting your comments in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *entstudy@ftc.gov*. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled "Confidential." [1]

Comments should also be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available, to the extent practicable, to the public on the FTC Web site at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, such as requests for copies of the proposed collection of information (Supporting Statement and related attachments), should be addressed to Keith R. Fentonmiller, (202) 326–2775, or Richard F. Kelly, (202) 326–3304, Attorneys, Federal Trade Commission, Bureau of Consumer Protection, Division of Advertising Practices, 600 Pennsylvania Ave., NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: In 2000, OMB approved the FTC's request to conduct surveys on consumers' use of and familiarity with the rating or labeling systems of the motion picture, music recording, and video and personal computer game industries (OMB Control Number 3084–0120). After receiving OMB approval, the FTC conducted the consumer research and, in September 2000, the Commission issued a report requested by the President and Congress entitled, *Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries* (hereafter "2000 Report").[2] The Commission found that the electronic game industry had engaged in widespread marketing of violent electronic games to children that: (1) Was inconsistent with the ESRB rating system; [3] and (2) undermined parents' attempts to make informed decisions about their children's exposure to violent content. Similar results were found for the motion picture and music recording industries. The Commission also found that advertisements for electronic games frequently failed to contain rating information. Further, the Commission's national surveys of parents and children found that only 61% of parents were aware of the ESRB system, and nearly half of those parents reported that they rarely or never used the ESRB system.[4]

In April 2001,[5] December 2001,[6] June 2002,[7] and July 2004,[8] the Commission issued follow-up reports to assess changes in industry practices. The first two follow-up reports documented progress by the video game industry to limit advertising in popular teen media. The third follow-up report found that the game industry was in substantial compliance with ESRB standards governing ad placements and disclosure of rating information in advertising. There were, however, some advertisements for Mature-rated games [9] placed on television programs with large numbers of teen viewers and continued placement of such ads in game enthusiast magazines with large youth readership. The Commission's July 2004 report found substantial compliance with ESRB standards governing ad placements and that

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

[2] Available at *http://www.ftc.gov/reports/violence/vioreport.pdf*.

[3] As indicated on its Web site, *http://www.esrb.org*, the ESRB "is a self-regulatory body for the interactive entertainment software industry established in 1994 by the Entertainment Software Association, formerly the Interactive Digital Software Association. ESRB independently applies and enforces ratings, advertising guidelines, and online privacy principles adopted by the computer and video game industry. The ESRB rating system helps parents and other consumers choose the games that are right for their families. ESRB ratings have two parts: rating symbols that suggest what age group the game is best for, and content descriptors that indicate elements in a game that may have triggered a particular rating and/or may be of interest or concern."

[4] *See* 2000 Report, Appendix F at *http://www.ftc.gov/reports/violence/appendicesviorpt.pdf*. Appendix F also contains a detailed discussion of the underlying methodology and findings.

[5] Available at *http://www.ftc.gov/reports/violence/violence010423.pdf*.

[6] Available at *http://www.ftc.gov/os/2001/12/violencereport1.pdf*.

[7] Available at *http://www.ftc.gov/reports/violence/mvecrpt0206.pdf*.

[8] Available at *http://www.ftc.gov/os/2004/07/040708kidsviolencerpt.pdf*.

[9] According to the ESRB, Mature-rated games have content that may be suitable for persons 17 years of age and older. *See http://www.esrb.org/esrbratings_guide.asp#symbols*.

industry members generally were prominently disclosing rating information in advertising and on product packaging. A recent "mystery shopper" survey of video game retailers, conducted on behalf of the Commission between October 2005 and January 2006, showed that 42% of young teen shoppers (age 13–16) were able to purchase M-rated games.[10] An additional mystery shopper study is planned for the summer of 2006.

There are continued concerns about parents' knowledge and use of the ESRB system, parents' agreement with the ratings that the ESRB has assigned to some games, and children's ability to purchase Mature-rated games at the retail level. In response to these concerns and as part of the agency's ongoing monitoring of the video game industry's self-regulatory system, the FTC published a Notice seeking comments from the public concerning a new survey that would follow up on the 2000 survey with respect to the video game industry. *See* 70 FR 56703. Pursuant to the OMB regulations that implement the PRA (5 CFR part 1320), the FTC is providing this second opportunity for public comment while requesting that OMB reinstate the clearance for the survey. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before May 1, 2006.

A. Comment Received From the ESRB

In response to its first Notice, the FTC received one comment, from the ESRB, raising a concern that the study would not examine consumers' attitude toward the rating systems of other entertainment industries, and three additional concerns about the structure and content of the FTC's proposed consumer research.[11] No other comments were received.

1. Surveys' Exclusive Focus on Video Game Ratings

The ESRB suggests that the FTC survey consumers' use and knowledge of not just the video game rating system, but other entertainment rating systems as well. The ESRB points out that the FTC's 2000 research covered, in addition to the ESRB system, the rating systems for the motion picture and music recording industries. The ESRB asserts that the proposed research on the ESRB rating system will be significantly less useful than it would be if it also included the music and motion picture rating systems. However, each entertainment industry—whether music, movies, or video games—involves a distinct entertainment product and has a self-regulatory system tailored by its members. The self-regulatory challenges are not necessarily comparable across industries. The FTC's research will track changes in consumers' awareness and use of the ESRB system since 2000, and also will explore consumers' agreement with video game ratings. The FTC's gathering this data and tracking these changes is independent of consumers' use and awareness of the music and movie industry rating systems.

The ESRB also asserts that the FTC's focus on the video game rating system creates the impression that the FTC is unduly scrutinizing the video game industry. The FTC's present focus on video game ratings responds, in part, to the recent increase in the popularity of video games and to concerns expressed by the public. Unlike the movie and music recording industries, the video game industry is relatively young and has experienced dramatic growth since the FTC's survey in 2000. Video game software sales in the United States exceeded $7 billion in 2005, during which more than 228 million video games were sold.[12] The ESA claims that the video game market has been the fastest growing sector of the entertainment industry over the past decade and that video game hardware and software sales now generate about $25 billion in global revenue.[13] The ESA has forecasted that video games will eclipse music as the second most popular form of entertainment by 2008[14] and has cited to research claiming that video games are capturing increasing amounts of Americans' leisure time at the expense of television and movies.[15]

Although the proposed survey covers only video game ratings, the FTC continues to monitor and report on the marketing activities and self-regulatory efforts of the music and motion picture industries, and future consumer research may study the music or motion picture rating systems as well.

2. Ability To Study the "Accuracy" of Video Game Ratings

The ESRB expresses concern that the FTC's research will attempt to study the "accuracy" of ESRB ratings, even though there is no universal, objective standard through which to verify the accuracy of video game ratings. The FTC is seeking, however, only to assess parents' general level of agreement with the ESRB ratings for games they have personally encountered through purchase or play with their children.

The ESRB further contends that the FTC will not be able to study whether parents agree with ESRB ratings through a telephone survey. The ESRB claims that not showing parents footage of the games "undermines the integrity of the research." The survey questions about agreement with game ratings will be posed to parents who are familiar with the ESRB system and will inquire only into those parents' direct, personal experiences in purchasing, playing, or viewing video games with their children. Thus, the survey is crafted to measure parental agreement with game ratings at the points parents actually have used game ratings and game content—that is, to measure parents' real life experiences at the point of purchase or in front of the video monitor.

The FTC is aware that the survey data will depend upon parents' memories of game content they saw prior to the survey, unlike a study involving the display of video game footage akin to the annual validity studies commissioned by the ESRB.[16] Although

[10] Notably, the latest survey found that national sellers were much more likely to restrict sales of M-rated games to the shoppers, with only 35% of shoppers able to purchase a game. In contrast, regional or local sellers sold games to the shoppers 63% of the time. An earlier mystery shopper survey of retailers in 2003 found that 69% of young teen shoppers (age 13–16) were able to buy Mature-rated games, an improvement from undercover shopping surveys conducted in 2000 and 2001. *See* July 2004 Report, Appendix B at *http://www.ftc.gov/os/2004/07/040708kidsviolencerpt.pdf*. The FTC's September 28, 2005 Notice, 70 FR 56703, erroneously indicates this appendix is available at *http://www.ftc.gov/reports/violence/appendicesviorpt.pdf*.

[11] The ESRB comment is available at *http://www.ftc.gov/os/comments/entertainindstrystudy/051123esrb.pdf*.

[12] *See* Entertainment Software Association ("ESA"), *Top 10 Industry Facts*, available at *http://www.theeso.com/facts/top_10_facts.php*; ESA, *Essential Facts about the Computer and Video Game Industry*, at 11 (2005), available at *http://www.theeso.com/files/2005EssentialFacts.pdf* (last visited March 3, 2006).

[13] *See* ESA, *ESA President Douglas Lowenstein Addresses Audience at Chino Joy Game Show in Shanghai*, available at *http://www.theeso.com/archives/2004/10/eso_president_d.php*.

[14] *Id.*

[15] *See* ESA, *Americans Playing More Games, Watching Less Television*, available at *http://www.theeso.com/archives/2004/05/eso_releases_re.php*.

[16] *See http://www.esrb.org/downloads/validity_study_11_14_05.pdf; http://www.esrb.org/downloads/validity_study_11_22_04.pdf; http://www.esrb.org/downloads/study12_5_03.pdf*. The ESRB's validity studies involve the display of one to two minute clips of video game play to parents of children who play video games. The brevity of these clips may limit the use of the results because games typically take many hours to complete. Moreover, it is unknown whether the content selected for these brief video clips fully represents the range and frequency of content that caused the ESRB (whose raters rely on more extensive footage of game play as well as the publisher's responses to a detailed questionnaire) to assign the game a particular rating.

different in design, the FTC's parental telephone survey, nonetheless, can provide useful information on this issue, and can serve to supplement the ESRB's validity studies as well as the ESRB's 2005 telephone survey on parental awareness and use of its rating system.[17] Indeed, several of the questions in the Commission's survey are very similar to questions from the ESRB's awareness and use survey, in particular, a question about how confident parents are that ESRB ratings reflect their own views about the age-appropriateness of game content and a question about parents' attitude toward games rated M for Mature. The FTC's survey probes more deeply into parents' responses to these general questions about their confidence in or agreement with ESRB ratings.

3. Focus Group Design

The ESRB expresses several concerns about the focus groups proposed in the initial Notice. After consultation with market research experts, the FTC determined that the potential benefit of focus groups in developing new questions for the telephone survey did not justify the time and expense of conducting them. Thus, monies for the focus groups have been reallocated to expand the size of the telephone surveys.

4. Telephone Surveys

The FTC originally proposed to randomly call 1,000 households in order to survey 250 parents and 150 children; to be eligible to participate, parents needed to have had at least one child between the ages of 11 and 16. *See* 70 FR 56703 (September 28, 2005). The ESRB believed that the margin of error with these sample sizes would be too high and suggested a sample size closer to the size of the respondent pool in its own 2005 awareness and use survey (500 parents). The ESRB further stated that the survey is under-inclusive because it is limited to parents with at least one child between the ages of 11 and 16, thereby excluding parents of children between the ages of three and 11, who may be more likely to use ESRB ratings and restrict usage of Mature games than parents of older children. Last, the ESRB recommended against surveying children, given that its rating system is designed, not for children, but to help parents pick appropriate games for their children.

The FTC has decided to substantially increase the sample sizes for both the parent and child surveys to 1,000 and 500, respectively. In addition, the FTC will expand the parent pool to include parents with at least one child between the ages of eight and 16 who play video games.

The design of this survey makes it impractical to further expand the respondent pool to include parents who have children only between ages three and seven. The parent survey focuses on the parent's awareness and use of the ESRB system in relation to one particular child. After the parent survey, the child who was the subject of the parent survey will be surveyed (with parental permission). At the conclusion of all the parent and child surveys, each parent's responses will be compared to his or her child's responses to similar questions. Based on consultations with market research experts, the FTC has determined that it is impractical to conduct a telephone survey of children younger than eight. Moreover, because the survey will include parents with children as young as age eight, the respondent pool will include virtually all parents who have actually used or are most likely to use the ESRB system to decide whether it is appropriate for their youngest children to play games designed for more mature audiences (*e.g.*, games rated T for Teen[18] and M for Mature). The FTC believes that these design changes adequately address the ESRB's under-inclusiveness concern and its concern about the margin of error for any results concerning the parent and children groups.

The FTC's 2000 survey demonstrates that the child survey component will provide an important perspective on the results of the parent survey. The 2000 survey revealed significant discrepancies between the responses of parents and children in several key areas. For example, compared to their children, parents claimed a much greater role in their children's selection and purchase of video games.[19] Also, compared to children, parents claimed to restrict the games their children could play much more often than their children reported.[20] The 2000 child survey also yielded important information on whether: (1) Children had attempted to buy or play an M-rated game without their parents' permission; (2) store employees had tried to stop the unaccompanied child from buying the Mature-rated game; and (3) children had asked someone to buy or rent a game for them out of concern that they would be checked because of their age. In short, what children think about video game ratings and their ability to purchase games with certain ratings provide an important supplement to parents' views about video game ratings and their children's game playing habits.[21]

B. Description of the Collection of Information and Proposed Use

The FTC has developed two questionnaires and will survey a random sample of 1,000 adult respondents who are parents of one or more children, age eight to 16 years, who play video or personal computer games. The FTC intends to pretest the survey questions on 100 parent respondents to ensure that all questions are easily understood. In many respects, the questionnaire will be similar to the one used for the 2000 Report. For example, the survey will continue to explore parents' awareness of and attitudes toward the ESRB system. In addition, the questionnaire includes questions regarding parents' level of agreement with ESRB ratings for games rated T for Teen and M for Mature that parents have personally encountered through buying, renting, playing, or watching games with their children.[22] The FTC also has added questions about the number of different games that have been purchased or rented either by or for their children; content descriptors; parents' familiarity with the last video game purchased by or for children; and how regularly parents themselves play video games.

The FTC will also survey 500 children between the ages of eight and 16 who play video or personal computer games.[23] The survey will explore

[17] For information on the ESRB's awareness and use study, see *http://www.esrb.org/downloads/awareness_use_5_5_05.pdf.*

[18] According to the ESRB, Teen-rated games have content that may be suitable for persons 13 years of age and older. *See http://www.esrb.org/esrbratings_guide.asp#symbols.*

[19] *See* 2000 Report, Appendix F, *supra* note 2, at 17.

[20] *Id.* at 18.

[21] The ESRB also is concerned that parents may be present at the time the children are surveyed, implying that children's responses may be compromised. The children's frank responses to the 2000 survey, including responses that arguably contradicted their parents' claims about their degree of oversight of their children, does not support that concern. In any event, the survey interviewer will record whether the parent was on the telephone line with the child for the entire call, nearby for at least part of the call, or did not appear to be close by. The data can then be analyzed for any discrepancies based on the presence of parents during the child survey.

[22] In the interest of brevity, the FTC has not included specific questions about parents' level of agreement with the ESRB ratings for games in other rating categories, such as E for Everyone or E10+ (Everyone Ten Plus). Nevertheless, the FTC has included a general question regarding how often video game ratings match parents' personal views of whether or not a game may be suitable for children in the age group indicated by the game's rating.

[23] The children will be selected from the same household as the adult survey respondents.

children's video game habits and preferences; whether their parents restrict them from playing certain video games; their familiarity with the ESRB system; and whether they have attempted to purchase Mature-rated games without their parents' permission or knowledge. As in the parent survey, questions on the child survey will be based upon those used for the 2000 Report, but some new questions have been added regarding their parents' attitudes toward games rated T for Teen and M for Mature; their attempts to purchase M-rated games on the Internet; and downloading games onto their cell phones.

The FTC has contracted with a consumer research firm to provide guidance on developing the survey questionnaires and, subject to OMB approval, to conduct the surveys. The results of the surveys will help the FTC evaluate whether and how consumers use the ESRB rating system and whether consumers generally agree with ESRB ratings for games with which they are familiar.

2. Estimated Hours Burden

For the parent telephone survey, the contractor will first identify eligible parents using screening questions in a telephone survey and then ask whether respondents, with a child between the ages of eight and 16, would participate in the children's survey. Allowing for non-response, the screening questions will be asked of approximately 9,100 respondents to provide a large enough random sample for the surveys. As noted, the child survey will be conducted as an adjunct to the parent survey, *i.e.*, by speaking to a child in the same household as eligible adult respondents. As a result, the extra time required to screen for child respondents will be *de minimis*.

The FTC estimates that the screening for the surveys will require no more than one minute of each respondent's time. Thus, cumulatively, screening should require a maximum of 152 hours (9,100 total respondents × 1 minute for each).

The FTC intends to pretest the parent survey on 100 parents to ensure that all questions are easily understood. The pretests will take approximately 20 minutes per person. If the pretests do not lead to any material changes in the survey instruments, the data derived from the pretests will be used in the final analysis of the completed surveys. The hours burden imposed by the pretest will be approximately 33 hours (100 respondents × 20 minutes per survey). Answering the parent surveys will impose a burden per parent respondent of approximately 20 minutes and a burden per child respondent of approximately 10 minutes, totaling 383 hours for all respondents to the surveys ((900 parent respondents × 20 minutes per survey) + (500 child respondents × 10 minutes per survey)). Thus, the total hours burden attributable to the consumer research is approximately 568 hours (152 + 33 + 383).

3. Estimated Cost Burden

The cost per respondent should be negligible. Calls will be made to respondents' homes so that the time involved will not conflict with regular work hours. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

Christian S. White,

Acting General Counsel.

