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WHEN: Tuesday, February 7, 2006
9:00 a.m.–Noon

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Washington, DC 20002

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Contents

Federal Register

Vol. 71, No. 16

Wednesday, January 25, 2006

Separate Parts In This Issue

Reader Aids

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

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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. 16
Wednesday, January 25, 2006

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its rule concerning financial and statistical reports to require all federally insured credit unions to file the same quarterly Financial and Statistical Report with NCUA. The amendment requires all federally insured credit unions to file Form NCUA 5300 quarterly and, beginning with the third quarter 2006 cycle, eliminates the alternate Form NCUA 5300SF for credit unions with assets of less than ten million dollars. In conjunction with the change in the reporting requirement for small credit unions, NCUA is issuing a number of revisions to Form 5300. All credit unions must use the revised form beginning with the second quarter 2006 reports, due July 20, 2006.

DATES: This rule is effective February 24, 2006, and applies to quarters beginning on or after April 1, 2006.

FOR FURTHER INFORMATION CONTACT: Debra Tobin, Risk Management Officer, or Larry Fazio, Director, Division of Risk Management, Office of Examination and Insurance, at the above address or telephone number (703) 518–6360; or Regina M. Metz or Elizabeth Wirick, Staff Attorneys, Office of General Counsel, at the above address or telephone number (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 2005, the NCUA Board issued proposed revisions to § 741.6(a), the provision governing the filing of quarterly Financial and Statistical Reports, also known as Call Reports or 5300 reports. 70 FR 55308 (Sept. 21, 2005). The NCUA Board is issuing the final rule without change from its proposal. The effect of this revision is that all federally insured credit unions will file the same quarterly call report form beginning with the second quarter of 2006 and the revision eliminates the special short form for credit unions with less than ten million dollars in assets beginning with the third quarter of 2006.

The NCUA Board last revised § 741.6(a) in 2002. 67 FR 12464, March 19, 2002. Before those 2002 revisions, this section required all federally insured credit unions with assets in excess of $50 million to file a quarterly call report with NCUA. All other federally insured credit unions filed semiannually.

Since the 2002 amendments, all federally insured credit unions are required to file quarterly Call Reports, but credit unions with less than ten million dollars in assets have the option of filing a short form for the first and third quarters. The amendment requires all federally insured credit unions to file the same quarterly call report form, a revised Form NCUA 5300. Small credit unions, accordingly, will no longer have the option of using a short form beginning with the third quarter 2006 reporting cycle.

NCUA has also revised its Call Report form, and will require credit unions to use the new form for reporting cycles beginning with the second quarter of 2006. NCUA usually makes revisions to Form 5300 every year and requires use of the revised form for the first quarter of each year. Revisions to the Form 5300 do not require a change to NCUA's regulation. Because this rule change eliminates the short form for small credit unions, NCUA has delayed implementation of the revised form until the second quarter in 2006.

The revised Form NCUA 5300 consolidates information, reduces ancillary schedules, and is easier to read and use. Based on the revisions, the short form is no longer needed, and the new design provides many benefits for credit unions. The Call Report form will have a consistent appearance each cycle, which will eliminate confusion for smaller credit unions, and it is shorter: 16 pages compared to 19 pages in the current version. In addition, the revised form is designed so small credit unions generally will not have to complete supporting schedules. Only the first ten pages require input by all credit unions. For comparison, the current short form is only eight pages but the new, easier format will reduce the burden. NCUA currently reports to the Office of Management and Budget an average completion time of 6.6 hours for the regular Form NCUA 5300 and 6.0 hours for the Form NCUA 5300SF. The consolidated form should not materially impact the time spent by smaller credit unions, meaning those under ten million dollars in assets.

The new design also provides efficiencies and benefits to NCUA. By eliminating the short form NCUA only has to maintain one 5300 form, one set of edits and warnings, and one set of Financial Performance Report specifications. This will improve efficiency and reduce the likelihood of introducing errors in the reporting system. In addition, the burden on the Office of the Chief Financial Officer and the cost of printing and mailing will be reduced with the distribution of a single form. Both internal and external quarterly financial trend analysis will be improved, since comprehensive quantitative data will be reported by all credit unions. Further, the shift to one Call Report will simplify maintenance of the Financial Performance Report and provide additional data needed for small credit unions to use the expanded Financial Performance Report fully. Additionally, trend reports from NCUA's Automated Integrated Regulatory Examination System (AIRES) will be more consistent and detailed for smaller credit unions. For example, quarterly detail that is currently not provided for real estate loans and investments will be available.

In summary, the consolidation of the Call Report and elimination of the Form NCUA 5300SF will improve the agency's efficiency, increase the accuracy of the information collected, and simplify the reporting process for credit unions, large and small. The revised form will be used beginning with the second quarter 2006 call reports, due July 20, 2006.

Summary of Comments

The NCUA Board received six comment letters regarding the proposal: Three from national trade associations; one from a state credit union league;

and two from FCUs. All commenters supported the proposed changes and stated that the benefit of having a consistent reporting system outweighs any possible new burden for smaller credit unions. All commenters also supported NCUA's goals to streamline the reporting process and reduce regulatory burdens and agreed that the proposed revisions would contribute to these goals. Three commenters stated that credit unions should only be required to submit revised reports for the third quarter cycle ending in September 2006 if the final revisions to the call report were issued before year-end 2005. One commenter stated support for the planned implementation date without any conditions. One commenter requested that credit unions have six months to one year after the issuance of the final form before they are required to use it.

NCUA agrees that credit unions need sufficient time to prepare for filing the new form. The final version of the form is unchanged from the proposal issued in September 2005 and is being issued January 19, 2006. Three commenters suggested that the final rule should be issued by the end of 2005 if compliance for the third quarter of 2006 would be required. This final rule is being issued less than a month after the issuance date suggested by the three commenters and NCUA has determined that credit unions will have ample time, approximately six months, to become familiar with the new form before its due date.

For Call Report revisions occurring apart from regulatory changes, NCUA generally provides about three months' notice. Thus, by implementing the changes for the second quarter, NCUA has at least doubled its usual notice for changes of this type.

Two commenters suggested other ways that NCUA could make the call report process less burdensome. These suggestions included: Not requiring credit unions to repeat information that is unchanged from previous call reports, making reporting categories mutually exclusive and improving explanations for requested information, and importing information between sections of the report. These suggestions are outside the scope of the proposed rule and, therefore, NCUA cannot incorporate them into the final rule; NCUA would have to issue a second proposal with a second comment period. NCUA wants to implement the single call report form for the reasons discussed above without delay but believes the commenters have made interesting suggestions that deserve further review. NCUA notes it welcomes these suggestions for further improvement and will consider them in future call report revisions.

Regulatory Procedures

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations require that the public be provided an opportunity to comment on the paperwork requirements, including an agency's estimate of the burden of the paperwork requirements. The NCUA Board previously determined that the rule to require all federally insured credit unions to file a Call Report form on a quarterly basis is covered under the Paperwork Reduction Act.

Currently, credit unions with assets less than ten million dollars have the option in the first and third quarters of filing the NCUA 5300SF with NCUA. We now report to OMB an average completion time of 6.6 hours for the regular Form NCUA 5300 and 6.0 hours for the Form NCUA 5300SF. NCUA estimated annually 38,050 forms are submitted to NCUA, with an average annual completion time of 251,130 hours, at an annual cost of $5,497,542. OMB approved the information collections under both Forms NCUA 5300 and NCUA 5300SF as OMB number 3133–0004.

NCUA submitted a copy of the proposed rule and revised Form NCUA 5300 to OMB and has received its approval under OMB number 3133–0004.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities. 5 U.S.C. 601–612. NCUA considers credit unions having less than ten million dollars in assets to be small for purposes of RFA. Interpretive Ruling and Policy Statement (IRPS) 87–2 as amended by IRPS 03–2. The final rule requires all federally insured credit unions to complete the same, revised, Form NCUA 5300.

The NCUA has determined and certifies that this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that an RFA analysis is not required. NCUA requested comments on its determination and received no comments either agreeing or disagreeing with this analysis.

Executive Order 13132

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

Treasury and General Government Appropriations Act, 1999

NCUA has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's seeks to minimize the reporting burdens on federally insured credit unions. Commenters agreed that the amendment is understandable and imposes minimal regulatory burden.

List of Subjects in 12 CFR Part 741

Credit unions, Requirements for insurance.

By the National Credit Union Administration Board on January 19, 2006.

Mary Rupp,

Secretary of the Board.

■ Accordingly, NCUA amends 12 CFR part 741 as follows:

PART 741—REQUIREMENTS FOR INSURANCE

■ 1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), and 1781–1790; Pub. L. 101–73.

■ 2. Amend § 741.6 by revising paragraph (a) to read as follows:

§ 741.6 Financial and statistical and other reports.

(a) Each operating insured credit union must file with the NCUA a quarterly Financial and Statistical Report on Form NCUA 5300 according to the deadlines published on the Form NCUA 5300, which occur in January (for quarter-end December 31), April (for quarter-end March 31), July (for quarter-

end June 30), and October (for quarter-end September 30) of each year.

* * * * *

[FR Doc. 06–684 Filed 1–24–06; 8:45 am]
BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Regulatory Flexibility Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Rule.

SUMMARY: The National Credit Union Administration (NCUA) is modifying the eligibility criteria for its Regulatory Flexibility Program by reducing the minimum net worth, and extending the duration that it must be maintained, to qualify for the Program. Federally-insured credit unions that qualify are exempt in whole or in part from a series of regulatory restrictions and also are allowed to purchase and hold an expanded range of eligible obligations.

DATES: This rule is effective February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Steven W. Widerman, Trial Attorney, Office of General Counsel, at 703/518–6557; or Lynn K. Markgraf, Program Officer, Office of Examination and Insurance, at 703/518–6396.

SUPPLEMENTARY INFORMATION:

A. Background

1. RegFlex Program Under Part 742

The NCUA Board established a Regulatory Flexibility Program ("RegFlex") in 2002 to exempt qualifying credit unions in whole or in part from a series of regulatory restrictions, and grants them additional powers. 12 CFR part 742 (2005); 66 FR 58656 (Nov. 23, 2001). A credit union may qualify for RegFlex automatically or by application to the appropriate Regional Director.

To qualify automatically for RegFlex, a credit union must have a composite CAMEL rating of "1" or "2" for two consecutive examination cycles and, under existing part 742, also must achieve a net worth ratio of 9 percent (200 basis points above the net worth ratio to be classified "well capitalized") for a single Call Reporting period. If the credit union is subject to a risk-based net worth ("RBNW") requirement, however, the credit union's net worth must surpass that requirement by 200 basis points. 12 CFR 742.1 (2005).

A credit union that is unable to qualify automatically for RegFlex may apply to the appropriate Regional Director for a RegFlex designation. To be eligible to apply, a credit union must either have a CAMEL rating of "3" or better or meet the present 9 percent net worth criterion, but not both. 12 CFR 742.2 (2005). A Regional Director has the discretion to grant RegFlex relief in whole or in part to an eligible credit union.

A federal credit union's RegFlex authority can be lost or revoked. A credit union that qualified for RegFlex automatically is disqualified once it fails, as the result of an examination (but not a supervision contact), to meet either the CAMEL or net worth criteria in § 742.2(a). 12 CFR 742.6 (2005). RegFlex authority can be revoked by action of the Regional Director for "substantive and documented safety and soundness reasons." § 742.2(b) (2005). The decision to revoke is appealable to NCUA's Supervisory Review Committee,[1] and thereafter to the NCUA Board. 12 CFR 742.7 (2005). RegFlex authority ceases when that authority is lost or revoked (even if an appeal of a revocation is pending). *Id.*; 12 CFR 742.6 (2005). But past actions taken under that authority are "grandfathered," *i.e.*, they will not be disturbed or undone.

2. RegFlex Relief

As originally adopted, the RegFlex program gave qualifying credit unions relief from a variety of regulatory restrictions, 12 CFR 742.4(a) and 742.5 (2005):

- *Fixed assets.* The maximum limit on fixed assets (5 percent of shares and retained earnings), 12 CFR 701.36(c)(1).
- *Nonmember deposits.* The maximum limit on non-member deposits (20 percent of total shares or $1.5 million, whichever is greater), 12 CFR 701.32(b).
- *Charitable contributions.* Conditions on making charitable contributions (relating to the charity's location, activities and purpose, and whether the contribution is in the credit union's best interest and is reasonable relative to its size and condition), 12 CFR 701.25.
- *Discretionary control of investments.* The maximum limit on investments over which discretionary control can be delegated (100 percent of credit union's net worth), 12 CFR 703.5(b)(1)(ii) and (2).
- *Zero-coupon securities.* The maximum limit on the maturity length of zero-coupon securities (10 years), 12 CFR 703.16(b).
- *"Stress testing" of investments.* The mandate to "stress test" securities holdings to assess the impact of a 300-basis points shift in interest rates, 12 CFR 703.12(c) (2001).
- *Purchase of eligible obligations.* Restrictions on the purchase of eligible obligations, 12 CFR 701.23(b), thus expanding the range of loans RegFlex credit unions could purchase and hold as long as they are loans those credit unions would be authorized to make (auto, credit card, member business, student and mortgage loans, as well as loans of a liquidating credit union up to 5 percent of the purchasing credit union's unimpaired capital and surplus).