[FR Doc. 06–3086 Filed 3–29–06; 8:45 am]

BILLING CODE 6750–01–P

OFFICE OF GOVERNMENT ETHICS

Agency Information Collection Activities: Submission for OMB Review; Comment Request for Extension of Approval for an Unmodified OGE Form 450 Executive Branch Confidential Financial Disclosure Report

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics has submitted to the Office of Management and Budget (OMB) a request for review and one-year extension of approval under the Paperwork Reduction Act (PRA) of the current (unmodified) version of the OGE Form 450 Executive Branch Confidential Financial Disclosure Report form (hereafter, OGE Form 450). The current OGE Form 450 is to continue to be accompanied by agency notification to filers of the adjustment of the gifts/travel reimbursements reporting thresholds as explained below.

The reason for this request is that paperwork clearance for the OGE Form 450 would otherwise expire under the PRA at the end of March 2006. In a first round paperwork notice published last summer in the **Federal Register**, OGE proposed a modified OGE Form 450. Because we received so many helpful comments in response to that notice, we have significantly redesigned the proposed new modified OGE Form 450 and recently separately published another first round paperwork notice in order to provide a further comment period. OGE's present notice and submission to OMB requesting one-year paperwork renewal of the current version of the OGE Form 450 will allow the existing confidential report form to continue to be used by new entrant filers for the rest of 2006 while OGE pursues finalization of the new form. (OGE plans to waive this fall's incumbent OGE Form 450 filing, with the next annual incumbent filer reports to be due in February 2007 utilizing the new modified form once it is cleared for use starting next year.)

DATES: Comments by the public and agencies on this current information collection, as proposed in this notice with no modifications, are invited and should be received by May 1, 2006.

ADDRESSES: Comments should be sent to OMB Desk Officer for OGE, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; Telephone: 202–395–7316; FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: James V. Parle, Associate Director, Information Resources Management Division, Office of Government Ethics; Telephone: 202–482–9300; TDD: 202–482–9293; Fax: 202–482–9237. A copy of the unmodified current OGE Form 450 may be obtained, without charge, by contacting Mr. Parle; it is also available in the Forms, Publications and Other Ethics Documents section of OGE's Internet Web site at *http://www.usoge.gov*.

SUPPLEMENTARY INFORMATION: The OGE Form 450 (OMB control #3209–0006) collects information from covered department and agency officials as required under OGE's executive branchwide regulatory provisions in subpart I of 5 CFR part 2634. The OGE Form 450 serves as the uniform report form for collection, on a confidential basis, of financial information required by the OGE regulation from certain new entrant and incumbent employees of the Federal Government executive branch departments and agencies. Agency ethics officials then use the completed OGE Form 450 reports to conduct conflict of interest reviews and to resolve any actual or potential conflicts found.

The basis for the OGE regulation and the report form is two-fold. First, section 201(d) of Executive Order 12674 of April 12, 1989 (as modified by Executive Order 12731 of October 17, 1990, 3 CFR, 1990 Comp., pp. 306–311,

at p. 308) makes OGE responsible for the establishment of a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public financial disclosure under the Ethics in Government Act of 1978 (the Ethics Act), as amended, 5 U.S.C. appendix. Second, section 107(a) of the Ethics Act, 5 U.S.C. app., sec. 107(a), further provides authority for OGE as the supervising ethics office for the executive branch of the Federal Government to require that appropriate executive agency employees file confidential financial disclosure reports, "in such form as the supervising ethics office may prescribe." The OGE Form 450, and the underlying executive branchwide financial disclosure regulation (5 CFR part 2634), constitute the basic reporting system that OGE has prescribed for such confidential financial disclosure in the executive branch.

Comments Received in Response to First Round Federal Register and Proposed Modified OGE Form 450

As noted above, in its first round **Federal Register** notice, OGE requested public comment on proposed modifications to the OGE Form 450. See 70 FR 47204–47206 (August 12, 2005). OGE received 18 agency comments on the proposed revised form, both in response to that paperwork notice and form-specific comments in response to OGE's related proposed amendments to the confidential financial disclosure regulation. See 70 FR 47138–47147 (August 12, 2005). As noted above, OGE has in response significantly redesigned the proposed new modified OGE Form 450 and recently published another first round paperwork notice in order to provide a further comment period thereon. See 71 FR 13848–13850 (March 17, 2006) and OGE DAEOgram DO–06–007 of the same date, both available on OGE's Web site at *http://www.usoge.gov*.

As also noted, in this notice OGE is announcing its request to OMB for a limited one-year extension of paperwork approval for the current version of the OGE Form 450 allowing its continued use by new entrants for the rest of this year while the new modified report form is being finalized for expected use, once cleared by OMB, starting in 2007.

Gifts/Travel Reimbursements Reporting Thresholds

Executive branch departments and agencies should continue to inform OGE Form 450 filers, through cover memorandum or otherwise, of the adjustment made last year to the gifts/travel reimbursements reporting thresholds when providing the form for completion. Given that OGE is just, in this notice, announcing its limited request to OMB for a one-year extension of paperwork approval of the current version of the OGE Form 450 (9/02 edition), the reporting thresholds under Part V of the form for gifts and travel reimbursements are out-of-date and are not being corrected on the existing form (they will be reflected in the future modified version of the report form). The current form does not incorporate the new aggregation threshold of more than $305 for the reporting of gifts and travel reimbursements. This new threshold is based on the General Services Administration's (GSA's) increase in "minimal value" under the Foreign Gifts and Decorations Act to $305 or less for 2005–2007, to which the thresholds are linked by the Ethics Act and OGE regulation. See GSA's redefinition at 70 FR 2317–2318 (pt. V) (January 12, 2005), section 102(a)(2)(A) and (B) of the Ethics Act, OGE's regulatory adjustment of the gifts/reimbursements thresholds for both public and confidential financial disclosure reports at 70 FR 12111–12112 (March 11, 2005), and OGE DAEOgram DO–05–007 of March 17, 2005, all available on OGE's Web site at *http://www.usoge.gov*. As indicated in that notice and DAEOgram last year, OGE continues to ask agencies to inform new entrant filers, who will use the current version of the OGE Form 450 for the rest of 2006, of the higher threshold.

Web Site Distribution of Blank Forms

The Office of Government Ethics makes the current OGE Form 450 available to departments and agencies and their reporting employees through the Forms, Publications & Other Ethics Documents section of OGE's Web site *http://www.usoge.gov*. This method allows employees a couple different options for filling out their reports on the current version of the OGE Form 450 on a computer (in addition to a downloadable blank form), although a printout and manual signature of the current form are still required unless specifically approved otherwise by OGE. OGE expects to have a system in place by February 2007, not only for electronic completion of the future new modified OGE Form 450 (once it is finally approved) but also for electronic filing.

Effect on Use of Alternative Reports and OGE Optional Form 450–A

Since 1992, various departments and agencies have developed, with OGE review/approval, alternative reporting formats such as certificates of no conflict for certain classes of employees. Other agencies provide for additional disclosures pursuant to independent organic statutes and in certain other circumstances when authorized by OGE. Moreover, in 1997, OGE itself developed the OGE Optional Form 450–A (Confidential Certificate of No New Interests (Executive Branch)) for possible agency and confidential filer employee use in certain years, if applicable. That optional confidential form continues in use at various agencies throughout the executive branch. Agencies' authority to use these alternative systems, including the OGE Optional Form 450–A, continues. OGE notes that the underlying OGE Form 450 remains the uniform executive branch report form for most of those executive branch employees required by their agencies to report confidentially on their financial interests.

Reporting Individuals

The OGE Form 450 is to be filed by each reporting individual with the designated agency ethics official at the executive department or agency where he or she is or will be employed. Reporting individuals are regular employees whose positions have been designated by their agency under 5 CFR 2634.904 as requiring confidential financial disclosure in order to help avoid conflicts with their assigned responsibilities. Under that section, special Government employees (SGEs) are also generally required to file. Agencies may, if appropriate under the OGE regulation, exclude certain regular employees or SGEs as provided in 5 CFR 2634.905 (§ 2634.904(b) of the regulation as proposed for revision). Reports are normally required to be filed within 30 days of entering a covered position (or earlier if required by the agency concerned), and again annually if the employee serves for more than 60 days in the position. Most of the persons who file this report are current executive branch Government employees at the time they complete their report. However, some filers are private citizens who are asked by their prospective agencies to file new entrant reports prior to entering Government service in order to permit advance checking for any potential conflicts of interest and resolution thereof by recusal, divestiture, waiver, etc.

Reporting Burden

Based on OGE's annual agency ethics program questionnaire responses for 2002 through 2004, OGE estimates that an average of approximately 277,215 OGE Form 450 reports will be filed each year for the next three years throughout

the executive branch. This estimate is based on the number of reports filed branchwide for 2002 through 2004 (272,755 in 2002, 263,463 in 2003, and 295,426 in 2004) for a total of 831,644, with that number then divided by three and rounded, to give the projected annual average of 277,215 reports. Of these reports, OGE estimates that 7.6 percent, or some 21,068 per year, will be filed by private citizens. Private citizen filers are those potential (incoming) regular employees whose positions are designated for confidential disclosure filing as well as potential SGEs whose agencies require that they file their new entrant reports prior to assuming Government responsibilities. No termination reports are required for the OGE Form 450.

Each filing is estimated to take an average of one and one-half hours to complete. This yields an annual reporting burden of 31,602 hours. OGE previously has published an estimate of only 15 hours because we were not previously required by OMB to make a branchwide estimate, and 15 hours is the applicable regulatory minimum. The current burden hours for the form as listed in OGE's paperwork inventory therefore account for private citizen filers whose reports were filed each year only with OGE itself. In the past, the number of private citizens whose reports were filed each year with OGE itself was less than 10, but pursuant to the OMB paperwork regulation at 5 CFR 1320.3(c)(4)(i), the lower limit for this general regulatory-based requirement is set at 10 private persons. Thus, OGE reported the current annual burden of 15 hours. The proposed estimate of burden hours includes private citizen reports filed with departments and agencies throughout the executive branch (including OGE).

Consideration of Comments on the Unmodified OGE Form 450

In this second round paperwork notice, public comment is invited on the unmodified OGE Form 450 as set forth in this notice. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), public comments are invited specifically on the need for and practical utility of this collection of information, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments received, which will become a matter of public record.

Approved: March 27, 2006.

Marilyn L. Glynn,

Acting Director, Office of Government Ethics.

[FR Doc. E6–4661 Filed 3–29–06; 8:45 am]

BILLING CODE 6345–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for the opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the grantee, 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: Ryan White CARE Act Title I Minority AIDS Initiative (MAI) Report: NEW (Title I MAI Report)

The HRSA HIV/AIDS Bureau (HAB) administers the Title I CARE Act Program (codified under Title XXVI of the Public Health Service Act). The Title I Minority AIDS Initiative (MAI) supplement is a component of the CARE Act Title I Program to "address substantial need for care and support services for minority populations in eligible metropolitan areas (EMA)." The overall goal of the MAI is to improve HIV/AIDS-related health outcomes for communities of color by allowing communities to: (1) Expand local service capacity primarily through community-based organizations serving racial and ethnic minorities; (2) improve service delivery; and (3) support the development of new and innovative programs designed to reduce HIV/AIDS-related health disparities.

The Title I MAI Report is designed to collect performance data from Title I MAI grantees, and has the following components: (1) The *Title I MAI Report Plan (Plan)* and (2) *the Title I MAI Annual Report (Report).* The Plan and Report components will be linked to minimize the reporting burden, and designed to include check box responses, fields for reporting budget, expenditure and client data, and open-ended text boxes for describing client or service-level outcomes. Together, they will collect information from grantees on MAI-funded services, the number and demographics of clients served, and client-level outcomes. This information is needed to monitor and assess: (1) Increases and changes in the type and amount of HIV/AIDS health care and related services being provided to each disproportionately impacted community of color; (2) increases in the number of persons receiving HIV/AIDS services within each racial and ethnic community; and (3) the impact of Title I MAI-funded services in terms of client-level and service-level health outcomes. This information also will be used to plan new technical assistance and capacity development activities, and inform HAB policy and program management functions.

The Title I MAI Report form and instructions will be available for all grantees to download from the HRSA/HAB Web site. All grantees will submit completed data forms through a link on the HRSA/HAB Web site. Grantees may submit a hard copy form to the HRSA Call Center. The Title I MAI Report will be designed to include check box responses, numeric responses, and open-ended questions. All Title I grantees receiving MAI funds from HAB will be required to submit their service providers' data in an aggregate form by service category utilizing one Title I MAI Report.

The estimated response burden for grantees is as follows:

Form	Estimated number of respondents	Responses per respondent	Hours per response	Total burden hours
Title I MAI Report	51	2	6	612

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 23, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–4608 Filed 3–29–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Proposed Information Collection: Indian Health Service Chief Executive Officer Retention Survey Request for Public Comment: 30-Day Notice

AGENCY: Indian Health Service, HHS.

ACTION: Request for Public Comment: 30-day Proposed Information Collection: Indian Health Service Chief Executive Officer Retention Survey.

SUMMARY: The Indian Health Service (IHS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that the requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. As required by section 3507(a)(1)(D) of the Act, the proposed information collection has been submitted to the Office of Management and Budget (OMB) for review and approval.

The IHS received no comments in response to the 60-day **Federal Register** notice (71 FR 3098) published on January 19, 2006. The purpose of this notice is to allow an additional 30 days for public comments to be submitted directly to OMB.

Proposed Collection: Title: 0917–NEW, "Indian Health Service Chief Executive Officer Retention Survey". *Type of Information Collection Request:* New Collection. *Form Number:* None. *Forms:* Retention Survey. *Need and Use of Information Collection:* The National Council of Chief Executive Officers (NCCEOs) was established to ensure that the IHS Service Unit Chief Executive Officers (CEOs) effectively participate in the establishment and implementation of strategies to achieve the IHS mission. Part of their responsibility (as stated in their Charter) includes: Ongoing recruitment, development, and retention of professional CEOs. The NCCEOs' purpose is to ensure that the IHS Service Unit CEO and their Tribal CEO counterparts effectively participate in the establishment and implementation of an agency strategy to achieve the IHS mission. The current Executive Committee is actively addressing recruitment, retention and succession planning for their constituents, the IHS CEOs. To enhance their ability to be effective in this challenging tasks, the NCCEOs need to know more about IHS CEOs and the issues that affect retention and recruitment including the competitive influences of private sector health care delivery systems. The chosen method to obtain this critical information from the CEOs of IHS, Tribal and urban facilities is by electronic survey. The goal of the IHS is to raise the health status of American Indians and Alaska Natives to the highest possible level. The meet this goal, the IHS is committed to providing high quality health services to he eligible service population. An important factor in improving the quality of services is ensuring that our clinics and hospitals recruit and retain the best possible CEO reasonably available. The proposed survey is designed to as certain current demographics: Age, gender, years of experience, education, pay compared to complexity of facilities, job satisfaction and retirement eligibility. *Affected Public:* Individuals. *Type of Respondents:* Individuals.

The table below provide the estimated burden hours for this information collection:

ESTMATED BURDEN HOURS

Data collection instrument	Estimated number of respondents	Responses per respondent	Average burden hour per response*	Total annual burden hours
CEO Retention Survey	120	1	0.15 (10 mins.)	20

*For ease of understanding, burden hours are also provided in minutes.

There are not Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, directly to: Office of Management and Budget, Office of Regulatory Affairs,

New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Allison Eydt, Desk Officer for IHS.

FOR FURTHER INFORMATION CONTACT: Send requests for more information on the proposed collection or to obtain a copy of the data collection instrument(s) and instructions to: Mrs. Christina Rouleau, IHS Reports Clearance Officer, 801 Thompson Avenue, TMP Suite 450, Rockville, MD 20852–1601, call non-toll free (301) 443–5938, send via facsimile to (301) 443–2316, or send your e-mail requests, comments, and return address to: *crouleau@hqe.ihs.gov.*

Comments Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: March 23, 2006.

Charles W. Grim,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 06–3057 Filed 3–29–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Funding Opportunity Number: HHS–2006–IHS–CYI–0001; CFDA Number: 93.933]

Office of Clinical and Preventive Services; Children and Youth Projects; Announcement Type: New Cooperative Agreement

Key Dates:

Letter of Intent Deadline: April 14, 2006.

Application Receipt Deadline: May 25, 2006.

Application Review Date: June 26–30, 2006.

Application Notification: July 3–12, 2006.

Earliest Anticipated Start Date: July 17, 2006.

I. Funding Opportunity Description

The Indian Health Service (IHS) announces a full competition for cooperative agreements for Children and Youth Projects (CYP) established to assist federally-recognized Tribes and urban Indian organizations serving American Indian and Alaska Native (AI/AN) children and youth. These cooperative agreements are established under the authority of the Indian Health Care Improvement Act, 25 U.S.C. 1621(o), and section 301(a) of the Public Health Service Act, as amended. This program is described at 93.933 in the Catalog of Federal Domestic Assistance. In 2003, the IHS, Office of the Director provided up to three years of support for the Child and Youth Health Initiative (CYHI) Program in rural, remote and urban AI/AN communities. The IHS funded 17 projects and with Administration for Native American (ANA) partnership, an additional five projects were funded. Project characteristics included education activities and direct health care services in one or more settings. Projects focused on two or more health issues and used an average of 4.8 objectives including process, impact, and surveillance measures. These past projects and their approaches reflect a diverse need and gap in services to children and youth in Indian communities. The current announcement seeks to expand the reach into new communities and enhance existing projects.

The purpose of the CYP is to assist Federally recognized Tribes and urban Indian organizations in promoting health practices, and addressing unmet needs of children and youth. This need will be accomplished through (1) community designed public health approaches; (2) school-linked activities; and/or (3) clinical services. The Maternal and Child Health (MCH) Program has determined that cooperative agreements are the funding mechanism best suited for the projects to achieve agency and MCH programmatic goals.

CYP goals are to support AI/AN children and youth, to promote healthy nutrition, physical activity, reduce teen pregnancy, and aid in the risk reduction of injuries, early morbidity, and premature mortality from injuries. Additional program goals are to aid in the risk reduction of alcohol, tobacco, inhalant and substance abuse, to support a healthy learning environment, and to promote staying in school, and to support community level activities directed at AI/AN children and youth. The MCH programmatic goals for the CYP cooperative agreement align with the "Healthy People 2010" goals and specific sub-objectives for children and youth. MCH programmatic goals are as follows:

1. Newly-funded projects will have quality impact and outcome data within three years of initial funding aligned with two or more "Healthy People 2010" sub-objectives for children and youth.

2. Established projects (those with at least two years of project evaluation data) who wish to re-compete will demonstrate, within three years of this funding, at least four uses of their data for developing or refining local child and youth services, public health programs, school-linked activities or policies addressing child and youth programs. In addition, within three years of this funding, they will align with two or more "Health People 2010" sub-objectives for children and youth.

Project activities should include children and youth specific community services, summer programs, camps, before and after school programs and school connected activities. Projects fostering native language; the imparting of traditional cultural values and practices; parent and family involvement; and intergenerational and peer mentoring are encouraged. Projects directed at children with special health care needs, special educational needs, detained and incarcerated youth, and aftercare for youth in residential treatment programs are also encouraged. Projects that focus on children and youth abuse/neglect and sexual abuse; their awareness, prevention, and treatment are also appropriate. The assembling, training and using of interdisciplinary teams for the assessment of children and youth including assessment and management or care management, or the risk stratification of children and youth for disease and disability (injury) prevention, health maintenance improved socialization, and maximization of their learning is encouraged. The education of children and youth, their communities and families, is part of the IHS effort to promote awareness of the particular needs of children and youth. Therefore, proposed projects may plan, execute and demonstrate strategies that incorporate pamphlets, books and workbooks, posters, modules or training sessions, audio, video, educational television network programming, or other media presentations aimed either at the consumer and/or the support of youth initiatives. Projects designed to change health behaviors by modifying the environment and/or implementing/enforcing policies and procedures are also encouraged.

Projects will be funded in one of two categories. Community capacity varies and projects themselves can differ in size and complexity. Funds will be made available for small projects for $5,000–$15,000, and larger projects for $50,000–$75,000 per year.

Note: For any current grantees under separate awards that wish to apply for this funding period, July 17, 2006–July 16, 2009, grantee must *not* have overlapping award dates. If a funding date overlaps, grantee must terminate from current awards or have the newly funded grant amount reduced to avoid dual funding. This announcement

applies to new and existing applicants. For additional information or clarification, please contact Ms. Michelle Bulls, Grants Policy Officer at (301) 443–6528.

II. Award Information

Type of Awards: Cooperative Agreement (CA).

Estimated Funds Available: The total amount identified for fiscal year (FY) 2006 is $650,000. The awards are for 36 months in duration. The average award for *Category I* is approximately $10,000. The average award for *Category II* is approximately $65,000. In fiscal year 2007 an estimated $650,000 is available for continuation awards based on progress and availability of funds.

Categories of Cooperative Agreement (CA) covered under this announcement:

- *Category I—Small CYP:* Approximately 15% of funds are available to fund up to 8 awards for the Small CYP. Individual awards will range from $5,000 to $15,000.
- *Category II—Large Project:* Approximately 85% of funds are available to fund up to 7 awards for the Large CYP considered "experienced" as determined in the application under past and current activities describing history of planning, implementation, and evaluation of previous children and youth projects. Individual awards will range from $50,000 up to $75,000.

Anticipated Number of Awards: 15.

Project Period: July 17, 2006–July 16, 2009, 36 months.

The CA will be a 12-month budget period with three project years.

- *Category I*—Small—3 years beginning on or about July 17, 2006.
- *Category II*—Large—3 years beginning on or about July 17, 2006.

AWARD AMOUNT: $5,000 to $75,000 per year.

- *Category I*—Small—$5,000–$15,000.
- *Category II*—$50,000—$75,000.

Future continuation awards within the project period will be based on satisfactory performance, availability of funding and continuing needs of the Indian Health Service. These annual non-competitive continuation applications will be submitted for Year Ii and III funding.

Maximum Funding Level: The maximum funding level includes both direct and indirect costs. Application budgets which exceed the maximum funding level or project period identified for a project *Category* will not be reviewed. Applicants seeking funding in more than one *Category* will not be reviewed.

Programmatic Involvement: The cooperative agreement will have substantial oversight to ensure best practices and high quality performance in sustaining capacity of the CYP.

Substantial Involvement Description for Cooperative Agreement Activities for *Category I*—Small Projects: The CA *Category I*—Small awardee (Tribe or Tribal/Urban/NonProfit Indian organization) will be responsible for activities listed under A. 1–10. IHS will be responsible for activities listed under B. 1–4. A contractor will be hired by MCH to assist in the oversight in *Category I.* Oversight includes assurances to promote best practices and high quality performance in sustaining the Children and Youth Grant Programs. The contractor will be responsible in reporting to the IHS CYP project officer on the progress and issues of the cooperative agreement awardee.

A. Cooperative Agreement Awardee Activities for Category I—Small Projects

1. Provide a coordinator who has the authority, responsibility, and expertise to plan, implement, and evaluate the project. Position may be part-time or split duties.
2. Where available, projects should demonstrate coordination with other children and youth services in the recipients Tribal or urban organization, Tribal health department, Tribal Epidemiology Centers (TEC) and/or community-based program in order to maximize opportunities and share resources.
3. Be aware of where to find data sources including: Health, child welfare, educational, and psycho-social data descriptive of the children and youth population being served, including those at greatest risk and need.
4. Develop a work plan based on community need, health data and prioritized for prevention and wellness. This would include specific process objectives and action steps to accomplish each,
5. Implement project to reduce risk and promote well being.
6. Implement project to gain visibility and further collaboration in the community.
7. Evaluate the effect of the project on the recipients, key staff and other community stakeholder(s). Evaluation will align with two or more "Healthy People 2010" sub-objectives for children and youth.
8. The project coordinator will budget for and attend a mid-project (Year II) training meeting with other awardees, IHS CYP project officer and IHS contractor.
9. The project coordinator will make time available for site visit and conference calls in the first year by IHS project officer and or IHS contractor.
10. The project coordinator will collaborate with the IHS CYP project officer.

B. Indian Health Service Cooperative Agreement Activities for Category I—Small Projects

1. The IHS Maternal and Child Health (MCH) Coordinator or designee will serve as project officer for the CYP.
2. The MCH program will provide consultation and technical assistance. Technical assistance also includes assistance in program implementation, marketing, evaluation, reporting and sharing with other awardees.
3. An IHS contractor (designated by the MCH program) will be responsible for technical assistance oversight, monitoring reporting of projects, conference calls, a Listserv and site visits. The IHS contractor serves as a technical liaison to the IHS MCH program and the CYP Cooperative Agreement Awardee.
4. The IHS and the contractor will coordinate a mid-project (Year II) training workshop for the project coordinators to share lessons learned, successes, new community strategies in children and youth health promotion and best practices.

Substantial Involvement Description for Cooperative Agreement Activities for *Category II*—Large Project: The CA *Category II*—Large Project awardee (Tribe or Tribal/Urban/NonProfit Indian organization) will be responsible for activities listed under A. 1–10. IHS will be responsible for activities listed under B. 1–4. A contractor will be hired by MCH to assist in the oversight in *Category II.* Oversight includes assurances to promote best practices and high quality performance in sustaining the CYP. The contractor will be responsible for reporting to the IHS CYP project officer on the progress and issues of the cooperative agreement awardee.

A. Cooperative Agreement Awardee Activities for Category II—Large Projects

1. Where available, coordinate with the Child Health Program in the recipient's urban organization, Tribal health department, Tribal Epidemiology Center (TEC) and or community-based program to enhance opportunities for the CYP to collaborate with other Tribal public health or community programs.
2. Provide a coordinator who has the authority, responsibility, and expertise to plan, implement and evaluate the project.
3. Review health, child welfare, educational, and/or psycho-social data

descriptive of children and youth population being served, including those at greatest risk and need. Monitor program data internally or demonstrate collaboration on data monitoring for purposes of program evaluation.

4. Develop a work plan based on community need, health data and prioritized for prevention and wellness. This would include specific process objectives and action steps to accomplish each. A core set of indicators would be jointly agreed upon by the project and the IHS project officer.

5. Develop, implement and evaluate a proven or promising project to reduce risk and promote well being in children and youth target population. Any planning phase should be near completion or already completed by the start of year I.

6. Implement project with intent to gain visibility and further collaboration in the community through reporting to a health board or child advisory committee.

7. Evaluate the effect of the project on the recipients, key staff and other children and youth community stakeholders. Evaluation will align with two or more "Healthy People 2010" sub-objectives for children and youth.

8. The project coordinator will budget for and attend a mid-project (Year II) training meeting with other awardees, IHS CYP project officer, and IHS contractor.

9. The project coordinator will assist with the development of an agenda and plan for a one to two day site visit in the first year by IHS project officer and or IHS contractor.

10. The project coordinator will collaborate with the IHS CYP project officer.

B. Indian Health Service Cooperative Agreement Activities for Part II Projects

1. The IHS MCH Coordinator or designee will serve as project officer for the CYP.

2. The MCH program will provide consultation and technical assistance. Technical assistance also includes assistance in program implementation, marketing, evaluation, reporting, and sharing.

3. An IHS contractor (hired by the MCH program) will be responsible for technical assistance oversight, monitoring reporting of projects, conference calls, a Listserv, and site visits. The IHS contractor serves as a technical liaison to the IHS MCH program and the CYP Cooperative Agreement Awardee.

4. The IHS and the IHS contractor will coordinate a mid-project period (Year II) training workshop for the project coordinators to share lessons learned, successes, new community strategies in children and youth health promotion and best practices.

III. Eligibility Information

1. Eligible Applicant, the AI/AN must be one of the following:

A. A federally-recognized Indian Tribe; or

B. Urban Indian Organizations as defined by Urbans—25 U.S.C. 1652; or

C. NonProfit Tribal organizations on or near a Federally-recognized Indian Tribal community.

Only one application per Tribe or Tribal organization is allowed. Applicants may only apply for one category. There is no requirement for minimum target population size for *Category I* applicants. Age range is between 5 to 19 years of age or the school age population. *Category II* applicants must serve a minimum target population size of 25 to 100 children and youth annually, between 5 to 19 years of age or the so-called school age population.

2. Cost Sharing or Matching—The Children and Youth Projects does not require matching funds or cost sharing.

3. Other Requirements.

The following documentation is required (if applicable):

A. Tribal Resolution—A resolution of the Indian Tribe served by the project must accompany the application submission. This can be attached to the electronic application. An Indian Tribe that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities. Draft resolutions are acceptable in lieu of an official resolution. However, an official signed Tribal resolution must be received by the Division of Grants Operations prior to the beginning of the Application Review (June 26, 2006). If an official signed resolution is not received by June 26, 2006, the application will be considered incomplete, ineligible for review, and returned to the applicant without consideration. Applicants submitting additional documentation after the initial application submission are required to ensure the information was received by the IHS by obtaining documentation confirming delivery (i.e. FedEx tracking, postal return receipt, etc.).

B. Nonprofit organizations must submit a copy of the 501(c)(3) Certificate.

C. Ineligible applications include requesting for water, sanitation, and waste management; tuition, fees, or stipends for certification or training of staff to provide direct services, the pre-planning, design, and planning of construction for facilities and those seeking funding in two categories.

IV. Application and Submission Information

1. Address to Request Application Package HHS–2006–IHS–CY1–0001. Application package (HHS–2006–IHS–CY1–0001) may be found in Grants.gov. Information regarding the Letter of Intent and the electronic application process may be obtained from:

Program Contact: Ms. Judith Thierry, D.O., M.P.H., Office of Clinical and Preventive Services, Indian Health Service, 801 Thompson Avenue, Suite 300, Rockville, Maryland 20852. (301) 443–5070. Fax: (301) 594–6213.

Grants Contact: Ms. Martha Redhouse, Division of Grants Operations, Indian Health Service, 801 Thompson Avenue, TMP 360, Rockville, Maryland 20852. (301) 443–5204. Fax: (301) 443–9602.

The entire application kit is also available online at: *http://www.ihs.gov/MedicalPrograms/MCH/MC.asp* and *http://www.grants.gov.*

2. Content and Form of Application Submission if prior approval was obtained for paper submission:

- Be single-spaced.
- Be typewritten.
- Have consecutively numbered pages.
- If unable to submit electronically, submit using a black type not smaller than 12 characters per one inch.
- Submit on one side only of standard size 8½″ x 11″ paper.
- Dot not tab, glue, or place in a plastic holder.
- Contain a narrative that does not exceed 14 typed pages that includes the other submission requirements below. (The 14-page narrative does not include the work plan, standard forms, Tribal resolutions, (if necessary), table of contents, budget, budget justifications, multi-year narratives, multi-year budget, multi-year budget justifications, and/or other appendix items.)

(1) Introduction and Need for Assistance.

(2) Project Objective(s), Approach, and Consultants.

(3) Project Evaluation.

(4) Organizational Capabilities and Qualifications.

(5) Categorical Budget and Budget Justification.

Public Policy Requirements: All Federal-wide public policies apply to IHS grants with the exception of Lobbying and Discrimination.

3. Submission Dates and Times.

Applications must be submitted electronically through Grants.gov by close of business Thursday, May 25, 2006. If technical issues arise and the applicant is unable to successfully complete the electronic application process, the applicant must contact Grants Policy staff fifteen days prior to the application deadline and advise them of the difficulties you are having submitting your application on line. The Grants Policy staff will determine whether you may submit a paper application (original and 2 copies). The grantee must obtain prior approval, in writing, from the Grants Policy staff allowing the paper submission. Otherwise, applications not submitted through Grants.gov may be returned to the applicant and it will not be considered for funding.

As appropriate, paper applications (original and 2 copies) are due by Thursday, May 25, 2006. Paper applications shall be considered as meeting the deadline if received by May 25, 2006 or postmarked on or before the deadline date. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing and will not be considered for funding.

Late applications will be returned to the applicant without review or consideration.

A hard copy and/or faxed Letter of Intent must be received on or before Friday, April 14, 2006. This should be no more than 2 pages. The fax number is (301) 594–6213 ATTN: Judith Thierry, MCH Program Office. Applications must be received on or before Thursday, May 25, 2006. The anticipated start date of cooperative agreement is July 17, 2006.

State whether *Category I*—Small Project or *Category II*—Large Project funding is being sought. Describe the proposed project, including health topics or issues to be addressed. A partial list includes: Juvenile justice; nutrition, obesity and fitness; child abuse and child sexual abuse; drugs, alcohol and tobacco; school success; mental health; school connected health; children with special health care needs; pregnancy and/or injury prevention. A Letter of Intent is a non binding, but mandatory request for information that will assist in planning both the review and post award phase. Applicants will be notified by fax that their Letter of Intent has been received, as it is received.

Hand Delivered Proposals: Hand delivered proposals will be accepted from 8 a.m. to 5 p.m. Eastern Standard Time, Monday through Friday. Applications will be considered to meet the deadline if they are received on or before the deadline, with hand-carried applications received by close of business 5 p.m. For mailed applications, a dated, legible receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications will not be accepted for processing and will be returned to the applicant without further consideration for funding. Applicants are cautioned that express/overnight mail services do not always deliver as agreed. IHS will not accommodate transmission of applications by Fax or e-mail.

Late application will not be accepted for processing, will be returned to the applicant and will not be considered for funding.

Extension of deadlines: IHS may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. Determination to extend or waive deadline requirements rests with the Grants Management Officer, Division of Grants Operations.

4. Intergovernmental Review:

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restriction:

A. Pre-award costs are allowable at grantees own risk. Prior approval must be obtained from the Program Official.

B. The available funds are inclusive of direct and indirect costs.

C. Only one cooperative agreement will be awarded per applicant.

D. Ineligible Project Activities:

- The CYP may not be used to support recurring operational programs or to replace existing public and private resources. Note: The inclusion of the following projects or activities in an application will render the application ineligible and the application will be returned to the applicant:
- Projects related to water, sanitation, and waste management.
- Projects that include tuition, fees, or stipends for certification or training of staff to provide direct services.
- Projects that include pre-planing, design, and planning of construction for facilities.
- Projects that seek funding in two funding categories.

E. Other Limitations:

1. Grantee must *not* have overlapping award dates. If a funding date overlaps, grantee must terminate from current award or have the newly funded grant amount reduced to avoid dual funding. This announcement applies to new and existing applicants.