With the overhaul of parts 703 (investments) and 723 (member business loans) in 2003,[2] RegFlex credit unions received further relief from the following restrictions:

- *Member business loans.* The requirement that principals personally guarantee and assume liability for member business loans. 12 CFR 723.7(b).
- *Borrowing repurchase transactions.* The maturity limit on investments purchased with the proceeds of a borrowing repurchase transaction. 12 CFR 703.13(d)(3).
- *Commercial mortgage-related securities.* The restriction on purchasing commercial mortgage-related securities of issuers other than the government-sponsored enterprises.[3] 12 CFR 703.16(d).

3. 2005 Proposed Rule

In 2005, the NCUA Board reassessed the RegFlex program to ensure its availability to credit unions that are least likely to encounter safety and soundness problems, thus minimizing the risk of loss to the Share Insurance Fund. Experience indicates that such credit unions consistently maintain a high net worth ratio and a high CAMEL rating. Accordingly, the NCUA Board issued a proposed rule reducing from 9 to 7 percent the minimum net worth ratio to qualify for RegFlex, but extending from one to six quarters the period the minimum net worth must be maintained to qualify. 70 FR 43769 (July

[1] *See* Interpretive Ruling and Policy Statement 95–1, 60 FR 14795 (March 20, 1995).

[2] *See* 68 FR 32960, 32966 (June 3, 2003) *and* 68 FR 56537, 56542, 56553 (Oct. 1, 2003).

[3] Federal credit unions are permitted to invest in commercial mortgage-related securities issued by the government-sponsored enterprises ("GSEs") enumerated in 12 U.S.C. 1757(7)(E). "Subject to such regulations as the Board may prescribe," 12 U.S.C. 1757(15)(B), federal credit unions also may invest in commercial mortgage-related securities of issuers other than GSEs. Section 742.4(a)(9) of the final rule prescribes conditions under which RegFlex credit unions may invest in commercial mortgage-related securities of non-GSEs.

29, 2005). The proposed rule also eliminated the need for NCUA to notify a credit union that qualifies automatically for RegFlex. *Id.*

NCUA received sixteen comments in response to the proposed rule—eight from federally-chartered credit unions, two from State-chartered credit unions, two from State credit union leagues, one from a credit union industry trade association, and three from banking industry trade associations. These comments, as well as comments suggesting revisions beyond those introduced in the proposed rule, are addressed below.

B. Analysis of Comments on Proposed Rule

1. Minimum Qualifying Net Worth

Existing part 742 required a credit union to achieve a net worth of 9 percent—200 basis points in excess of the 7 percent net currently needed to be classified "well capitalized" [4]—to qualify for RegFlex automatically or by application. The proposed rule reduced the qualifying minimum net worth classification to "well capitalized," which presently requires a minimum net worth of 7 percent. 12 U.S.C. 1790d(c)(1)(A)(i). Credit unions that are subject to an RBNW requirement would qualify for RegFlex if they remained "well capitalized" after applying the RBNW requirement. *See* 12 U.S.C. 1790d(c)(1)(A)(ii).

Eleven commenters endorsed reducing the minimum qualifying net worth to the 'well capitalized' net worth category. Of these, two favored an absolute 200 basis point reduction to 7 percent because linking the reduction to the "well capitalized" category would allow the minimum qualifying net worth to fluctuate automatically with any PCA-driven adjustment to the minimum net worth for that category. As the proposed rule acknowledged, should Congress by statute adjust the minimum net worth to be classified "well capitalized" under PCA,[5] the minimum qualifying net worth for RegFlex would change accordingly. 70 FR at 43797 n.4. Such an adjustment to the minimum net worth to be "well capitalized" under PCA would reflect Congress's judgment that it is unnecessary for credit unions at or above that net worth level to undertake any PCA whatsoever to improve their financial health. Following that lead, there is no compelling reason why NCUA should require credit unions to meet a higher standard to obtain the benefits of RegFlex than that set by Congress to be free of PCA—whether it is higher or lower than the present 7 percent—especially now that part 742 requires the minimum qualifying net worth to be maintained for 6 consecutive quarters.

Among the banking industry trade associations that commented, three oppose any reduction at all in the present 9 percent minimum qualifying net worth for RegFlex on the assumption that it would impair the financial strength of the credit union industry. Absent an explanation to support this blanket assumption, there is no evidence to indicate that the flexibility permitted under RegFlex for "well capitalized" credit unions would significantly increase the risk to the Share Insurance Fund. On the contrary, credit unions in that net worth category generally have a sufficient margin of safety to withstand unexpected events and normal business cycle fluctuations.

Another bank commenter urged reversing course and increasing the minimum qualifying net worth to "the standard for "well capitalized" as established by the FDIC Improvement Act [FDICIA, 12 U.S.C. 1831o] of ten percent." This commenter is comparing apples to oranges in two respects. First, ten percent is the "total risk-based capital ratio" that FDICIA regulations require of a 'well capitalized' institution; the "leverage ratio" required of such an institution—the equivalent of the "net worth ratio" for credit unions—is five percent. 57 FR 44866, 44878 (Sept 29, 1992); 12 CFR 325.103(b)(1). Second, FDICIA applies to PCA for all Federally-insured financial institutions except credit unions. Congress specified separate net worth criteria exclusively for the PCA net worth categories it established for credit unions. 12 U.S.C. 1790d(c)(1). The NCUA Board prefers to follow the minimum net worth Congress established for "well capitalized" credit unions: 7 percent. 12 U.S.C. 1790d(c)(1)(A)(i). Accordingly, the final rule reduces the minimum qualifying net worth for RegFlex to the "well capitalized" net worth category. § 742.2(a)(2).

2. Minimum Qualifying Net Worth Duration

Existing part 742 required a credit union to achieve the minimum qualifying net worth for just a single quarter. § 742.2 (2005). The proposed rule requires a credit union to maintain the minimum qualifying net worth for six consecutive quarters [6] (coinciding with the average eighteen-month examination schedule that applies to most RegFlex qualifying credit unions). 70 FR at 43797–43798.

The reason for extending the duration of the minimum qualifying net worth is that a single quarter's "snapshot" of net worth is too fleeting to be evidence of sustained superior performance; only successive "snapshots" of net worth would suffice to demonstrate such performance. From a risk standpoint, the proposed rule strikes a proper balance—compensating for the decreased minimum qualifying net worth by substantially extending the number of quarters that the minimum qualifying net worth must be maintained.

As the proposed rule explained by way of example: With no limit on the amount of fixed assets it can acquire, a RegFlex credit union is entitled to build or purchase a new building that increases its aggregate fixed assets to an inordinate proportion of total assets. If however, in the very next quarter, that credit union no longer qualifies for RegFlex due to a decline in net worth, part 742's "grandfathering" provision, 12 CFR 742.8 (2005), would entitle the ex-RegFlex credit union to keep the building, as well as the burden of absorbing the expenses of maintenance, debt service and depreciation, etc., thus putting profitability and net worth at risk.