2. The current project is not progressing in a satisfactory manner; or

3. The current project is not in compliance with program and financial reporting requirements.

4. Delinquent Federal Debts—No award shall be made to an applicant who has an outstanding delinquent Federal debt until either:

A. The delinquent account is paid in full; or

B. A negotiated repayment schedule is established and at least one payment is received.

6. Other Submission Requirements:

A. Electronic Submission—The preferred method for receipt of applications is electronic submission through Grants.gov. However, should any technical problems arise regarding the submission, please contact Grants.gov Customer Support at (800) 518–4726 or *support@grants.gov*. The Contact Center hours of operation are Monday–Friday from 7 a.m. to 9 p.m. (Eastern Standard Time). If you require additional assistance please contact IHS Grants Policy staff at (301) 443–6528 at least fifteen days prior to the application deadline. To submit an application electronically, please use the *http://www.Grants.gov* Web site. Download a copy of the application package, on the Grants.gov Web site, complete it offline and then upload and submit the application via the Grants.gov Web site. You may not e-mail an electronic copy of a grant application to us.

Please not the following:

- Under the new IHS requirements, paper applications are not allowable. However, if technical issues arise and the applicant is unable to successfully complete the electronic application process, the applicant must contact Grants Policy staff fifteen days prior to the application deadline and advise them of the difficulties you are having submitting your application on line. The Grants Policy staff will determine whether you may submit a paper application. The grantee must obtain prior approval, in writing, from the Grants Policy staff allowing the paper submission. Otherwise, applications not submitted through Grants.gov may be returned to the applicant and it may/will not be considered for funding.

• The paper application (original and 2 copies) may be sent directly to the Division of Grants Operations, 801 Thompson Avenue, TMP 360, Rockville, MD 20852 by May 25, 2006.

• When you enter the Grants.gov Web site, you will find information about submitting an application electronically through the Web site, as well as the hours of operation. We strongly recommend that applicants not wait until the deadline date to begin the application process through Grants.gov Web site.

• To use Grants.gov, you, as the applicant, must have a DUNS number and register with the Central Contractor Registry (CCR). You should allow a minimum of five days to complete CCR registration. See below on how to apply.

• You must submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.

• Your application must comply with any page limitation requirements described in the program announcement. After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Indian Health Service will retrieve your application from Grants.gov Web site.

• You may access the electronic application for this program on *http://www.Grants.gov.*

• You must search for the downloadable application package by CFDA number—93.933.

• To receive an application package, the applicant must provide the Funding Opportunity Number: HHS–2006–IHS–CYP–001.

E-mail applications will not be accepted under this announcement.

B. DUNS NUMBER—Beginning October 1, 2003, applicants were required to have a Dun and Bradstreet (DUNS) number. The DUNS number is a nine-digit identification number which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dnb.com/us/* or call (866) 705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process.

Applications submitted electronically must also be registered with the Central Contractor Registry (CCR). A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate whether or not your organization has a DUNS number. Registration with the CCR is free of charge.

Applicants may register by calling (888) 227–2423. Applications must also be registered with the CCR to submit electronically. Please review and complete the CCR "Registration Worksheet" located in the appendix of the CYP application kit or on *http://www.Grant.gov/CCRRegister.*

More detailed information regarding these registration processes can be found at *http://www.Grants.gov* Web site.

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 14-page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See "Multi-year Project Requirements" at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully.

1. Criteria.

Introduction and Need for Assistance. (20 points)

A. Describe and define the target population at the program location(s) (i.e., Tribal population and Tribal census tract data (when available); number of children and/or youth; data from previous community needs assessment; data from technical assistance site visit(s); school, recreation, after school or juvenile justice sources). Information sources must be appropriately identified.

B. Describe the geographic location of the proposed project including any geographic barriers to the health care users in the area to be served.

C. Describe the Tribe's/Tribal organization's current health operation. Include what programs and services are currently provided (i.e., federally funded, State funded, etc.). Include information regarding whether the Tribe/Tribal organization has a health department and/or health board and how long it has been operating. Provide similar information on the educational and juvenile justice organization programs and services.

D. Describe the existing resources and services available, including the maintenance of Native healing systems and intergenerational activities (i.e., mentoring, language, traditional teaching, storytelling, where appropriate, which are related to the specific program/service the applicant is proposing to provide. Supply the name, address, and phone number of a contact person for each.

E. Identify all current and previous children and youth activities funded, dates of funding, and summary of project accomplishments. State how previous funds facilitated the progression of health or wellness development relative to the current proposed project. (Copies of reports will not be accepted.)

F. State whether the project is a *Category I* or *II* and the size of the children and youth target group. *Category I* has no minimum and *Category II* projects must serve a minimum of 25 children annually.

G. Explain the reason for your proposed project by identifying specific needs of the target population and gaps or weaknesses in services or infrastructure that will be addressed by the proposed project. Explain how these gaps/weaknesses were discovered. Describe past efforts, collaborations with State/county programs and availability of program funding from Federal/non-Federal sources.

H. Summarize the applicable national, IHS, and/or State standards, laws and regulations, Tribal codes, such as those in the arenas of safety, school attendance, and child welfare.

Project Objective(s), Work Plan and Consultants. (40 points)

A. Identify the proposed project objective(s) addressing the following:

• Specific.

• Measurable and (if applicable) quantifiable.

• Achievable.

• Relevant and outcome oriented.

• Time-limited.

Example: The Project will decrease the number of students who drop out of school during FY 2006 by 10% by orienting students through the use of contracts, peer-mentoring and incentives at the start of the school year.

B. State objectives concisely. Describe what the project intends to accomplish and how the objectives will be measured, including if the accomplishments are replicable. Describe how you will align with two or more "Healthy People 2010" objectives related to children and youth. Include frequency of measurement.

C. Describe the approach, the tasks and resources needed to implement and complete the project. Include a time line of milestones, break down or chart. Include the date the project will begin to accept clients.

D. Discuss expected results. Describe data collection for the project, and how it will be obtained, analyzed, and maintained by the project. Data should include, but is not limited to the number of children and youth served, services provided, program satisfaction, short term impact, costs associated with the program and long-term outcomes. Describe how data collection will support the state project objectives and how it will support the project evaluation in order to determine the impact of the project. Address how the proposed project will result in change or improvement in health or well-being status program operations or processes for each proposed project objective.

E. Also address what if any tangible products are expected from the project (i.e. policies and procedure manual; needs assessment; curricula or educational materials; publication or formal reports beyond those required by the grant).

F. Address the extent to which the proposed project will build the local capacity to provide, improve, or expand services that addresses the need of the target population.

G. Submit a work plan in the appendix which includes the following information:

- Provide the action steps on a time line for accomplishing the proposed project objective(s).
- Identify who will perform the action steps.
- Identify who will supervise the action steps taken.
- Identify who will accept and/or approve work products at the end of the proposed project.
- Include any training that will take place during the proposed project, who will conduct the training and who will be attending the training.
- Include evaluation activities planned and survey tools or instruments.

H. If consultants or contractors will be used during the proposed project, please include the following information in their position description and scope of work (or note if consultants/contractors will not be used):

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a time line.
- Who will supervise the contractor.

If a potential consultant/contractor has already been identified, please include a resume and letter of commitment in the appendix.

Project Evaluation. (15 points)

Describe the methods for evaluating the project activities. Each proposed project objective should have an evaluation component and the evaluation activities should appear on the work plan. At a minimum, projects should describe plans to collect/summarize process evaluation information (e.g., reach of the program including numbers and/or age-ranges of the youth served) about all project activities. When applicable, impact evaluation activities (i.e., those designed to assess/summarize initial and/or follow-up attitudes, satisfaction, knowledge, behaviors, practices, and/or policies/procedures) should also be described. Please address the following for each of the proposed objectives:

A. What data will be collected to evaluate the success of the objective(s)?

B. How the data will be collected to assess the program's objective(s) (e.g., methods used such as, but not limited to focus groups, surveys, interviews, or other data collective activities?

C. When the data will be collected and the data analysis completed?

D. The extent to which there are specific data sets, data bases or registries already in place to measure/monitor meeting objective.

E. Who will collect the data and any cost of the evaluation (whether internal or external)?

F. Where and to whom the data will be presented?

Process Evaluation Example: The Project will conduct 8 school-based obesity prevention educational activities reaching up to 100 students (in grades 9–12) by the end of Year I. This will be assessed by having project staff document the dates of attendance at, and grade reach by educational sessions conducted in Year I. Project sign-in sheets will assist in identifying number of and grades of student participants.

Impact Evaluation Example: The project will increase the use of ATV helmets by 10% by the end of Project Year I. This will be assessed through the conduct of a baseline and follow-up ATV helmet use surveys conducted by the project staff at well-known ATV trails during the third and ninth month of project year I.

Organizational Capabilities and Qualifications. (15 points)

A. Describe the organizational structure of the Tribe/Tribal organization beyond health care activities.

B. If management systems are already in place, simple note it. (A copy of the 25 CFR part 900, subpart F, is available in the CYP application kit.)

C. Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed.

D. Describe what equipment (i.e., fax machine, phone, computer, etc.) and facility space (i.e., office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased through the grant.

E. List key personnel who will work on the project. Identify existing personnel, grant writer(s) if utilized and new program staff to be hired. Include title used in the work plan. In the appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications experience, requirements related to the proposed project and how they will be supervised. Resumes must indicate that the proposed staff member is qualified to carry out the proposed activities and who will determine if the work of a contractor is acceptable. Note who will be writing the progress reports. If a position is to be filled, indicate that information on the proposed position description.

F. If the project requires additional personnel (i.e., ITT support, volunteers, drivers, chaperones, etc.), note these and address how the Tribe/Tribal organization will sustains the position(s) after the grant expires. (If there is no need for additional personnel, simply note it.).

Categorical Budget and Budget Justification. (10 points)

A. Provide a categorical budget (Form SF 424A, Budget Information Non-Construction Programs) completing each of the budget periods requested.

B. If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

C. Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient cost and other details to facilitate the determination of cost allow ability (i.e., relevance of travel, crucial supplies, age appropriate equipment, reason for incentives and honoraria, etc.).

D. Indicate any special start-up costs.

Multi-Year Project Requirements

Projects requiring a second and/or third year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project.

Appendix Items

A. Work plan and time line for proposed objectives.

B. Position descriptions for key staff.

C. Resumes of key staff that reflect current duties.

D. Consultant or contractor proposed scope of work and letter of commitment (if applicable).

E. Indirect Cost Agreement.

F. Organization chart highlighting proposed project and other key contacts.

G. Map of area to benefit project identifying where target population resides and project location(s).

H. Multi-Year Project Requirements (if applicable).

I. Additional documents to support narrative (i.e. data tables, key news articles, table with two or more "Healthy People 2010" objectives project seeks to address, etc.).

2. Review and Selection Process.

In addition to the above criteria/requirements, applications are considered according to the following:

A. Letter of Intent Submission Deadline: April 14, 2006 and

B. Application Submission Deadline: May 25, 2006. Applications submitted in advance of or by the deadline and verified in Grants.gov will undergo preliminary review to determine that:

- The applicant and proposed project type is eligible in accordance with this grant announcement.
- The application is not a duplication of a previously funded project.
- The application narrative, forms, and materials submitted meet the requirements of the announcement allowing the review panel to undertake an in-depth evaluation; otherwise, it may be returned.

C. Competitive Review of Eligible Applications Review: June 26–30, 2006.

- Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed for merit by the Ad Hoc Objective Review Committee (ORC) appointed by the IHS to review and make recommendations on these applications. The review will be conducted in accordance with the IHS Objective Review Guidelines. The technical review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the evaluation criteria listed in Section V. The criteria are used to evaluate the quality of a proposed project, determine the likelihood of success, and assign a numerical score to each application. The scoring of approved applications will assist the IHS in determining which proposals will be funded if the amount of CYP funding is not sufficient to support all approved applications. Applications recommended for approval, having a score of 60 or above by the ORC and scored high enough to be considered for funding, are ranked and forwarded to the MCH Program for further recommendation. Applications scoring below 60 points will be disapproved and returned to the applicant. Applications that are approved but not funded will not be carried over into the next cycle for funding consideration.

3. Anticipated Announcement and Award Dates: The IHS anticipates announcement date of Thursday March 30 and award date of July 17, 2006.

VI. Award Administration Information

1. Award Notices

Notification: Week of July 3, 2006.

The program officer will notify the contact person identified on each proposal of the results in writing via postal mail. Applicants whose applications are declared ineligible will receive written notification of the ineligibility determination and their original grant application via postal mail. The ineligible notification will include information regarding the rationale for the ineligible decision citing specific information from the original grant application. Applicants who are approved but unfunded and disapproved will receive a copy of the Executive Summary which identifies the weaknesses and strengths of the application submitted. Applicants which are approved and funded will be notified through the Financial Assistant Award (FAA) document. The FAA will serve as the official notification of a grant award and will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, and the budget period. Any other correspondence announcing to the Applicant's Project Director that an application was recommended for approval is not an authorization to begin performance. Pre-award costs are not allowable charges under this program grant.

2. Administrative and National Policy Requirements

Grants are administered in accordance with the following documents:

A. This cooperative agreement.

B. 45 CFR part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments", or 45 CFR part 74, "Uniform Administration Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other NonProfit Organizations, and Commercial Organizations".

C. Public Health Service Grants Policy Statement.

D. Grants Policy Directives.

E. Appropriate Cost Principles: OMB Circular A–87, "State, Local, and Indian Tribal Governments," or OMB Circular A–122, "NonProfit Organizations".

F. OMB Circular A–133, "Audits of States, Local Governments, and NonProfit Organizations".

G. Other Applicable OMB circulars.

3. Reporting

A. Program Report—Program progress reports are required semi-annually by January 17 and July 17 of each funding year. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required/outlined in award letters. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Status Report—Semi-annual financial status reports (FSR) must be submitted within 30 days of the end of the half year. Final FSR are due within 90 days of expiration of the budget/project period. Standard Form 269 can be download from *http://www.whitehouse.gov/omb/grants/sf269.pdf* for financial reporting.

VII. Agency Contact(s)

Interested parties may obtain CYP programmatic information from the MCH Program Coordinator through the information listed under Section iV of this program announcement. Grant-related and business management information may be obtained from the Grants Management Specialist through the information listed under Section IV of this program announcement. Please note that the telephone numbers provided are not tool-free.

VIII. Other Information

The DHHS is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2010*, a DHHS-led activity for setting priority areas. Potential applicants may obtain a printed copy of *Healthy People 2010*, (Summary Report No. 017–001–00549–6) or CD–ROM, Stock No. 017–001–00549–5, through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA, 15250–7945, (202) 512–1800. You may also access this information at the following Web site: *http://www.healthypeople.gov/Publications*.

The U.S. Census Bureau website contains AI/AN specific data at the Tribal census tract level. Data is provided at *http://factfinder.census.gov/home/aian/index.html* by Tribe and language; reservations and other AI/AN areas; country and Tribal census tract level; and economic category.

The Public Health Service (PHS) strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American People.

Dated: March 21, 2006.

Robert G. McSwain,

Deputy Director, Indian Health Service.

[FR Doc. 06–3008 Filed 3–29–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Establishment

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the Director, National Institutes of Health (NIH), announces the establishment of the National Cancer Institute Clinical Trials Advisory Committee (Committee).

This Committee shall advise the Director, NCI, NCI Deputy Directors, and the Director of each NCI Division on the NCI-support national clinical trials enterprise to build a strong scientific infrastructure by bringing together a broadly developed and engaged coalition of stakeholders involved in the clinical trials process.

The Committee will consist of 25 members, including the Chair, appointed by the Director, NCI. Members shall be authorities knowledgeable in the fields of community, surgical, medical, and radiation oncology, patient advocacy, extramural clinical investigation, regulatory agencies, pharmaceutical industry, public health, clinical trials design, management and evaluation, drug development and developmental therapeutics, cancer prevention and control research in the fields of interest to NCI.

Duration of this committee is continuing unless formally determined by the Director, NCI that termination would be in the best public interest.

Dated: March 21, 2006.

Elias A. Zerhouni,

Director, National Institutes of Health.

[FR Doc. 06–3096 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Immunogenic Peptides and Methods of Use for Treating and Preventing Cancer

Jay A. Berzofsky *et al.* (NCI)
U.S. Provisional Application No. 60/773,319 filed 03 Nov 2005 (HHS Reference No. E–312–2005/0–US–01)
Licensing Contact: John Stansberry; 301/435–5236; *stansbej@mail.nih.gov.*

Rhabdomyosarcoma is a malignant (cancerous), soft tissue tumor found in children. The most common sites are the structures of the head and neck, the urogenital tract, and the arms or legs. The inventors have discovered an epitope that is created by a chromosomal translocation that occurs in about 80% of alveolar rhabdomyosarcoma and can elicit a human cytotoxic T lymphocytes (CTL) response in individuals who express HLA–B7.

Many tumors express mutated tumor associated antigens that often contain T-lymphocyte epitopes. However, the immune system often remains incapable of overtaking the growth potential of the malignant cells. Previous attempts to obtain protective and therapeutic anti-tumor immunity have been moderately successful (Dagher *et al., Med Pediatr Oncol* 38: 158–164 (2002) and Rodeberg *et al., Cancer Immuno Immunother* 54: 526–534 (2005)). This present invention seeks to improve on previous attempts by providing more immunogenic peptides that bind to a Major Histocompatibility Complex (MHC) Class I molecule with higher affinity, and fusion proteins comprising at least one of the inventive immunogenic peptides. This discovery involves human T-cell responses to human tumors.

The National Cancer Institute welcomes statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize NCI's technology related to methods of protective and therapeutic immunogenic peptides. Please contact Dr. Patrick Twomey at 301–496–0477 or *twomeyp@mail.nih.gov* for more information.

Impaired Neuregulin1-Stimulated B Lymphoblast Migration as Diagnostic for Schizophrenia

Daniel Weinberger *et al.* (NIMH)
U.S. Provisional Application No. 60/735,353 filed 10 Nov 2005 (HHS Reference No. E–181–2005/1–US–01)
Licensing Contact: Norbert Pontzer; 301/435–5502; *pontzern@mail.nih.gov.*

Schizophrenia may be a neurodevelopmental disorder (Weinberger D.R. and Marenco S. in *Schizophrenia as a neurodevelopmental disorder*, Hirsch S., Weinberger D.R. (eds) Schizophrenia, 2nd ed., Blackwell Science: Oxford, UK, 2003 pp 326–348). Neuregulin1 (NRG1) plays a critical role in neuronal migration and maturation by interacting with ErbB tyrosine kinase receptors and linkage studies and genetically engineered animals have implicated NRG1-mediated signaling in the neuropathogenesis of schizophrenia. Although no technique is available to assess NRG1/ErbB mediated neural migration in living human brain, there is increasing recognition that neuronal cells and immune cells share many cellular and molecular mechanisms for cell migration and motility. These inventors showed NRG1 mediated chemotactic responses of B lymphocytes from schizophrenic patients are

significantly decreased compared to controls. If aberrant ErbB function during development is a cause of schizophrenia, and that aberrant ErbB function is expressed in peripheral blood cells throughout life, the assay should predict susceptibility to schizophrenia even before clinical symptoms are apparent.

The NIMH Clinical Brain Disorders Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the above technology. Please contact Suzanne L. Winfield at *winfieldS@mail.nih.gov* for more information.

Treatment of Pulmonary Hypertension (PH) Using Nitrite Therapy

M. Gladwin (CC), R. Cannon (NHLBI), A. Schechter (NIDDK), C. Hunter (CC), R. Pluta (NINDS), E. Oldfield (NINDS) *et al.*

PCT Applications filed 09 Jul 2004 (priority date 9 July 2003): PCT/US04/21985, International Publication No. WO 2005/007173, Publication Date 27 January 2005 [HHS Reference No. E–254–2003/2–PCT–01] and PCT/US04/22232, International Publication No. WO 2005/004884, Publication Date 20 January 2005 [HHS E–254–2003/3–PCT–01]

Licensing Contact: Susan Carson, D.Phil.; 301/435–5020; *carsonsu@mail.nih.gov.*

Pulmonary Hypertension (PH) occurs as a primary or idiopathic disease as well as secondary to a number of pulmonary and systemic diseases, such as neonatal PH and sickle cell disease. There is no cure for pulmonary hypertension, a nitric-oxide deficient state characterized by pulmonary vasoconstriction and systemic hypoxemia and therapies vary in efficacy and cost. Recent studies by NIH researchers and their collaborators provided evidence that the blood anion nitrite contributes to hypoxic vasodilation through a heme-based, nitric oxide (NO)-generating reaction with deoxyhemoglobin and potentially other heme proteins [Nature Medicine 2003 9:1498–1505]. These initial results indicate that sodium nitrite can be used as a potential cost-effective platform therapy for a wide variety of disease indications characterized broadly by constricted blood flow or hypoxia.

These results have been further corroborated by more recent work in the neonatal lamb model for PH. Inhaled sodium nitrite delivered by aerosol to newborn lambs with hypoxic pulmonary hypertension elicited a rapid and sustained reduction (65%) in hypoxia-induced pulmonary hypertension. Pulmonary vasodilation elicited by aerosolized nitrite was deoxyhemoglobin- and pH-dependent and was associated with increased blood levels of iron-nitrosyl-hemoglobin. Notably, short term delivery of nitrite dissolved in saline through nebulization produced selective, sustained pulmonary vasodilation with no clinically significant increase in blood methemoglobin levels. [Nature Medicine 2004 10:1122–1127]. This new, simple and cost-effective potential therapy for neonatal PH is available for licensing.

Also available for licensing are claims directed to nitrite salt formulations associated with elevated blood pressure, decreased blood flow or hemolytic disease (HHS Ref. No. E–254–2003/2) as well as for the treatment of specific conditions including hepatic, cardiac or brain ischemia-reperfusion injury and other cardiovascular conditions [J. Clin. Invest. (2005) 115:1232–1240; JAMA (2005) 293:1477–1484] (HHS Ref. No. E–254–2003/3).

The National Heart, Lung, and Blood Institute, Vascular Medicine Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize a treatment of pulmonary hypertension (PH) using nitrite therapy. Please contact Dr. Mark Gladwin by phone at 301–435–2310 or by e-mail at *mgladwin@nih.gov* for more information.

Modified Growth Hormone

YP Loh, NX Cawley (both of NICHD), BJ Baum (NIDCR), and CR Snell

U.S. Patent Application No. 10/477,651 filed 14 Nov 2003 (HHS Reference No. E–184–2001/1–US–02) which is a 371 application of PCT/US02/15172 filed 14 May 2002 and which claims priority to 60/290,836 filed 14 May 2001

Licensing Contact: Susan S. Rucker; 301/435–4478; *ruckersu@mail.nih.gov.*

This invention described and claimed in this patent application provides for an improved method for producing human growth hormone (hGH) in vitro or in vivo. In particular, the patent application describes compositions and methods which are based on a modified form of human growth hormone where the regulated secretory pathway (RSP) sorting signal has been modified to provide for the constitutive secretion of human growth hormone via the nonregulated secretory pathway (NRSP) in a mammalian cell. One particular modified hGH composition, has been demonstrated to be biologically active and able to be secreted into the bloodstream in an animal model providing proof-of-concept. This invention can be applied to a non-invasive method of gene therapy to achieve sustained delivery of this therapeutic protein.

The application has been published as WO 02/092619 (11/21/2002) and as 2004/0158046 A1 (08/12/2004). The work has also been published at Wang J, et al. Human Gene Therapy 16(5):571–83 (May 2005). Only U.S. Patent protection has been sought for this technology. There are no foreign counterpart patent applications.

The NICHD Office of the Scientific Director is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the non-invasive method of production and systemic delivery of growth hormone or other proteins for therapeutic purposes. Please contact Dr. Y. Peng Loh at 301/496–3239 or *lohp@mail.nih.gov* for more information.

Dated: March 21, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–4611 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health, Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Director's Council of Public Representatives.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Director's Council of Public Representatives.

Date: April 21, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: Among the topics proposed for discussion are: (1) NIH Director's Update; (2) the NIH Peer Review Process and Opportunities for Public Participation; (3) NIH Clinical Research Education and

Awareness Efforts; (4) Update on the Office of Portfolio Analysis and Strategic Initiatives and the NIH Roadmap; and (5) discussion and public comment.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Jennifer E. Gorman, NIH Public Liaison/COPR Coordinator, Office of Communications and Public Liaison, Office of the Director, National Institutes of Health, 9000 Rockville Pike, Building 31, Room 5B64, Bethesda, MD 20892, (301) 435–4448, *gormanj@od.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.copr.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS.)

Dated: March 24, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3094 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Allergy and Infectious Diseases Special Emphasis Panel, March 28, 2006, 10 a.m. to March 28, 2006, 6 p.m., National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817 which was published in the **Federal Register** on March 17, 2006, 71 FRN 13858.

The ZAI1–KLW–I (M1) Special Emphasis Panel closed telephone conference meeting will be held in Conference Room 3200, 6700B Rockledge Drive, Bethesda, MD 20892. The meeting date has changed from March 28, 2006 to April 10, 2006 at 1 p.m. The meeting is closed to the public.

Dated: March 24, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3092 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Neurovirology Studies.

Date: March 27, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Mark Hopkins Hotel, Number One Nob Hill, 999 California Street, San Francisco, CA 94108.

Contact Person: Andrea Sawczuk, DDS, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, 6001 Executive Boulevard, Room #3208, Bethesda, MD 20892, 301–496–0660, *sawczuka@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Cognition and Imaging Special Emphasis Panel.

Date: March 30, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hamilton Crowne Plaza Hotel, 14th & K Streets, NW., Washington, DC 20005.

Contact Person: Richard D. Crosland, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–594–0635, *rc218u@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Fellowship Review.

Date: April 6, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Joann McConnell, PhD., Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, 301–496–5324, *mcconnej@ninds.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Glioma Gene Therapy SEP.

Date: April 17, 2006.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shantadurga Rajaram, PhD., Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20852, 301–435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Emergency Network.

Date: April 26–28, 2006.

Time: 7 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Katherine Woodbury, PhD., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Boulevard, Suite 3208, Msc 9529, Bethesda, MD 20892–9529, 301–496–5980, *kw47o@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Loan Repayment Program.

Date: April 30, 2006.

Time: 9 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Joann McConnell, PhD., Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20892–9529, 301–496–5324, *mcconnej@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: March 24, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3093 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Unsolicited P01(s).

Date: April 18, 2006.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Thames E. Pickett, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *pickette@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS.)

Dated: March 24, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3095 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Minority Biomedical Research Support RISE and SCORE.

Date: March 30, 2006.

Time: 10:45 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3AN–12, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Helen R. Sunshine, PhD, Chief, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN12F, Bethesda, MD 20892. 301–594–2881. *sunshineh@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS.)

Dated: March 4, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3097 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Autism and Related Disorders: Development and Outcome.

Date: April 18, 2006.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892. (301) 435–6911. *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS.)

Dated: March 24, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3098 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine; Extramural Programs Subcommittee.
Date: May 8, 2006.
Closed: 4 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894. 301–496–6221. *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine; Subcommittee on Outreach and Public Information.
Date: May 9, 2006.
Open: 7:30 a.m. to 8:45 a.m.
Agenda: Outreach Activities.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894. 301–496–6221. *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine.
Date: May 9–10, 2006.
Open: May 9, 2006, 9 a.m. to 4 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.
Closed: May 9, 2006, 4 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.
Open: May 10, 2006, 9 a.m. to 12 p.m.
Agenda: Program Discussion.
Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894. 301–496–6221. *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine; Planning Subcommittee.
Date: May 10, 2006.
Open: 7:30 a.m. to 8:45 a.m.
Agenda: Long-Range Planning.
Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.
Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894. 301–496–6221. *lindberg@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nlm.nih.gov/of/bor.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS.)

Dated: March 22, 2006.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–3054 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Arthritis, Connective Tissue and Skin Sciences: Small Business Panel.
Date: April 7, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Tamizchelvi Thyagarajan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016K, MSC 7814, Bethesda, MD 20892. 301–451–1327. *tthyagar@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of HEME-Protein Application.
Date: April 10, 2006.
Time: 10 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: George W. Chacko, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7849, Bethesda, MD 20892. 301–451–1220. *chackoge@csr.nih.gov.*
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 IDM–F (93) Effector Function of Autoreactive Th 1 T Cells.
Date: April 20, 2006.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Diane L. Stassi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892. 301–435–2514. *stassid@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine;

93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.838–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 22, 2006.

Anna Snouffer,

Acting Director, Officer of Federal Advisory Committee Policy.

[FR Doc. 06–3053 Filed 3–29–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of a Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council will meet in an open session on April 26, 2006, from 2 p.m. to 4 p.m., via teleconference.

The Centers for Medicare and Medicaid Services' (CMS) Prescription Drug Program (Medicare Part D) and its impact on SAMHSA's consumers will be discussed at the meeting. Representatives from CMS will provide an update and an overview of their outreach and education campaigns.

The public is invited to attend in person or to listen to the discussion via telephone. Due to limited space, seating will be on a registration-only basis. To register, obtain the teleconference call-in number, and the access code, get in touch with the SAMHSA Council Executive Secretary, Ms. Toian Vaughn (see contact information below). Please communicate with Ms. Vaughn to make arrangements to comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting, and a roster of Council members can be obtained after the meeting by contacting Ms. Vaughn or by accessing the SAMHSA Council Web site, *http://www.samhsa.gov/council.* The meeting transcript will also be available on the SAMHSA Council Web site within three weeks after the meeting.

Committee Name: SAMHSA National Advisory Council.

Date/Time: Wednesday, April 26, 2006, 2 p.m. to 4 p.m. (Open-Teleconference).

Place: 1 Choke Cherry Road, Sugarloaf Conference Room, Rockville, Maryland 20857.

Contact: Toian Vaughn, M.S.W., Executive Secretary, SAMHSA National Advisory Council and SAMHSA Committee Management Officer, 1 Choke Cherry Road, Room 8–1089, Rockville, Maryland 20857. Telephone: (240) 276–2307; FAX: (240) 276–2220 and E-mail: *toian.vaughn@samhsa.hhs.gov.*

Dated: March 23, 2006.

Toian Vaughn,

Executive Secretary, SAMHSA National Advisory Council and SAMHSA Committee, Management Officer.

[FR Doc. E6–4617 Filed 3–29–06; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2006–0013]

Office of the Secretary; Notice of Meeting of National Infrastructure Advisory Council (NIAC)

AGENCY: Directorate for Preparedness, DHS.

ACTION: Notice of meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet in open session.

DATES: Tuesday, April 11, 2006, from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The Grand Hyatt at Washington Center, 1000 H Street, NW., Washington, DC 20001.

You may submit comments, identified by DHS–2006–0013, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: william.corcoran@associates.dhs.gov.* When submitting comments electronically, please include by DHS–2006–0013, in the subject line of the message.
- *Mail:* Jenny Menna, Department of Homeland Security, Directorate for Preparedness, Washington, DC 20528. To ensure proper handling, please reference by DHS–2006–0013, on your correspondence. This mailing address may be used for paper, disk or CD–ROM submissions.
- *Hand Delivery/Courier:* Jenny Menna, Department of Homeland Security, Directorate for Preparedness, Washington, DC 20528. Contact Telephone Number 703–235–5316.

Instructions: All submissions received must include the words "Department of Homeland Security" and DHS–2006–0013, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jenny Menna, NIAC Designated Federal Officer, Department of Homeland Security, Washington, DC 20528; telephone 703–235–5316.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Pub. L. 92–463, as amended (5 U.S.C. App.1 *et seq.*). At this meeting, the NIAC will be briefed on the status of several Working Group activities in which the Council is currently engaged.

This meeting is open to the public on a first-come, first-served basis. Please note that the meeting may close early if all business is finished.

The NIAC meeting agenda may be updated. Please consult the NIAC Web site, *http://www.dhs.gov/niac,* for the most current agenda.

Information on Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, telephone the Designated Federal Officer as soon as possible.

Dated: March 22, 2006.

Jenny Menna,

Designated Federal Officer for the NIAC.

Draft Agenda of April 11, 2006 Meeting

I. Opening of Meeting

Jenny Menna, Designated Federal Officer, NIAC, Department of Homeland Security

II. Rollcall of Members

Jenny Menna

III. Opening Remarks and Introductions

NIAC Chairman, Erle A. Nye, Chairman Emeritus, TXU Corp.
NIAC Vice Chairman, John T. Chambers, Chairman and CEO, Cisco Systems, Inc.
Michael Chertoff, Secretary, Department of Homeland Security (DHS) (Invited)
George W. Foresman, Under Secretary, Preparedness Directorate, DHS (Invited)
Frances Fragos Townsend, Assistant to the President for Homeland Security and Counterterrorism (Invited)

IV. Approval of February Minutes

NIAC Chairman Erle A. Nye

V. Final Reports and Deliberations

NIAC Chairman Erle A. Nye Presiding

A. Intelligence Coordination

NIAC Vice Chairman John T. Chambers, Chairman and CEO, Cisco Systems, Inc. and Gilbert Gallegos, Chief of Police (ret.), Albuquerque, New Mexico Police Department, NIAC Member

B. Deliberation and Approval of Recommendations of Final Report

NIAC Members

C. Workforce Preparation, Education and Research

Alfred R. Berkeley III, Chairman and CEO, Pipeline Trading, LLC., NIAC Member Dr. Linwood Rose, President, James Madison University, NIAC Member

D. Deliberation and Approval of Recommendations of Final Report

NIAC Members

VI. Status Reports on Current Working Group Initiatives

NIAC Chairman Erle A. Nye Presiding

A. Chemical, Biological, and Radiological Events and the Critical Infrastructure Workforce

Chief Rebecca F. Denlinger, Fire Chief, Cobb County, Georgia Fire and Emergency Services, NIAC Member, Martha H. Marsh, Chairman and CEO, Stanford Hospital and Clinics, NIAC Member and Bruce Rohde, Chairman and CEO Emeritus, ConAgra Foods, Inc.

B. Convergence of Physical and Cyber Technologies and Related Securityy Management Challenges

George Conrades, Executive Chairman, Akamai Technologies, NIAC Member, Margaret Grayson, President, AEP Government Solutions Group, NIAC Member, and Gregory A. Peters, Former President and CEO, Internap Network Services Corporation, NIAC Member.

VII. New Business

NIAC Chairman Erle A. Nye, NIAC Members TBD

A. Deliberation and Voting on New Initiatives

NIAC Members

VIII. Adjournment

NIAC Chairman Erle A. Nye

[FR Doc. E6–4634 Filed 3–29–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5044–N–05]

Notice of Proposed Information Collection for Public Comment; Public Housing Financial Management Template

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 30, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 708–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing Financial Management Template.

OMB Control Number: 2535–0107.

Description of the need for the information and proposed use: To meet the requirements of the Public Housing Assessment System (PHAS) rule, the Department has developed the financial condition template that public housing agencies (PHAs) use to annually submit electronically specific financial condition information to HUD. HUD uses the financial condition information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a more comprehensive assessment of the PHAs receiving federal funds from HUD.

Agency form number, if applicable: N/A.