Before this final rule, the ex-RegFlex credit union would have a net worth cushion of at least 200 basis points to absorb losses due to expenses of maintaining its fixed assets.[7] But once this final rule reduces the minimum qualifying net worth, that cushion no longer exists. Credit unions that demonstrate sustained superior performance as evidenced by a qualifying net worth ratio lasting over a series of quarters, instead of just one, will be better equipped to prepare for

[4] June 2005 Call Report data indicates that 74 percent of all RegFlex credit unions have a net worth in excess of 11 percent—fully 200 basis points above the qualifying minimum net worth. In contrast, only 6 percent of RegFlex credit unions have a net worth of 9.5 percent or less—within fifty basis points of the qualifying minimum net worth.

[5] The Credit Union Regulatory Improvements Act of 2005, H.R. 2317, 109th Cong. § 101 (2005), currently pending before Congress, contains a proposal to reduce the minimum net worth for the "well capitalized" net worth category to 5 percent.

[6] A credit union that is unable to maintain the minimum net worth for six consecutive quarters still would be eligible to apply to the appropriate Regional Director for a RegFlex designation provided the credit union is rated a CAMEL "2" or better.

[7] A net worth ratio of 6.99 percent or lower triggers a single PCA requirement: to make quarterly transfers of earnings to net worth. 12 U.S.C. 1790d(e); 12 CFR 702.201(a). A net worth ratio of 5.99 percent or below triggers three additional PCA mandatory supervisory actions: a freeze on assets, a freeze on member business lending, and the requirement to submit a Net Worth Restoration Plan. 12 U.S.C. 1790d(f)–(g); 12 CFR 702.202(a).

and manage the risks to profitability and net worth.

Eight commenters endorsed the proposal to extend the duration of the minimum qualifying net worth from 1 to 6 quarters. Allowing for a one-quarter downward fluctuation, a commenter contended that 5 out of 6 quarters would suffice to demonstrate sustained superior performance. Two commenters believe that goal would be met by maintaining the minimum qualifying net worth for 4 quarters. Finally, overlooking the "single snapshot" problem, one commenter insisted on leaving the duration at a single quarter, believing that low net worth is not an indicator of greater risk if a credit union is otherwise well-operated.

A 4-quarter net worth duration was considered, as was the suggested "5 out of 6 quarters" formulation. To adequately compensate for reducing the minimum qualifying net worth, the NCUA Board has concluded that a duration of 6 consecutive quarters provides the most compelling evidence of sustained superior performance. Further, the 6-quarter duration coincides with NCUA's Risk-Based Examination Scheduling Program (explained in section 4. below). Therefore, the final rule adopts the 6-quarter duration for the minimum qualifying net worth. § 742.2(a)(2).

3. Notification to Automatically Qualifying Credit Unions

Existing part 742 requires NCUA to notify a credit union on three occasions: when it first qualifies automatically for RegFlex; during an examination to confirm that it still qualifies or has become ineligible; and after it applies to the appropriate Regional Director for a RegFlex designation. § 742.3 (2005). The proposed rule eliminated the requirement to notify credit unions that qualify automatically for RegFlex, but left intact the requirement to notify a credit union that has applied for RegFlex designation whether it has been granted or denied. 70 FR at 43798. As the proposed rule explained, the requirement to notify credit unions that qualify automatically was redundant because the minimum qualifying worth and CAMEL criteria are discrete and as apparent to credit unions themselves as to NCUA. *Id.* The seven commenters who addressed this modification unanimously endorsed it. Therefore, the final rule eliminates the requirement to notify credit unions that qualify automatically for RegFlex.

4. RegFlex Relief

No substantive revisions at all were proposed for the RegFlex relief (fully described in section A.2. above) that part 742 already provides. However, in response to the proposed rule's invitation, NCUA received two comments suggesting further substantive RegFlex relief.

Member Business Loans. Noting that RegFlex already exempts qualifying credit unions from requiring principals to personally guarantee member business loans ("MBLs"), 12 CFR 723.10(e), a commenter recommended expanding this relief to waive the other seven member business loan requirements and restrictions that can be waived upon request under part 723.[8] 12 CFR 723.10(a)–(d) and (f)–(h). The NCUA Board continues to believe that these MBL requirements and restrictions are not proper candidates for RegFlex relief due to their complexity and the potential for negative financial impact if improperly utilized. For these reasons, it is important that waivers of these restrictions and requirements be carefully supported and evaluated on a case-by-case basis—a function best performed at the Regional Office level.

Fixed Assets. Noting that RegFlex credit unions are not bound by the maximum limit on fixed assets (5 percent of shares and retained earnings), 12 CFR 701.36(c)(1), two commenters recommended also exempting them from the requirement to partially utilize within 3 years any real property acquired for future expansion. 12 CFR 701.36(d)(1). One commenter would extend this exemption to all RegFlex credit unions; the other would extend it only to those that remain within the 5 percent limit on fixed assets. Noting that in 2001 credit unions were granted the "incidental power" to sell or lease excess capacity, 12 CFR 721.3(d), another commenter advocated further relief from the § 701.36 fixed asset restrictions because "credit unions with the proven track record necessary for RegFlex should have the discretion to plan for the retention or disposition of unused assets as it deems appropriate."

Neither of these recommendations is adopted in the final rule because both disregard the goal of the fixed asset limitations: that a credit union should acquire real property primarily to occupy and use for its own operation—not for real estate speculation or leasing—which it should be able to do within three years of acquiring it. In this regard, it makes no difference whether or not a RegFlex credit union surpasses the 5 percent limit on fixed assets.

Frequency of examinations. Because they present relatively fewer safety and soundness issues, one commenter suggested that RegFlex credit unions be examined less frequently than other credit unions, and charged a reduced operating fee. Because one function (oversight) polices the other (regulatory compliance), it has always been NCUA policy to avoid linking the examination process with regulatory relief initiatives. However, most RegFlex credit unions already are on extended examination cycles because they qualify for NCUA's Risk-Based Examination Scheduling Program. *See* NCUA Letter to Federal Credit Unions No. 01–FCU–05 issued August 2001. Two of the six criteria for this Program require a CAMEL rating of "1" or "2" and a "well capitalized" net worth classification, just as the RegFlex Program does. Credit unions in the Risk-Based Examination Scheduling Program can be examined as little as twice in a thirty-six month period and on average are examined once every 18 months (coinciding with the 6-quarter duration for the minimum qualifying net worth for RegFlex), instead of annually.

Extended examination cycles do not justify charging a reduced operating fee to those credit unions within the Risk-Based Examination Scheduling Program. The number and frequency of on-site examination contacts is but one factor in assessing the fee. While the frequency of contacts may decrease, the number of hours to conduct examinations does not necessarily decline. Particularly since the inception of the Risk-Based Examination Program in 2002, more and more examiner time and resources are devoted to off-site monitoring and to analysis of quarterly Call Report and other data.