Members of affected public: Public housing agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents: The estimated number of respondents is 4,238 PHAs that submit one audited financial condition template annually and one unaudited financial condition template annually. The average number for each PHA response is nine hours, for a total reporting burden of 38,864 hours.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 23, 2006.

Mary Schulhof,

Senior Program Analyst, Office of Policy, Program and Legislative Initiatives.

[FR Doc. E6–4583 Filed 3–29–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Renewal of the Sport Fishing and Boating Partnership Advisory Council

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Renewal.

SUMMARY: This notice is published in accordance with section 9a(2) of the Federal Advisory Committee Act. Following consultation with the General Services Administration, the Secretary of the Interior hereby renews the Sport Fishing and Boating Partnership Council (Council) charter for 2 years.

DATES: The Council's charter will be filed under the Act April 14, 2006.

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Council Coordinator, Fish and Wildlife Service, (703) 358–1711.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to provide advice to the Secretary of the Interior through the Director of the Fish and Wildlife Service (Service) to help the Department of the Interior (Department) and the Service achieve their goal of increasing public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating.

The Council will represent the interests of the sport fishing and boating

constituencies and industries and will consist of no more than 18 members and up to 16 alternates appointed by the Secretary to assure a balanced, cross-sectional representation of public and private sector organizations. The Council will consist of two ex-officio members: Director, Fish and Wildlife Service, and the President, International Association of Fish and Wildlife Agencies (IAFWA). The 16 remaining members will be representatives selected from among, but not limited to, the following national interest groups: (1) State fish and wildlife resource management agencies (member will be a Director of a coastal State if the President of the IAFWA is from an inland State, or an inland State if the President of the IAFWA is from a coastal State); (2) saltwater and freshwater recreational fishing organizations; (3) recreational boating organizations; (4) recreational fishing and boating industries; (5) recreational fishery resources conservation organizations; (6) aquatic resource outreach and education organizations; and (7) tourism industry. Members will be senior-level representatives for recreational fishing, boating, and aquatic resource conservation and have the ability to represent their designated constituency.

The Council will function solely as an advisory body and in compliance with provisions of the Act (5 U.S.C. Appendix 2). The Certification of renewal is published below.

Certification

I hereby certify that the renewal of the Sport Fishing and Boating Partnership Council is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by those statutory authorities as defined in Federal laws including, but not restricted to, the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777–777k), Fish and Wildlife Coordination Act (16 U.S.C. 661–667e), and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j) in furtherance of the Secretary of the Interior's statutory responsibilities for administration of the Fish and Wildlife Service's mission to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The Council will assist the Secretary and the Department of the Interior by providing advice on activities to enhance fishery and aquatic resources.

Dated: March 21, 2006.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. E6–4618 Filed 3–29–06; 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 Five Midwestern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 5-year review of gray bat (*Myotis grisecens*), Iowa Pleistocene snail (*Discus macclintocki*), decurrent false aster (*Boltonia decurrens*), Pitcher's thistle (*Cirsium pitcheri*), and western prairie fringed orchid (*Platanthera praeclara*) under section 4(c)(2)(A) of the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 *et seq.*). We request any information on the aforementioned species since their original listings that has a bearing on their classification as threatened or endangered.

A 5-year review is a periodic process conducted to ensure that the classification of a listed species is appropriate. It is based on the best scientific and commercial data available at the time of the review. We will make a finding of whether these species are properly classified under section 4(c)(2)(B) of the Act, based on the results of these 5-year reviews.

DATES: Information must be received no later than May 30, 2006.

ADDRESSES: Submit information to the appropriate U.S. Fish and Wildlife Service office. See **SUPPLEMENTARY INFORMATION** for complete addresses.

FOR FURTHER INFORMATION CONTACT:

1. *Gray bat:* Dr. Paul McKenzie, Columbia Ecological Services Field Office (see **ADDRESSES**); telephone (573) 234–2132, extension 107; facsimile (573) 234–2181.

2. *Iowa Pleistocene snail:* Ms. Cathy Henry, Driftless Area National Wildlife Refuge (see **ADDRESSES**); telephone (563) 873–3423; facsimile (563) 873–3803.

3. *Decurrent false aster:* Ms. Jody Millar, Rock Island Ecological Services Field Office (See **ADDRESSES**); telephone (309) 793–5800; facsimile (309) 793–5804.

4. *Pitcher's thistle:* Mr. Mike DeCapita, East Lansing Ecological Services Field Office (see **ADDRESSES**); telephone (517) 351–2555; facsimile (517) 351–1443.

5. *Western prairie fringed orchid:* Mr. Phil Delphey, Twin Cities Ecological Services Field Office (see **ADDRESSES**); telephone (612) 725–3548, extension 206; facsimile (612) 725–3609.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION: Under the Act, the Service maintains a list of endangered and threatened wildlife and plant species (List) at 50 CFR 17.11 and 17.12. Amendments to the List through final rules are published in the **Federal Register**. The Lists of wildlife and plants are available on our Internet site at *http://www.fws.gov/endangered/wildlife/html#species*. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every five years. Section 4(c)(2)(B) requires that we determine (1) Whether a species no longer meets the definition of threatened or endangered and should be removed from the List (delisted); (2) whether a species more properly meets the definition of threatened and should be reclassified from endangered to threatened; or (3) whether a species more properly meets the definition of endangered and should be reclassified from threatened to endangered. Using the best scientific and commercial data available, a species will be considered for delisting if the data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification requires a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of gray bat, Iowa Pleistocene snail, decurrent false aster, Pitcher's thistle, and western prairie fringed orchid. Table 1 provides a summary of the listing information for the species under active review.

TABLE 1.—LISTING INFORMATION SUMMARY

Common name	Scientific name	Status	Historic range	Final rule
Gray bat	*Myotis grisescens*	Endangered	Central and Southeastern U.S.A.	Apr. 28, 1976 (41 FR 17736)
Iowa Pleistocene snail	*Discus macclintocki*	Endangered	U.S.A. (IA)	July 3, 1978 (43 FR 28932)
Decurrent false aster	*Boltonia decurrens*	Threatened	U.S.A. (IL, MO)	Nov. 14, 1988 (53 FR 45858)
Pitcher's thistle	*Cirsium pitcheri*	Threatened	U.S.A. (IL, IN, MI, WI) Canada (ON.).	July 18, 1988 (53 FR 27137)
Western prairie fringed orchid.	*Platanthera praeclara*	Threatened	U.S.A. (IA, MN, MO, NE, ND, OK, KS, SD), Canada (MB)	Sept. 28, 1989 (54 FR 39857)

Public Solicitation of New Information

To ensure that the 5-year reviews are complete and based on the best available scientific and commercial information, we are soliciting new information from the public, concerned governmental agencies, tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of the species identified in Table 1. A 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Requested information includes (A) Species biology, including but not limited to, population trends, distribution, abundance, demographics, and genetics; (B) habitat conditions, including but not limited to, amount, distribution, and suitability; (C) conservation measures that have been implemented that benefit the species; (D) threat status and trends; and (E) other new information, data, or corrections, including but not limited to, taxonomic or nomenclature changes, identification of erroneous information contained in the List, and improved analytical methods.

You may submit your comments and materials to the appropriate Field Supervisor or Refuge Manager (see **ADDRESSES** below) no later than the close of the comment period (see **DATES**) to allow us adequate time to conduct these 5-year reviews. If you do not respond to this request for information, but subsequently possess information on the status of any of these species, we are eager to receive new information regarding federally listed species at any time.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. We will not, however, consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Information received in response to this notice and review will be available for public inspection, by appointment, during normal business hours (see **ADDRESSES** below).

Submit information to the U.S. Fish and Wildlife Service, Ecological Services Field Supervisor or Driftless Area National Wildlife Refuge Manager at the following **ADDRESSES**:

1. *Gray bat:* Columbia Ecological Services Field Office, 101 Park DeVille Drive, Suite A, Columbia, Missouri 65203–0057.

2. *Iowa Pleistocene snail:* Driftless Area National Wildlife Refuge, P.O. Box 460, McGregor, Iowa 52157.

3. *Decurrent false aster:* Rock Island Ecological Services Field Office, 4469–48th Avenue Court, Rock Island, Illinois 61201.

4. *Pitcher's thistle:* East Lansing Ecological Services Field Office, 2651 Coolidge Road, Suite 101, East Lansing, Michigan 48823–6316.

5. *Western prairie fringed orchid:* Twin Cities Ecological Services Field Office, 4101 East 80th Street, Bloomington, Minnesota 55425–1665.

Authority: This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 9, 2006.

Lynn M. Lewis,

Deputy Assistant Regional Director, Ecological Services, Region 3.

[FR Doc. E6–4616 Filed 3–29–06; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Review)]

Ammonium Nitrate From Russia

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that termination of the suspended investigation on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on March 31, 2005 (70 FR 16517) and determined on July 5, 2005 that it would conduct a full review (70 FR 41426, July 19, 2005). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 9, 2005 (70 FR 53687). The hearing was held in Washington, DC, on January 19, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on March 27, 2006. The views of the Commission are contained in USITC Publication 3844 (March 2006), entitled *Ammonium Nitrate from Russia: Investigation No. 731–TA–856 (Review).*

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: March 27, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–4640 Filed 3–29–06; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. AA1921–197 (Second Review); 701–TA–319, 320, 325–328, 348, and 350 (Second Review); and 731–TA–573, 574, 576, 578, 582–587, 612, and 614–618 (Second Review)]

Certain Carbon Steel Products From Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the countervailing duty and antidumping duty orders on certain carbon steel products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on certain carbon steel products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 22, 2006.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On February 6, 2006, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (71 FR 8874, February 21, 2006). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the reviews will be placed in the nonpublic record on September 25, 2006, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing. The Commission will hold hearings in connection with the reviews beginning at 9:30 a.m. on October 17 (corrosion-resistant steel) and October 19, 2006 (cut-to-length plate), at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 10, 2006. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 13, 2006, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is October 5, 2006. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is October 30, 2006; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before October 30, 2006. On December 5, 2006, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 8, 2006, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's

rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 24, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–4642 Filed 3–29–06; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. TA–131–33 and TA–2104–22]

U.S.-Malaysia Free Trade Agreement: Advice Concerning the Probable Economic Effect of Providing Duty-Free Treatment for Imports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigations and scheduling of public hearing.

DATES: *Effective Date:* March 24, 2006.

SUMMARY: Following receipt on March 17, 2006, of a request from the United States Trade Representative (USTR), the Commission instituted investigation Nos. TA–131–033 and TA–2104–022, *U.S.-Malaysia Free Trade Agreement: Advice Concerning the Probable Economic Effect of Providing Duty-Free Treatment for Imports*, under section 131 of the Trade Act of 1974 and section 2104(b)(2) of the Trade Act of 2002.

FOR FURTHER INFORMATION CONTACT: Information specific to these investigations may be obtained from Heidi Colby-Oizumi, Project Leader (202–205–3391; *heidi.colby@usitc.gov*), Office of Industries, or James Fetzer, Deputy Project Leader (202–708–5403; *james.fetzer@usitc.gov*), Office of Economics, United States International Trade Commission, Washington, DC, 20436. For information on the legal aspects of these investigations, contact William Gearhart of the Office of the General Counsel (202–205–3091; *william.gearhart@usitc.gov*). General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

Background

On March 8, 2006, the USTR notified the Congress of the President's intent to enter into negotiations for a free trade agreement with Malaysia. Accordingly, the USTR, pursuant to section 131 of the Trade Act of 1974 (19 U.S.C. 2151), requested the Commission to provide a report including advice as to the probable economic effect of providing duty-free treatment for imports of products of Malaysia (i) on industries in the United States producing like or directly competitive products, and (ii) on consumers. In preparing the advice, the Commission's analysis will consider each article in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States for which U.S. tariffs will remain after the United States fully implements its Uruguay Round tariff commitments. The import advice will be based on the 2006 Harmonized Tariff System nomenclature and 2005 trade data. The advice with respect to the removal of U.S. duties on imports from Malaysia will assume that any known U.S. nontariff barrier will not be applicable to such imports. The Commission will note in its report any instance in which the continued application of a U.S. nontariff barrier to such imports would result in different advice with respect to the effect of the removal of the duty.

As also requested, pursuant to section 2104(b)(2) of the Trade Act of 2002 (19 U.S.C. 3804(b)(2)), the Commission will provide advice as to the probable economic effect of eliminating tariffs on imports of certain agricultural products of Malaysia on (i) industries in the United States producing the product concerned, and (ii) the U.S. economy as a whole.

The Commission expects to provide its report to USTR by June 30, 2006. USTR indicated that those sections of the Commission's report that relate to the analysis of probable economic effects will be classified.

Public Hearing

A public hearing in connection with these investigations is scheduled to begin at 9:30 a.m. on April 19, 2006, at the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., April 4, 2006, in accordance with the requirements in the "Submissions" section below. Any person interested in attending the hearing as an observer or non-participant may call the Secretary (202–205–2000) after April 4, 2006 to determine whether the hearing will be held.

Statements and Briefs

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements or briefs concerning these investigations in accordance with the requirements in the "Submissions" section below. Any prehearing statements or briefs should be filed no later than 5:15 p.m., April 6, 2006; the deadline for filing post-hearing statements or briefs is 5:15 p.m., April 25, 2006.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on these investigations. Submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements related to the Commission's report should be submitted to the Commission at the earliest practical date, and should be received no later than 5:15 p.m., April 25, 2006. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of

each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000) or *edis@usitc.gov*).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of these investigations in the report it sends to the USTR and the President. However, should the Commission publish a public version of this report, such confidential business information will not be published in a manner that would reveal the operations of the firm supplying the information.

The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Secretary at 202–205–2000.

List of Subjects: Malaysia, tariffs, and imports.

Issued: March 24, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–4609 Filed 3–29–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Judgment

Notice is hereby given that Defendant Rolex Watch U.S.A., Inc. ("Rolex"), successor in interest to Defendant the American Rolex Watch Corporation in *United States* v. *The Watchmakers of Switzerland Information Center, Inc.*, Civil Action No. 96–170 (S.D.N.Y.), has filed a motion to terminate the Final Judgment entered in that matter on March 9, 1960 ("Final Judgment") and that the Department of Justice ("the Department"), Antitrust Division, in a stipulation also field with the Court, has tentatively consented to termination of the Final Judgment, but has reserved the right to withdraw its consent pending receipt of public comments.

The Final Judgment arose out of a 1950s investigation of the anticompetitive practices of the Swiss watch industry, including Swiss watch manufacturers, Swiss trade associations, and their United States importers. The United States filed a complaint against more than twenty watch companies and trade association in 1954, including the American Rolex Watch Corporation. *United States* v. *The Watchmakers of Switzerland Information Center, Inc.*, Civil Action No. 96–170 (S.D.N.Y. Complaint filed Oct. 19, 1954). The United States made several allegations in its complaint. It charged that certain Swiss and U.S. manufacturers and sellers of Swiss watches and watch parts engaged in a conspiracy "to restrict, eliminate and discourage the manufacture of watches and watch parts in the United States, and to restrain United States imports and exports of watches and watch parts for manufacturing and repair purposes." Id. The United States also charged that these companies agreed to fix minimum pieces for watches and maximum prices for repair parts, regulate the use and distribution of watches and repair parts, and boycott those who violated these restrictions. Id. The conspiracy came about through the adoption and enforcement of an agreement known as the Collective Convention of the Swiss Watch Industry. "The purpose of the Collection Convention was to protect, develop and stabilize the Swiss watch industry and to impede the growth of competitive watch industries outside of Switzerland." *United States* v. *The Watchmakers of Switzerland Information Center, Inc.*, 1963–1 Trade Cas. (CCH) ¶ 70,600, at 77,426 (S.D.N.Y. Dec. 20, 1962).

On March 9, 1960, prior to trial, the United States and the defendant importers named in the complaint, including Rolex, agreed to enter into the Final Judgment in lieu of going to trial. *United States* v. *The Watchmakers of Switzerland Information Center, Inc.*, Trade Reg. Rep. (CCH) ¶ 69,655 (S.D.N.Y. Mar. 9, 1960).

The Department has filed with the Court a memorandum setting forth the reasons why the United States believes that termination of the Final Judgment would serve the public interest. Copies of Rolex's motion to terminate, the stipulation containing the United States' tentative consent, the United States' memorandum, and all further papers filed with the Court in connection with Rolex's motion will be available for inspection at the Antitrust Documents Group, Antitrust Division, Room 215, 325 7th Street, NW., Washington, DC 20004, and at the Office of the Clerk of the United States District Court for the Southern District of New York. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Final Judgment to the United States. Such comments must be received by the Antitrust Division within sixty (60) days and will be filed with the Court by the United States. Comments should be addressed to John R. Read, Chief, Litigation III Section, Antitrust Division, U.S. Department of Justice, 325 7th Street, NW., Suite 300, Washington, DC 20530.

Dorothy B. Fountain,

Deputy Director of Operations.

[FR Doc. 06–3059 Filed 3–29–06; 8:45 am]

BILLING CODE 4410–11–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Museums and Libraries Engaging America's Youth: Study of IMLS Funded Grants, Submission for OMB Review, Comment Request

AGENCY: Institute of Museum and Library Services.

ACTION: Submission to OMB for Review, Comment Request.

SUMMARY: The Institute of Museum and Library Services announces the

following information collection has been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this proposed form, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director of Research and Technology, Rebecca Danvers at (202) 652–4680. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636. This study is to undertake an analysis of programs that provided services to youth at museums, libraries, schools, and universities and which were funded by IMLS between 1998 and 2003 in order to identify trends of museum and library services in this area; examine the impact and effectiveness of such programs; and identify and disseminate information on the best practices of such programs.

DATES: Comments must be received by May 1, 2006. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

ADDRESSES: For a copy of the form contact: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M St., NW., 9th floor, Washington, DC 200366.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208, as amended. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

The Museum and Library Services Act includes a strong emphasis on encouraging and assisting museums in their educational role as core providers of learning and in conjunction with schools, families, and communities, and strengthening library services to the public. This study will assist IMLS in understanding the design, implementation, impact, and effectiveness of youth-oriented projects that it has funded. A final report will be widely disseminated to assist practitioners and prospective grant applicants to design effective youth programs.

Public Law 104–208 enacted on September 30, 1996, as amended, contains the Library Services and Technology Act and the Museum Services Act.

Public Law 104–208 authorizes the Director of the Institute of Museum and Library Services to carry out and publish analyses that shall identify national needs for, and trends of, museum and library services; report on the impact and effectiveness of programs conducted with funds made available by the Institute, and identify, and disseminate information on the best practices of such programs.

This study is to undertake an analysis of programs that provided services to youth at museums, libraries, schools, and universities and which were funded by IMLS between 1998 and 2003 in order to identify trends of museum and library services in this area; examine the impact and effectiveness of such programs; and identify and disseminate information on the best practices of such programs.

Agency: Institute of Museum and Library Services.

Title: Museum and Libraries Engaging America's Youth Study.

OMB Number: None.

Agency Number: 3137.

Frequency: Once.

Affected Public: Museums, libraries, schools and universities that provided services to youth with IMLS funding.

Number of Respondents: 382 plus 60 interviews.

Estimated Time Per Respondent: Various.

Total Burden Hours: 182.8 hours.

Total Annualized capital/startup costs: n/a.

Total Annual Costs: $5783.00.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503; (202) 395–7316.

Dated: March 24, 2006.

Rebecca Danvers,

Director Research and Technology.

[FR Doc. 06–3056 Filed 3–29–06; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Additional notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meeting is held for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meeting will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

Date: April 21, 2006.

Time: 8:30 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the February 6, 2006 deadline.

Heather Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E6–4638 Filed 3–29–06; 8:45 am]

BILLING CODE 7536–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Reports of Evidence of Material Violations: SEC File No. 270–514; OMB Control No. 3235–0572.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Sections 3501 through 3520) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

On February 6, 2003, the Commission published final rules, effective August 5, 2003, entitled "Standards of Professional Conduct for Attorneys Appearing and Practicing Before the Commission in the Representation of an Issuer" (17 CFR 205.1 through 205.7). The information collection embedded in the rules is necessary to implement the Standards of Professional Conduct for Attorneys prescribed by the rule and required by Section 307 of the Sarbanes-Oxley Act of 2002. The rules impose an "up-the-ladder" reporting requirement when attorneys appearing and practicing before the Commission become aware of evidence of a material violation by the issuer or any officer, director, employee, or agent of the issuer. An issuer may choose to establish a qualified legal compliance committee ("QLCC") as an alternative procedure for reporting evidence of a material violation. In the rare cases in which a majority of a QLCC has concluded that an issuer did not act appropriately, the information may be communicated to the Commission. The collection of information is, therefore, an important component of the Commission's program to discourage violations of the Federal securities laws and promote ethical behavior of attorneys appearing and practicing before the Commission.

The respondents to this collection of information are attorneys who appear and practice before the Commission and, in certain cases, the issuer, and/or officers, directors and committees of the issuer. We believe that, in providing quality representation to issuers, attorneys report evidence of violations to others within the issuer, including the Chief Legal Officer, the Chief Executive Officer, and, where necessary, the directors. In addition, officers and directors investigate evidence of violations and report within the issuer the results of the investigation and the remedial steps they have taken or sanctions they have imposed. Except as discussed below, we therefore believe that the reporting requirements imposed by the rule are "usual and customary" activities that do not add to the burden that would be imposed by the collection of information. .

Certain aspects of the collection of information, however, may impose a burden. For an issuer to establish a QLCC, the QLCC must adopt written procedures for the confidential receipt, retention, and consideration of any report of evidence of a material violation. We estimate for purposes of the PRA that there are approximately 17,710 issuers that are subject to the rules.[1] Of these, we estimate that approximately ten percent, or 1,771, will establish a QLCC.[2] Establishing the written procedures required by the rule should not impose a significant burden. We assume that an issuer would incur a greater burden in the year that it first establishes the procedures than in subsequent years, in which the burden would be incurred in updating, reviewing, or modifying the procedures. For purposes of the PRA, we assume that an issuer would spend 6 hours every three-year period on the procedures. This would result in an average burden of 2 hours per year. Thus, we estimate for purposes of the PRA that the total annual burden imposed by the collection of information would be 3,542 hours. Assuming half of the burden hours will be incurred by outside counsel at a rate of $300 per hour would result in a cost of $531,300.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study. Compliance with the collection of information requirements is in some cases mandatory and in some cases voluntary depending on the circumstances. Responses to the collection may or may not be kept confidential.

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.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David-Rostker@omb.oep.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this publication.

Dated: March 23, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–4623 Filed 3–29–06; 8:45 am]

BILLING CODE 8010–01–P

[1] This estimate is based, in part, on the total number of operating companies that filed annual reports on Form 10–K, Form 10–KSB, Form 20–F, or Form 40–F, during the 2005 fiscal year and an estimate of the average number of issuers that may have a registration statement filed under the Securities Act pending with the Commission at any time (13,660). In addition, we estimate that approximately 4,050 investment companies currently file periodic reports on Form N–SAR.

[2] Indications are that the 2003 estimate of the percentage of issuers that would establish QLCCs (20%) was high. Our adjusted estimate in the percentage of QLCCs (10%) results in a reduced burden estimate as compared to the previously-approved collection.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15c2–1; SEC File No. 270–418; OMB Control No. 3235–0485.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget

requests for approval of extension on the following rule: Rule 15c2–1.

Rule 15c2–1 under the Securities Exchange Act of 1934 (17 CFR 240.15c2–1) prohibits the commingling under the same lien of securities of margin customers (a) with other customers without their written consent and (b) with the broker or dealer. The rule also prohibits the rehypothecation of customers' margin securities for a sum in excess of the customer's aggregate indebtedness. *See* Securities Exchange Act Release No. 2690 (November 15, 1940); Securities Exchange Act Release No. 9428 (December 29, 1971). Pursuant to Rule 15c2–1, respondents must collect information necessary to prevent the rehypothecation of customer securities in contravention of the rule, issue and retain copies of notices of hypothecation of customer securities in accordance with the rule, and collect written consents from customers in accordance with the rule. The information is necessary to ensure compliance with the rule and to advise customers of the rule's protections.

There are approximately 145 respondents (*i.e.*, broker-dealers that carry or clear customer accounts that also have bank loans) that require an aggregate total of 3263 hours to comply with the rule. Each of these approximately 145 registered broker-dealers makes an estimated 45 annual responses. Each response takes approximately 0.5 hours to complete. Thus, the total compliance burden per year is 3263 burden hours.

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.

Comments regarding the estimated burden hours should be directed to: (i) The Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 23, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–4624 Filed 3–29–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15c2–7; SEC File No. 270–420; OMB Control No. 3235–0479.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

• Rule 15c2–7, Identification of Quotations

Rule 15c2–7 under the Securities Exchange Act of 1934 (17 CFR 240.15c2–7) enumerates the requirements with which brokers and dealers must comply when submitting a quotation for a security (other than a municipal security) to an inter-dealer quotation system.

It is estimated that there are 8,500 brokers and dealers. Industry personnel estimate that approximately 900 notices are filed pursuant to Rule 15c2–7 annually. Based on industry estimates that respondents complying with Rule 15c2–7 spend 30 seconds to add notice of an arrangement and 1 minute to delete notice of an arrangement, the staff estimates that, on an annual basis, respondents spend a total of 11.25 hours to comply with Rule 15c2–7, based upon past submissions. The average cost per hour is approximately $35. Therefore, the total cost of compliance for brokers and dealers is approximately $393.75

The retention period for the recordkeeping requirement under Rule 15c2–7 is three years following the date a quotation is submitted. The recordkeeping requirement under this Rule is mandatory to assist the Commission with monitoring brokers and dealers who submit quotations to an inter-dealer quotation system. This rule does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 23, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–4625 Filed 3–29–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53545; File No. SR–NYSEArca–2006–06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating To Extending the Time Period by Which the Exchange Will Amend the NASD–PCX Agreement Pursuant to Rule 17d–2

March 23, 2006.

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 March 21, 2006, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On March 23, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Exchange filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange revised the statutory basis section of the filing.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

Commission.[6] The Commission is publishing this notice, 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

The Exchange is proposing to amend its undertaking[7] to extend for 90 days from the date of this filing the time period by which the Exchange will amend and restate the agreement between the National Association of Securities Dealers, Inc. ("NASD") and the Exchange currently in place pursuant to Rule 17d–2 under the Act[8] (the "NASD–PCX Agreement" or the "Agreement"). As described in more detail below, the revisions to the NASD–PCX Agreement will expand the scope of the NASD's regulatory responsibility.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 22, 2005, the Commission approved a proposed rule change submitted by the Exchange relating to the acquisition of PCX Holdings, Inc. (now known as NYSE Arca Holdings, Inc.)[9] by Archipelago Holdings, Inc.[10] In that filing, the Exchange (formerly known as the Pacific Exchange, Inc.) committed to amend the NASD–PCX Agreement within 90 days of the Commission's approval of SR–PCX–2005–90 to expand the scope of the NASD's regulatory functions under the NASD–PCX Agreement so as to encompass all of the regulatory oversight and enforcement responsibilities with respect to the broker-dealer affiliate of Archipelago Holdings, Inc., Archipelago Securities, L.L.C. ("Archipelago Securities").[11] The Exchange submitted a subsequent filing on December 21, 2005 requesting a 90-day extension with respect to the requirements discussed above.[12] The Exchange and the NASD (collectively, the "Parties") have executed an amended and restated agreement and, on January 20, 2006, the Parties filed the amended and restated agreement with the Commission but have not yet received Commission approval of the amended and restated agreement.

The Exchange believes that an extension of time for an additional 90 days from the date of this filing to amend the NASD–PCX Agreement will give the Commission staff sufficient time to publish and take action on the proposal. There is currently a plan in place (*i.e.*, the NASD–PCX Agreement) allocating to the NASD the responsibility to receive regulatory reports from Archipelago Securities, to examine Archipelago Securities for compliance and to enforce compliance by Archipelago Securities with the Act, the rules and regulations thereunder and the rules of the NASD, and to carry out other specified regulatory functions with respect to Archipelago Securities. The Exchange notes that the current NASD–PCX Agreement will remain in full force and effect during the interim period, and the Exchange will continue to abide by the terms of the agreement. The Exchange believes, therefore, that the requested extension of time is consistent with the Act and the rules and regulations thereunder, and will not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b)[13] of the Act, in general, and furthers the objectives of Section 6(b)(5)[14] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change, as amended, were neither solicited nor received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest,[15] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

The Exchange has requested that the Commission waive the 30-day operative delay, which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.

[6] The Exchange has asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. *See* Section 19(b)(3)(A) of the Act, and Rule 19b–4(f)(6)(iii) thereunder. 15 U.S.C. 78s(b)(3)(A). 17 CFR 240.19b–4(f)(6)(iii).

[7] *See* Securities Exchange Act Release No. 52497 (September 22, 2005), 70 FR 56949 (September 29, 2005) (approving SR–PCX–2005–90, as amended).

[8] 17 CFR 240.17d–2. *See* Securities Exchange Act Release No. 16858 (May 30, 1980), 45 FR 37927 (June 5, 1980) (File No. 4–267).

[9] *See* SR–PCX–2006–24.

[10] *See* Securities Exchange Act Release No. 52497, *supra* note 7.

[11] Archipelago Securities acts as the outbound order router for the NYSE Arca Marketplace and, as such, is regulated as an exchange "facility" of the Exchange and NYSE Arca Equities, Inc.

[12] *See* Securities Exchange Act Release No. 52995 (December 21, 2005), 70 FR 77232 (December 29, 2005) (notice of filing and immediate effectiveness of SR–PCX–2005–140, as amended). This 90-day extension period expired on March 21, 2006.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement. The Commission has determined to waive this requirement.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] CFR 240.19b–4(f)(6).

Because the current time period expired on March 21, 2006, such waiver will allow the Exchange to remain in compliance with its undertaking made in connection with the Commission's approval of SR–PCX–2005–90 to amend the NASD–PCX Agreement. The Commission notes that the Exchange has filed with the Commission, on January 20, 2006, an executed amended and restated agreement. Extending the compliance date for the Exchange's undertaking by an additional 90 days will provide time for the Exchange to respond to any comments from the Commission's staff on the amended and restated agreement, as well as provide time for publication of, and action on, the amended and restated agreement. The Commission further notes that the current Commission-approved NASD–PCX Agreement will remain in full force and effect during the interim period, and the Exchange will continue to abide by the terms of that Agreement. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[19]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number NYSEArca–2006–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number NYSEArca–2006–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number NYSEArca–2006–06 and should be submitted on or before April 20, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Nancy M. Morris,

Secretary.

[FR Doc. E6–4612 Filed 3–29–06; 8:45 am]

BILLING CODE 8010–01–P

[18] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on March 23, 2006, the date on which the Exchange filed Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5357]

Culturally Significant Objects Imported for Exhibition Determinations: "The Gospel of Judas"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "The Gospel of Judas," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Geographic Society, Washington, DC, from on or about April 6, 2006, until on or about October 6, 2006, and possibly at other venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8049). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, D.C. 20547–0001.

Dated: March 27, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–4635 Filed 3–29–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending March 10, 2006

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2006–24132.
Date Filed: March 7, 2006.
Parties: Members of the International Air Transport Association.
Subject: PTC2 Mail Vote 475; Special Amending Resolution 010f Between Germany and Europe.
Intended effective date: 1 April 2006.

Docket Number: OST–2006–24136.
Date Filed: March 8, 2006.
Parties: Members of the International Air Transport Association.

Subject: Mail Vote 477—Resolution 010f; TC3 Japan, Korea-South East Asia; Special Passenger Amending Resolution between Japan and China (excluding Hong Kong SAR and Macao SAR).

Intended effective date: 21 March 2006.

Docket Number: OST–2006–24174.

Date Filed: March 10, 2006.

Parties: Members of the International Air Transport Association.

Subject: PSC/RESO/129 dated February 28, 2006; Finally Adopted Resolutions & Recommended Practices r1–r22; PSC/MINS/015 dated February 28, 2006; Minutes.

Intended effective date: June 1, 2006.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–4630 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, SR 6247 from SR0247 to SR 1012 (Salem Road) Lackawanna County, Pennsylvania and those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 26, 2006. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Karyn Vandervoort, Environmental Program Manager, Federal Highway Administration, 228 Walnut Street, Room 508, Harrisburg, PA 17101–1720, between 8 a.m. and 4 p.m., (717) 221–2276, *karyn.vandervoort@fhwa.dot.gov* or Stephen J. Shimko, P.E., District Executive, Pennsylvania Department of Transportation, Engineering District 4–0, 55 Keystone Industrial Park, Dunmore, PA 18512: telephone: (570) 963–4061.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the Commonwealth of Pennsylvania: Construction of a new 2-lane road providing access from State Route 0247 (S.R. 0247) in Jessup Borough to Salem Road (S.R. 1012) in Archbald Borough in Lackawanna County. The proposed roadway would begin on S.R. 0247 south of the S.R. 0247 interchange with the Robert P. Casey Highway (S.R. 0006), traverse the proposed Valley View Business Park property, cross the Robert P. Casey Highway (S.R. 0006) then utilize an existing Archbald Borough roadway within the PEI Power Park. The project will pass through abandoned mine land with second growth forest. The roadway will provide access to the Robert P. Casey Highway (S.R. 0006) supporting regional and local development. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on January 7, 2004, in the FHWA Finding of No Significant Impact (FONSI) issued on November 30, 2004, and in other documents in the FHWA administrative record. The EA, FONSI, and other documents in the FHWA administrative record file are available by contacting the FHWA or the Pennsylvania Department of Transportation at the addresses provided above. The FHWA EA and FONSI can be viewed at public libraries in the project area or at the PennDOT District 4–0 Office at 55 Keystone Industrial Park, Dunmore, PA. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351].

2. Federal-Aid Highway Act [23 U.S.C. 109].

3. Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. Clean Air Act, 42 U.S.C. 7401–7671(q).

5. Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

6. Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469c].

7. Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319).

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12892 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

James A. Cheatham,

Division Administrator, Harrisburg.

[FR Doc. 06–3070 Filed 3–29–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 23, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 1, 2006 to be assured of consideration.

Bureau of Public Debt

OMB Number: 1535–0118.

Type of Review: Extension.

Title: Disposition of Securities Belonging to a Decedent's Estate Being Settled Without Administration.

Form: BPD PD F 5336.

Description: Used by person(s) entitled to a decedent's estate not being administered to requested disposition of securities and/or related payments.

Respondents: Individuals or households.

Estimated Total Burden Hours: 12,675 hours.

OMB Number: 1535–0138.

Type of Review: Extension.

Title: New Treasury Direct.

Description: The information is requested to establish a new account and process transactions.

Respondents: Individuals or households.

Estimated Total Burden Hours: 128,246 hours.

Clearance Officer: Vicki S. Thorpe (304) 480–8150, Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26106.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA, Clearance Officer.