5. Other Comments

Minimum qualifying CAMEL rating. One commenter suggested that CAMEL ratings should not be a criterion for RegFlex eligibility because "this allows too much examiner control." Instead, the commenter suggests basing RegFlex eligibility on a credit union's success in providing "better services, lower loan rates, and/or higher dividends." While these are all essential ingredients for member satisfaction, they are not necessarily indicia of a credit union's safety and soundness and are not subject to uniform, objective measurement. The NCUA Board maintains that CAMEL ratings, combined with quarterly net worth

[8] Appraisal requirements, 12 CFR 723.3(a); aggregate construction and development loan limits, § 723.3(a); minimum borrower equity requirements for construction and development loans, § 723.3(a); loan-to-value ratio requirements, § 723.7(a); maximum unsecured loans to one member or group, § 723.7(c)(2); maximum aggregate unsecured loan limit, § 723.7(c)(3); and maximum aggregate outstanding MBL balance to any one member or group, § 723.8.

ratios, are the best measures of safety and soundness and, in turn, indicate how much risk a credit union presents to the Share Insurance Fund.

To qualify automatically for RegFlex, part 742 requires the minimum CAMEL rating to be met in both of the two most recent examinations. Attempting to relax this requirement, another commenter suggested requiring a credit union to achieve the minimum qualifying CAMEL rating in either of the two most recent examinations. In practice, this proposal would automatically qualify a credit union for RegFlex after achieving the minimum qualifying CAMEL rating for just a single quarter—precisely the "single snapshot" problem that formerly affected the minimum qualifying net worth for RegFlex (addressed in section B.1. above). To avoid that problem with the CAMEL criterion, the final rule leaves intact the requirement that the minimum qualifying CAMEL rating must be met for two consecutive examination cycles. § 742.2(a)(1).

To be sure, some credit unions will be unable to automatically qualify for RegFlex due to an insufficient CAMEL rating. For them, the final rule preserves the option to apply to the appropriate Regional Director, on the basis of sufficient net worth alone, for a RegFlex designation. 12 CFR 742.2(b)(2).

RegFlex for FISCUs. One commenter lamented that RegFlex is not available to Federally-insured State-chartered credit unions ("FISCUs"). Regulatory relief is, in fact, available to FISCUs but not from NCUA. Only one of the regulatory restrictions that RegFlex moderates applies to FISCUs: the limit on nonmember deposits in 12 CFR 701.32(b). 12 CFR 741.204(a). The rest apply to Federally-chartered credit unions only. As a matter of policy, NCUA does not assume the authority to extend regulatory relief to FISCUs; that relief is the province of the appropriate State Supervisory Authority ("SSA"). However, to ensure that SSAs have the opportunity to grant equivalent relief to their FISCUs, NCUA notifies the SSAs when RegFlex moderates for Federally-chartered credit unions a regulation that also applies to FISCUs. Some SSAs have granted equivalent relief from the limit on nonmember deposits.

Informal suggestions for additional relief. A commenter proposed establishing an informal procedure, outside the formal rulemaking process, for "credit unions to submit their ideas regarding additional exemptions" through NCUA Regional Offices to the Office of General Counsel "for inclusion in future rule changes to the RegFlex program." No such procedure is necessary, however, because NCUA welcomes feedback on ways to reduce regulatory burden generally and to improve specific regulations. Feedback on specific regulations is routinely routed to staff responsible for future rulemaking on that regulation.

"Grandfathering" past actions. Both existing part 742 and the proposed rule provide that neither the disqualification from, nor revocation of, RegFlex authority will undo past actions duly undertaken in reliance on RegFlex authority. One commenter contends that this "grandfathering" of past actions should be allowed only when the credit union succeeds in restoring its RegFlex designation "within a meaningful period of time (4 to 8 quarters)"; otherwise, the credit union should be required to divest its past RegFlex actions. Divestiture is a safety and soundness remedy imposed on a case-by-case basis. Since NCUA has the authority to require a credit union to divest its investments or assets for substantive safety and soundness reasons, there is no need to mandate divestiture within uniform deadline.

Appeal of denial of RegFlex designation. The proposed rule left intact the right to appeal Regional Director decisions revoking a RegFlex designation to NCUA's Supervisory Review Committee. § 742.7 (2005). A commenter urged that the final rule extend that right to Regional Director decisions denying an application for a RegFlex designation. Supervisory Review Committee jurisdiction is limited by law to "material supervisory determinations." 12 U.S.C. 4806(a). These include determinations relating to examination ratings (CAMEL "3", "4" and "5" in the case of credit unions), adequacy of loan loss reserves, and loan classifications of significant loans. 12 U.S.C. 4806(f)(1)(A); 60 FR at 14799.

The denial of a RegFlex designation—as opposed to revocation of RegFlex authority for "substantive, documented safety and soundness reasons" (which has happened only once)—does not rise to the level of a "material supervisory decision" because the designation is essentially a privilege. As an accommodation to eligible credit unions that do not qualify automatically for RegFlex, part 742 extends the opportunity to apply for a RegFlex designation. It is up to the applicant to subjectively demonstrate that it is entitled to RegFlex relief despite not qualifying under the objective net worth and CAMEL criteria. Because evaluating such applications is necessarily a subjective exercise, the NCUAB believes it is appropriate for the Regional Director to have the final say, without recourse to an appeal.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis describing any significant economic impact a proposed regulation may have on a substantial number of small credit unions. NCUA considers credit unions having less than ten million dollars ($10,000,000) to be small for purposes of the RFA. The final rule reduces the minimum net worth, while increasing the duration that it must be maintained, to qualify for RegFlex, without imposing any additional regulatory burden. The final rule will not have a significant economic impact on a substantial number of small credit unions. Thus, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on State and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. Neither this final rule nor the regulations it relaxes has 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. Accordingly, the final rule does not constitute a policy that has federalism implications for purposes of the Executive Order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act, 5 U.S.C. 551. NCUA submitted the rule to the Office of Management and Budget, which has determined that it is not major for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

Treasury and General Government Appropriations Act, 1999

NCUA has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 742

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 19, 2006.

Mary F. Rupp,

Secretary of the Board.

■ For the reasons set forth above, 12 CFR part 742 is revised to read as follows:

PART 742—REGULATORY FLEXIBILITY PROGRAM

Sec.

Authority: 12 U.S.C. 1756, 1766.

§ 742.1 Regulatory Flexibility Program.

NCUA's Regulatory Flexibility Program (RegFlex) exempts from all or part of the NCUA regulatory restrictions identified elsewhere in this part credit unions that demonstrate sustained superior performance as measured by CAMEL rating and net worth classification. RegFlex credit unions also are authorized to purchase and hold an expanded range of obligations.

§ 742.2 Criteria to qualify for RegFlex designation.