[FR Doc. E6–4626 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 23, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 1, 2006 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0005.

Type of Review: Extension.

Title: Currency Transaction Report by Casinos.

Form: FinCEN form 103.

Description: Casinos and card clubs file Form 103 for currency transaction in excess of $10,000 a day pursuant to 31 U.S.C. 5313(a) and 31 CFR 103.22(a) (2). The form is used by criminal investigators, and taxation and regulatory enforcement authorities, during the course of investigations involving financial crimes.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 209,433 hours.

Clearance Officer: Russell Stephenson (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–4627 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 23, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 1, 2006 to be assured of consideration.

Financial Management Service

OMB Number: 1510–0067.

Type of Review: Extension.

Title: Resolution Authorizing Execution of Depositary, Financial Agency and Collateral Agreement, and Depositary Financial Agency, and Collateral Agreement.

Form: FMS form 5902 and 5903.

Description: Financial Institutions are required to complete an Agreement and Resolution to become a depositary of the Government. The approved application designates the depositary as an authorized recipient of deposits of public money.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 7.5 hours.

Clearance Officer: Jiovannah Diggs (202) 874–7662, Financial Management Service, Room 144, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–4628 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 23, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 1, 2006 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0087.

Type of Review: Extension.

Title: Labeling and Advertising Requirements under the Federal Alcohol Administration Act.

Form: TTB Reporting Requirement 5100/1.

Description: Bottlers and importers of alcohol beverages must adhere to numerous performance standards for statements made on labels and in advertisements of alcohol beverages. These performance standards include minimum mandatory labeling and advertising statements.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 6,060 hours.

OMB Number: 1513–0114.

Type of Review: Extension.

Title: Beer for Exportation.

Form: TTB F 5130.12.

Description: Unpaid beer may be removed from a brewery for exportation

without payment of the excise tax normally due on removal. In order to ensure that exportation took place as claimed and that untaxpaid beer does not reach domestic market TTB requires certification on Form 5130.12.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 5,940 hours.

OMB Number: 1513–0115.

Type of Review: Extension.

Title: Usual and Customary Business Records Relating to Wine.

Form: TTB REC 5120/1.

Description: TTB routinely inspects wineries' usual and customary business records to insure the proper payment of wine excise taxes due to the Federal government.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 468 hours.

OMB Number: 1513–0116.

Type of Review: Extension.

Title: Bond for Drawback under 26 U.S.C. 5131.

Form: TTB F 5154.3.

Description: Business that use tax-paid alcohol to manufacture non-beverage products may file a claim for drawback (refund or remittance). Claims may be filed monthly or quarterly. Monthly claimants must file a bond on TTB F 5154.3 to protect the Government's interest.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 10 hours.

Clearance Officer: Frank Foote (202) 927–9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA, Clearance Officer.

[FR Doc. E6–4629 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revision of a currently approved information collection that is due for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the Annual Report of U.S. Ownership of Foreign Securities, including Selected Money Market Instruments. The next such survey is to be conducted as of December 29, 2006.

DATES: Written comments should be received on or before May 30, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422 MT, 1500 Pennsylvania Avenue, NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow of all comments submitted through mail delivery by e-mail (*dwight.wolkow@do.treas.gov*), FAX (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury International Capital (TIC) Forms Web page, *http://www.treas.gov/tic/forms-sh.htm.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury Department Forms SHC and SHCA, U.S. Ownership of Foreign Securities, including Selected Money Market Instruments.

OMB Number: 1505–0146.

Abstract: These forms are used to conduct annual surveys of holdings by U.S. residents of foreign securities for portfolio investment purposes. A benchmark survey (Form SHC) of all significant U.S.-resident custodians and end-investors is conducted every five years; in non-benchmark years, the annual survey (Form SHCA) requires reports generally from only the very largest U.S.-resident custodians and end-investors. Data derived from these surveys are used by the U.S. Government in the formulation of international and financial policies and in the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data will also be used to provide information to the public.

These surveys are also part of an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most major industrial and financial countries conduct similar surveys.

Current Actions: (a) Reduce the number of debt security types in schedule 2, line 7, from security types 5 through 12 to the following security types 5 through 10: 5 = commercial paper; 6 = negotiable CDs; 7 = convertible debt securities; 8 = zero coupon and stripped securities; 9 = unstripped bond or note and all other non asset-backed debt; and 10 = asset-backed securities; (b) Add a new item in schedule 2 to collect the term (short-term or long-term) of the debt security. The title of line 10, "Intentionally left blank" is changed to "Term indicator (only for debt, including ABS) based on original maturity". Together, actions (a) and (b) separate the term from the security type attributes, similar to the treatment in TIC's other annual survey, Foreign Portfolio Holdings of U.S. Securities (SHL/SHLA); (c) to clarify the reporting instructions for schedule 2, the instructions for line 13, "ownership code" are changed to distinguish "other" (option 5) and "unknown" (option 6) as follows: "Option 5: Your organization is the custodian and the beneficial owner is identified as a U.S.-resident who is not a mutual fund, pension fund, or insurance company (which are reported in codes 2 through 4). When your organization is the custodian and cannot identify the entity type of the beneficial owner, the ownership code should be reported as option 6. Option 6: Your organization is the custodian and the entity type of the beneficial owner is unknown."; (d) on schedule 2, eliminate the requirement that the reason for reporting a zero U.S. market value for a particular security holding be provided. The title of Line 15 is therefore changed to "Intentionally left blank", leaving unchanged the electronic file format of schedule 2; (e) eliminate requirement, for Form SHC only, that schedule 3 be filed for custodian code 77 (foreign-resident custodians) and custodian code 88 (U.S.-resident central securities depositories). This will reduce reporting on schedule 3 of information already reported on schedule 2. Accordingly, the instructions for SHC will not include codes 77 and 88 in appendix G, and will not mention codes 77 and 88 in paragraph 3 of section IV.C in the line-by-line instructions for schedule 3. Please note that the requirement remains for schedule 3 of Form SHCA, so those changes will not be made in the instructions for Form SHCA; and (f) these changes will be effective beginning with the reports as of December 29, 2006.

Type of Review: Revision of a currently approved data collection.

Affected Public: Business/Financial Institutions.

Forms: TDF SHC, Schedules 1, 2 and 3 (1505–0146); TDF SHCA, Schedules 1, 2 and 3 (1505–0146).

Estimated Number of Respondents: An annual average (over five years) of 505, but this varies widely from about 1,635 in benchmark years (once every five years) to about 220 in other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 84 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey (using Form SHC), i.e., once every five years, it is estimated that exempt respondents will require an average of 16 hours; custodians of securities providing security-by-security information will require an average of 360 hours, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 120 hours; and end-investors and custodians employing U.S. custodians will require an average of 40 hours. (b) In a non-benchmark year (using Form SHCA), i.e., four years out of every five years, custodians of securities providing security-by-security information will require an average of 700 hours (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 145 hours; and reporters entrusting their foreign securities to U.S. custodians will require an average of 48 hours.

The exemption level, which applies only in benchmark years, for custodians is the holding of less than $100 million in foreign securities and for end-investors the owning of less than $100 million in foreign securities with a single custodian.

Estimated Total Annual Burden Hours: An annual average (over five years) of 42,500 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. E6–4632 Filed 3–29–06; 8:45 am]

BILLING CODE 4810–25–P

Corrections

Federal Register
Vol. 71, No. 61
Thursday, March 30, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Coastal Engineering Research Board (CERB)

Correction

In notice document 06–2859 appearing on page 14858 in the issue of Friday, March 24, 2006, make the following correction:

In the second column, under the heading **FOR FURTHER INFORMATION CONTACT**, in the last line, "29180-6199." should read "39180-6199.".

[FR Doc. C6–2859 Filed 3–29–06; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Thursday,
March 30, 2006

Part II

Department of Labor

Establishment of the Office of Job Corps Within the Office of the Secretary; Delegation of Authority and Assignment of Responsibility to Its Director and Others; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 09–2006]

Establishment of the Office of Job Corps Within the Office of the Secretary; Delegation of Authority and Assignment of Responsibility to Its Director and Others

1. *Purpose.* This Order establishes the Office of Job Corps within the Office of the Secretary and delegates authority and assigns responsibility to the Director of the Office of Job Corps and other agency heads to ensure the effective administration of the Job Corps program.

2. *Authority and Directives Affected.*

A. *Authorities.* This Order is issued pursuant to 5 U.S.C. 301 (regulatory authority); 29 U.S.C. 551 (Establishment of Department of Labor); Reorganization Plan No. 6 (U.S.C. Appendix 1); section 102 of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2006 (Pub. L.109–149); and Title I–C of the Workforce Investment Act of 1998 (29 U.S.C. 2881–2901).

B. *Directives Affected.* The provisions of Secretary's Orders 4–75 and 2–82 delegating authority and assigning responsibility for administration of the Job Corps program to the Assistant Secretary for Employment and Training are hereby superseded.

3. *Background.* This Order implements section 102 of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–149), which directs the Secretary of Labor to establish and maintain an Office of Job Corps within the Office of the Secretary to carry out the functions (including duties, responsibilities and procedures) of Title I–C of the Workforce Investment Act of 1998. The section further requires the Secretary to appoint a senior member of the civil service to head the Office of Job Corps (hereafter referred to as the Director of the Office of Job Corps) and carry out such Title I–C. The section also provides that the Director of the Office of Job Corps is to receive support as necessary from the Assistant Secretary for Administration and Management with respect to contracting functions and the Assistant Secretary of Policy with respect to research and evaluation functions.

Prior to the issuance of this Order, the authority and responsibility to carry out the Job Corps program was delegated and assigned to the Assistant Secretary for Employment and Training under Secretary's Orders 4–75 and 2–82.

4. *Establishment of Office.* There is hereby established the Office of Job Corps within the Office of the Secretary to carry out the functions of the Job Corps program under Title I–C of the Workforce Investment Act of 1998 except as otherwise provided in this Order.

5. *Delegation of Authority and Assignment of Responsibility.*

A. *The Director of the Office of Job Corps* is delegated the authority and assigned the responsibility for carrying out the Job Corps program under subtitle C of Title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881–2901) and related Federal laws, regulations and directives, except as otherwise specified in this Order.

B. *The Assistant Secretary for Policy* is delegated authority and assigned responsibility to provide necessary support with respect to research and evaluation activities, and to provide policy advice and analytical support with respect to policy initiatives relating to the Job Corps program.

C. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility to:

(1) Provide necessary support in carrying out the contracting and other procurement functions relating to the Job Corps program;

(2) assure that there is an appropriate transfer of resources, including appropriated funds and personnel, necessary to implement this Order that is fully consistent with the budget policies of the Department; and

(3) assure that other appropriate administrative and management support is furnished, as required, for the efficient and effective operation of the Job Corps program.

D. *The Assistant Secretary for Public Affairs* is delegated authority and assigned responsibility to ensure that the public affairs and public information activities of the Job Corps program are carried out in accordance with Secretary's Order 7–89, regarding the responsibilities of the Assistant Secretary for Public Affairs, and Secretary's Order 2–05, regarding the Enterprise Communication Initiative.

E. *The Solicitor of Labor* is:

(1) Responsible for providing legal advice and assistance to all officials of the Department relating to the implementation and administration of all aspects of this Order and related statutes, regulations and directives; for bringing appropriate legal actions on behalf of the Secretary, and representing the Secretary in all civil proceedings; and

(2) Delegated the authority and assigned the responsibility of carrying out the provisions of section 157(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2897(b)) relating to adjustments and settlements of claims for damages resulting from the operation of the Job Corps.

6. *Reservation of Authority and Responsibility.*

A. No delegation of authority or assignment of responsibility under this Order will be deemed to affect the Secretary's authority to continue to exercise or further delegate such authority or responsibility.

B. The submission of reports and recommendations to the President and the Congress concerning the administration of the Job Corps program is reserved to the Secretary.

C. Nothing in this Order shall limit or modify the provision of any other Secretary's Order, including the Secretary's Order 2–90 regarding the Office of the Inspector General, except as expressly provided.

7. *Redelegation of Authority.* The Director of the Office of Job Corps, Assistant Secretary for Policy, Assistant Secretary for Administration and Management, Assistant Secretary for Public Affairs and Solicitor of Labor may further redelegate, unless otherwise prohibited, the authority and responsibilities delegated to them by this Order.

8. *Effective Date.* This Order is effective immediately.

Dated: March 23, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 06–3081 Filed 3–29–06; 8:45 am]

BILLING CODE 4510–23–P

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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.

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Wisconsin; published 2-28-06

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Anti-money laundering programs; special due diligence programs for foreign accounts; published 3-30-06

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

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Professional corps programs; AmeriCorps grant applications; comments due by 4-3-06; published 3-2-06 [FR 06-01934]

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Right to Financial Privacy Act of 1978; obtaining information from financial institutions; practices and procedures; comments due by 4-3-06; published 2-2-06 [FR E6-01326]

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ENERGY DEPARTMENT

Federal Energy Regulatory Commission

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Gas hydrate production incentives; comments due by 4-7-06; published 3-8-06 [FR 06-02169]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

H.R. 1287/P.L. 109–184

To designate the facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, as the "Robert T. Ferguson Post Office Building". (Mar. 20, 2006; 120 Stat. 292)

H.R. 2113/P.L. 109–185

To designate the facility of the United States Postal Service located at 2000 McDonough Street in Joliet, Illinois, as the "John F. Whiteside Joliet Post Office Building". (Mar. 20, 2006; 120 Stat. 293)

H.R. 2346/P.L. 109–186

To designate the facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, as the "John J. Hainkel, Jr. Post Office Building". (Mar. 20, 2006; 120 Stat. 294)

H.R. 2413/P.L. 109–187

To designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the "Lillian McKay Post Office Building". (Mar. 20, 2006; 120 Stat. 295)

H.R. 2630/P.L. 109–188

To redesignate the facility of the United States Postal Service located at 1927 Sangamon Avenue in Springfield, Illinois, as the "J.M. Dietrich Northeast Annex". (Mar. 20, 2006; 120 Stat. 296)

H.R. 2894/P.L. 109–189

To designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building". (Mar. 20, 2006; 120 Stat. 297)

H.R. 3256/P.L. 109–190

To designate the facility of the United States Postal Service located at 3038 West Liberty Avenue in Pittsburgh, Pennsylvania, as the "Congressman James Grove Fulton Memorial Post Office Building". (Mar. 20, 2006; 120 Stat. 298)

H.R. 3368/P.L. 109–191

To designate the facility of the United States Postal Service located at 6483 Lincoln Street in Gagetown, Michigan, as the "Gagetown Veterans Memorial Post Office". (Mar. 20, 2006; 120 Stat. 299)

H.R. 3439/P.L. 109–192

To designate the facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, as the "Ava Gardner Post Office". (Mar. 20, 2006; 120 Stat. 300)

H.R. 3548/P.L. 109–193

To designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the "Heinz Ahlmeyer, Jr. Post Office Building". (Mar. 20, 2006; 120 Stat. 301)

H.R. 3703/P.L. 109–194

To designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building". (Mar. 20, 2006; 120 Stat. 302)

H.R. 3770/P.L. 109–195

To designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building". (Mar. 20, 2006; 120 Stat. 303)

H.R. 3825/P.L. 109–196

To designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial Post Office Building". (Mar. 20, 2006; 120 Stat. 304)

H.R. 3830/P.L. 109–197
To designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the "U.S. Cleveland Post Office Building". (Mar. 20, 2006; 120 Stat. 305)

H.R. 3989/P.L. 109–198
To designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the "Albert H. Quie Post Office". (Mar. 20, 2006; 120 Stat. 306)

H.R. 4053/P.L. 109–199
To designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office". (Mar. 20, 2006; 120 Stat. 307)

H.R. 4107/P.L. 109–200
To designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the "Maryland State Delegate Lena K. Lee Post Office Building". (Mar. 20, 2006; 120 Stat. 308)

H.R. 4152/P.L. 109–201
To designate the facility of the United States Postal Service located at 320 High Street in Clinton, Massachusetts, as the "Raymond J. Salmon Post Office". (Mar. 20, 2006; 120 Stat. 309)

H.R. 4295/P.L. 109–202
To designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the "Mont and Mark Stephensen Veterans Memorial Post Office Building". (Mar. 20, 2006; 120 Stat. 310)

S. 2089/P.L. 109–203
To designate the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the "Hiram L. Fong Post Office Building". (Mar. 20, 2006; 120 Stat. 311)

S. 2320/P.L. 109–204
To make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes. (Mar. 20, 2006; 120 Stat. 312)

H.R. 1053/P.L. 109–205
To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine. (Mar. 23, 2006; 120 Stat. 313)

H.R. 1691/P.L. 109–206
To designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the "John H. Bradley Department of Veterans Affairs Outpatient Clinic". (Mar. 23, 2006; 120 Stat. 315)

S. 2064/P.L. 109–207
To designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the Malcolm Melville "Mac" Lawrence Post Office. (Mar. 23, 2006; 120 Stat. 316)

S. 2275/P.L. 109–208
National Flood Insurance Program Enhanced Borrowing Authority Act of 2006 (Mar. 23, 2006; 120 Stat. 317)

H.R. 4826/P.L. 109–209
To extend through December 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. (Mar. 24, 2006; 120 Stat. 318)

S. 1184/P.L. 109–210
To waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member. (Mar. 24, 2006; 120 Stat. 319)

S. 2363/P.L. 109–211
To extend the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999. (Mar. 24, 2006; 120 Stat. 320)

Last List March 23, 2006

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109th Congress

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