(a) *Automatic qualification.* A credit union automatically qualifies for RegFlex designation, without formal notification, when it has:

(1) *CAMEL.* Received a composite CAMEL rating of "1" or "2" for the two (2) preceding examinations; and

(2) *Net worth.* Maintained a net worth classification of "well capitalized" under part 702 of this chapter for six (6) consecutive preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under part 702 of this chapter, has remained "well capitalized" for six (6) consecutive preceding quarters after applying the applicable RBNW requirement.

(b) *Application for designation.* A credit union that does not automatically qualify under paragraph (a) of this section may apply for a RegFlex designation, which may be granted in whole or in part upon notification by the appropriate Regional Director, provided the credit union has either:

(1) *CAMEL.* Received a composite CAMEL rating of "3" or better for the preceding examination; or

(2) *Net worth.* Maintained a net worth classification of "well capitalized" under part 702 of this chapter for less than six (6) consecutive quarters or, if subject to an RBNW requirement under part 702 of this chapter, has remained "well capitalized" for less than six (6) consecutive preceding quarters after applying the applicable RBNW requirement.

§ 742.3 Loss and revocation of RegFlex designation.

(a) *Loss of authority.* RegFlex authority is lost when a credit union that qualified automatically under the CAMEL and net worth criteria in § 742.2(a) no longer meets either of those criteria. Once the authority is lost, the credit union may no longer claim the exemptions and authority set forth in § 742.4.

(b) *Revocation of authority.* The Regional Director may revoke a credit union's RegFlex authority under § 742.2, in whole or in part, for substantive, documented safety and soundness reasons. When revoking RegFlex authority, the regional director must give written notice to the credit union stating the reasons for the revocation. The revocation is effective upon the credit union's receipt of notice from the Regional Director.

(c) *Appeal of revocation.* A credit union has 60 days from the date of the regional director's determination to revoke RegFlex authority to appeal the action, in whole or in part, to NCUA's Supervisory Review Committee. The Regional Director's determination will remain in effect unless and until the Supervisory Review Committee issues a different determination. If the credit union is dissatisfied with the decision of the Supervisory Review Committee, the credit union has 60 days from the date of the Committee's decision to appeal to the NCUA Board.

(d) *Grandfathering of past actions.* Any action duly taken in reliance upon RegFlex authority will not be affected or undone by subsequent loss or revocation of that authority. Any actions exercised after RegFlex authority is lost or revoked must comply with all applicable regulatory requirements and restrictions. Nothing in this part shall affect NCUA's authority to require a credit union to divest its investments or assets for substantive safety and soundness reasons.

§ 742.4 RegFlex Relief.

(a) *Exemptions.* RegFlex credit unions are exempt from the following regulatory restrictions:

(1) *Charitable contributions.* Section 701.25 of this chapter concerning charitable contributions;

(2) *Nonmember deposits.* Section 701.32(b) and (c) of this chapter concerning the maximum amount of non-member deposits a credit union can accept; and

(3) *Fixed assets.* Section 701.36(a), (b) and (c) of this chapter concerning the maximum amount of fixed assets a credit union can acquire;

(4) *Member business loans.* Section 723.7(b) of this chapter concerning the personal liability and guarantee of principals for member business loans.

(5) *Discretionary control of investments.* Section 703.5(b)(1)(ii) and (2) of this chapter concerning the maximum amount of investments over which discretionary control can be delegated;

(6) *"Stress testing" of investments.* Section 703.12(c) of this chapter concerning "stress testing" of securities holdings to assess the impact of an extreme interest rate shift;

(7) *Zero-coupon securities.* Section 703.16(b) of this chapter concerning the maximum maturity length of zero-coupon securities;

(8) *Borrowing repurchase transactions.* Section 703.13(d)(3) of this chapter, concerning the maturity of investments a credit union purchases with the proceeds received in a borrowing repurchase transaction, provided the value of the investments that mature later than the borrowing repurchase transaction does not exceed 100 percent of the federal credit union's net worth;

(9) *Commercial mortgage related security.* Section 703.16(d) of this chapter prohibiting the purchase of a commercial mortgage related security of an issuer other than a government-sponsored enterprise enumerated in 12 U.S.C. 1757(7)(E), provided:

(i) The security is rated in one of the two highest rating categories by at least one nationally-recognized statistical rating organization;

(ii) The security meets the definition of mortgage related security as defined in 15 U.S.C. 78c(a)(41) and the definition of commercial mortgage related security as defined in § 703.2 of this chapter;

(iii) The security's underlying pool of loans contains more than 50 loans with no one loan representing more than 10 percent of the pool; and

(iv) The aggregate total of commercial mortgage related securities purchased

by the Federal credit union does not exceed 50 percent of its net worth.

(b) *Purchase of obligations from a FICU.* A RegFlex credit union is authorized to purchase and hold the following obligations, provided that it would be empowered to grant them:

(1) *Eligible obligations.* Eligible obligations pursuant to § 701.23(b)(1)(i) of this chapter without regard to whether they are obligations of its members, provided they are purchased from a federally-insured credit union only;

(2) *Student loans.* Student loans pursuant to § 701.23(b)(1)(iii) of this chapter, provided they are purchased from a federally-insured credit union only;

(3) *Mortgage loans.* Real-state secured loans pursuant to 701.23(b)(1)(iv) of this chapter, provided they are purchased from a federally-insured credit union only;

(4) *Eligible obligations of a liquidating credit union.* Eligible obligations of a liquidating credit union pursuant to § 701.23(b)(1)(ii) of this chapter without regard to whether they are obligations of the liquidating credit union's members, provided that such purchases do not exceed 5 percent (5%) of the unimpaired capital and surplus of the purchasing credit union.

[FR Doc. 06–685 Filed 1–24–06; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22793; Directorate Identifier 2005–NM–161–AD; Amendment 39–14462; AD 2006–02–10]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) 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 CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD requires replacing the Gask-O-Seal in the coupling of the refuel/defuel shut-off valves. This AD results from a report that Gask-O-Seals that did not incorporate an integral restrictor to limit fuel flow rate and fuel pressure during refueling were installed on certain airplanes. We are issuing this AD to prevent a buildup of excessive static charge, which could create an ignition source inside the fuel tank.

DATES: This AD becomes effective March 1, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 1, 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., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; 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 CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. That NPRM was published in the **Federal Register** on October 27, 2005 (70 FR 61920). That NPRM proposed to require replacing the Gask-O-Seal in the coupling of the refuel/defuel shut-off valves.

Comments

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

Request To Reference Latest Issue of Service Bulletin

One commenter requests that the NPRM reference Bombardier Alert Service Bulletin A601R–28–064, Revision 'A,' dated September 15, 2005 (Bombardier Alert Service Bulletin A601R–28–064, dated April 21, 2005, was referenced as the appropriate source of service information for doing the actions in the NPRM). The commenter notes that Revision 'A' of the alert service bulletin is the latest issue with updated information.

We agree with the commenter. The actions in Revision 'A' of the alert service bulletin are essentially the same as the actions in the original issue. We have revised this AD to reference Revision 'A' of the alert service bulletin. We have also added paragraph (g) to this AD to give credit for actions done in accordance with the original issue of the alert service bulletin and reidentified subsequent paragraphs accordingly.

Conclusion

We have carefully reviewed the available data, including the comment 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

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
Replacement	1	$65	$0	$65	720	$46,800

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):

2006–02–10 Bombardier, Inc. (Formerly Canadair): Amendment 39–14462. Docket No. FAA–2005–22793; Directorate Identifier 2005–NM–161–AD.

Effective Date

(a) This AD becomes effective March 1, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, as specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airplanes having serial numbers 7003 through 7067 inclusive and 7069 through 7939 inclusive on which Bombardier Service Bulletin 601R–28–053, dated July 12, 2004, has been accomplished.

(2) Airplanes having serial numbers 7940 through 7988 inclusive.

Unsafe Condition

(d) This AD results from a report that Gask-O-Seals that did not incorporate an integral restrictor to limit fuel flow rate and fuel pressure during refueling were installed on certain airplanes. We are issuing this AD to prevent a buildup of excessive static charge, which could create an ignition source inside the fuel tank.

Compliance

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

Replacement

(f) Within 550 flight hours after the effective date of this AD, replace the Gask-O-Seal in the coupling of the refuel/defuel shut-off valves by doing all the actions specified in the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–28–064, Revision 'A,' dated September 15, 2005.

Replacement Accomplished According to Previous Issue of Service Bulletin

(g) Replacements accomplished before the effective date of this AD in accordance with Bombardier Alert Service Bulletin A601R–28–064, dated April 21, 2005, are considered acceptable for compliance with the corresponding action specified in this AD.

Parts Installation

(h) As of the effective date of this AD, no person may install a Gask-O-Seal, part number 202297, on any airplane.

Alternative Methods of Compliance (AMOCs)

(i)(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

(j) Canadian airworthiness directive CF–2005–18, dated June 9, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Bombardier Alert Service Bulletin A601R–28–064, Revision 'A,' dated September 15, 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 this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, 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 January 13, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–617 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9232]

RIN 1545–BD33

Guidance on Passive Foreign Investment Company (PFIC) Purging Elections; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document corrects temporary regulations (TD 9232) that were published in the **Federal Register** on Thursday, December 8, 2005 (70 FR 72908) that provide certain elections for taxpayers that continue to be subject to the PFIC excess distribution regime of

section 1291 even though the foreign corporation in which they own stock is no longer treated as a PFIC under section 1297(a) or (e).

DATES: This correction is effective December 8, 2005.

FOR FURTHER INFORMATION CONTACT: Ethan Atticks, (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations are under sections 1291(d)(2), 1297(e) and 1298(b)(1) of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 9232) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

§ 1.1297–3T [Corrected]

■ 1. Section 1.1297–3T(e)(1)(i), the language "December 31, 2005" is removed and the language "June 30, 2006" is added in its place.

■ 2. Section 1.1298–3T(e)(1)(i), the language "December 31, 2005" is removed and the language "June 30, 2006" is added in its place.

Cynthia E. Grigsby,

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

[FR Doc. 06–682 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9232]

RIN 1545–BD33

Guidance on Passive Foreign Investment Company (PFIC) Purging Elections; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulation.

SUMMARY: This document contains a correction to temporary regulations that were published in the **Federal Register** on Thursday, December 8, 2005 (70 FR 72908) that provide certain elections for taxpayers that continue to be subject to the PFIC excess distribution regime of section 1291 even though the foreign corporation in which they own stock is no longer treated as a PFIC under section 1297(a) or (e).

FOR FURTHER INFORMATION CONTACT: Ethan Atticks, (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulation that is the subject of this correction is under sections 1291(d)(2), 1297(e) and 1298(b)(1) of the Internal Revenue Code.

Need for Correction

As published, the temporary regulation (TD 9232) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

■ Accordingly, the publication of the temporary regulation (TD 9232), which were the subject of FR Doc. 05–23630, is corrected as follows:

■ On page 72909, column 1, in the preamble under the caption heading **DATES**, lines 4 and 5, the language "applicability, see §§ 1.1297–3T(f),1.1298–3T(f) is corrected to read "applicability, see §§ 1.1291–9T(K), 1.1297–3T(f), and 1.1298–3T(f).".

Cynthia E. Grigsby,

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

[FR Doc. 06–683 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 32

[TD 9233]

RIN 1545–BC89

Sickness or Accident Disability Payments; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document corrects final regulations (TD 9233) that were published in the **Federal Register** on December 15, 2005 (70 FR 74198). The final regulations provide guidance regarding the treatment of payments made on account of sickness or accident disability under a workers' compensation law for purposes of the Federal Insurance Contributions Act (FICA).

DATES: This correction is effective December 15, 2005.

FOR FURTHER INFORMATION CONTACT: David Ford (202) 622–6040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9233) that are the subject of this correction are under section 3121 of the Internal Revenue Code.

Need for Correction

As published, the final regulation (TD 9233) contain errors that may prove to be misleading and are in need of clarification.

Correction of the Publication

Accordingly, the publication of the final regulations (TD 9233), which were the subject of FR Doc. 05–23945, is corrected as follows:

1. On page 74198, column 2, in the preamble under the paragraph heading "Background", lines 5 and 6, the language "for Federal Insurance Contributions Act (FICA) purposes payments made on " is corrected to read "for FICA purposes payment made on".

2. On page 74199, column 1, in the preamble under the paragraph heading "Explanation of Provisions", first paragraph of the column, line 3, the language "extent necessary. The Service

has" is corrected to read "extent necessary. The IRS has".

Cynthia E. Grigsby,

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

[FR Doc. 06–681 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD 13–06–002]

RIN 1625–AA00

Safety Zone: North Portland Harbor Dredging Operations; Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Columbia River, in the vicinity of Hayden Island at North Portland Harbor. The Captain of the Port, Portland, Oregon is taking this action to safeguard individuals and vessels from safety hazards associated with dredging operations. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This rule is effective from January 17, 2005 8 a.m. (PST) through March 15, 2005 at 5 p.m. (PST).

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD13–06–002] and are available for inspection or copying at U. S. Coast Guard Sector Portland, 6767 North Basin Ave. Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Charity Keuter, c/o Captain of the Port Portland, 6767 N. Basin Ave. Portland, Oregon 97217 at 503–240–9301.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard did not receive notice of this operation until 7 days prior to the beginning of the operation. The dredging operation will have a floating pipeline that will stretch from Port of Portland Terminal 6 to the lower end of Hayden Island and on to Kelly Point Park. This pipeline will be a hazard to navigation due to location and vessel traffic in the area.

If normal notice and comment procedures were followed, this rule would not become effective until after the dates of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is establishing a temporary safety zone regulation to allow for safe dredging operation. This operation is necessary for the improvement of the Port of Portland Terminal 6, since in the coming months a new crane will be brought in to allow the Port to accompany larger vessels and more containers. This safety zone will be in effect during the time of January 17, 2006 to March 15, 2006 while the floating pipeline is in the water. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other Federal and local agencies.

Discussion of Rule

This rule, for safety concerns, will control individuals and vessel movement in a regulated area surrounding the dredging operation. Due to safety concerns and likely delays, entry into this zone is prohibited unless authorized by the Captain of the Port, Portland or his designated representative. Those boaters transiting between the Columbia River and North Portland Harbor are requested to use the upriver end of Hayden Island. The Captain of the Port may be assisted by other Federal and local agencies.

Regulatory Evaluation

This 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). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of the DHS is unnecessary. This expectation is based on the fact that this rule will be in effect for the minimum time necessary to safely conduct the dredging operation. While this rule is in effect, traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his designated representatives on-scene, if safe to do so and that traffic can be rerouted to another entrance into the Oregon Slough at the upriver end of Hayden Island.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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 rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the designated area at the corresponding time as drafted in this rule. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Traffic will be allowed to pass through the zone at selected times with the permission of the Captain of the Port or his designated representative on scene, if safe to do so and that boaters transiting the Oregon Slough can gain access to it by the upriver end of Hayden Island on the Columbia River. Before the effective period, we will issue maritime advisories widely available to users of the river. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity 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 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 offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34) (g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 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. A temporary § 165.T13–001 is added to read as follows:

§ 165.T13–001 Safety Zones: Oregon Slough Dredging Operations in the Captain of the Port Portland Zone.

(a) *Safety Zones.* The following area is designated a safety zone

(1) Location: All water of the Columbia River enclosed by the following points: 45°37′53″ N 122°44′03″ W following the shoreline southwest to 45°38′54″ N 122°45′28″ W continuing west to 45°39′05″ N 122°45′36″ W turning north to 45°39′12″ N 122°45′28″ W then northeast 45°38′58″ N 122°45′03″ W then east to 45°38′22″ N 122°44′37″ W then northeast to 45°37′53″ N 122°43′58″ W south back to the point of origin.

(2) Effective time and date. 7 a.m. on January 17, 2006 to 7 p.m. on March 15, 2006.

(b) *Regulations.* In accordance with the general regulations in section 165.23

of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representative.

Dated: January 17, 2006.

Patrick G. Gerrity,

Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.

[FR Doc. 06–677 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. EPA–R02–OAR–2004–NJ–0004, FRL–8020–6]

Approval and Promulgation of Implementation Plans; New Jersey Consumer Products Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to Subchapter 24 "Prevention of Air Pollution From Consumer Products" of 7:27 of the New Jersey Administrative Codes, which are needed to meet the shortfall in emissions reduction identified by EPA in New Jersey's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve a control strategy required by the Clean Air Act, which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: *Effective Date:* This rule will be effective February 24, 2006.

ADDRESSES: EPA has established a docket for this action under the Federal Docket Management System (FDMS) which replaces the Regional Materials in EDOCKET (RME) docket system. The new FDMS is located at *http://www.regulations.gov* and the docket ID for this action is EPA–R02–OAR–2004–NJ–0004. All documents in the docket are listed in the FDMS index. Publicly available docket materials are available either electronically in FDMS or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B–108, 1301 Constitution Avenue, NW., Washington, DC; and the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–3711.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

EPA is approving a revision to New Jersey's ozone State Implementation Plan (SIP) submitted on June 22, 2004. This SIP incorporates adopted rule amendments to Title 7, Chapter 27, Subchapter 24 "Prevention of Air Pollution from Consumer Products" which was adopted on April 7, 2004. Subchapter 24 contains two control programs, consumer products and portable fuel container spillage control. This adoption was published in the New Jersey Register on May 3, 2004 and became effective on June 6, 2004. The Subchapter 24 amendments are applicable to the entire State of New Jersey. The reader is referred to the proposed rulemaking (December 10, 2004, 69 FR 71764) for additional details.

Subchapter 24 contains provisions for accepting innovative products exemptions (IPEs), alternative compliance plans (ACPs), and variances that have been approved by the California Air Resources Board (CARB) or other states with adopted consumer product regulations based on the Ozone Transport Commission (OTC) "Model Rule for Consumer Products" dated November 29, 2001. While the provisions related to IPEs, ACP, and variances pursuant to subchapter 24 are acceptable, each specific application of those provisions cannot be recognized as meeting Federal requirements until it is approved by EPA as a SIP revision.

II. What Comments Were Received and How Has EPA Responded to Them?

EPA received one comment pertaining to the proposal for this action which supported this rulemaking.

III. What Role Does This Rule Play in the Ozone SIP?

When EPA evaluated New Jersey's 1-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the State's two severe nonattainment areas in order for the State to attain the 1-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). EPA provided that the states in the Ozone Transport Region could achieve these emission reductions through local or regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort which developed six model control measures. This rulemaking incorporates two of the OTC model control measures into the New Jersey ozone SIP: Consumer products and portable fuel containers. The emission reductions from these control measures will provide a portion of the additional emission reductions needed to attain the 1-hour ozone standard. The emission reductions from these measures will also help to attain the 8-hour ozone standard.

IV. What Are EPA's Conclusions?

EPA has evaluated the submitted Subchapter 24 submission for consistency with EPA regulations, policy and guidance. Consistent with EPA policy and guidance, EPA is approving the rule submitted as part of the New Jersey SIP with the exception that any specific application of provisions associated with IPEs, ACP, and variances, must be submitted as SIP revisions for EPA approval. This rule will strengthen the SIP by providing for additional VOC reductions. Accordingly, EPA is approving the Subchapter 24 revisions as adopted on April 7, 2004 and effective on June 6, 2004 with the limitation identified above.

V. Statutory and Executive Order Reviews

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), because it 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 Clean Air Act. 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 Clean Air Act. 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 Clean Air Act. 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 March 27, 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 28, 2005.

Alan J. Steinberg,

Regional Administrator, Region 2.

■ Part 52, 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 FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(79) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(79) Revisions to the State Implementation Plan submitted on June 22, 2004 by the State of New Jersey Department of Environmental Protection that establishes an expanded control program for consumer products including portable fuel containers.

(i) Incorporation by reference:

(A) Regulation Subchapter 24 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "Prevention of Air Pollution From Consumer Products," adopted on April 7, 2004 and effective on June 6, 2004.

(ii) Additional material:

(A) Letter from State of New Jersey Department of Environmental Protection dated June 22, 2004, requesting EPA approval of a revision to the Ozone SIP which contains amendments to the Subchapter 24 "Prevention of Air Pollution From Consumer Products."

* * * * *

■ 3. Section 52.1605 is amended by revising the entry under Title 7, Chapter 27 for Subchapter 24 in the table to read as follows:

§ 52.1605 EPA-approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* *	*	*	* *
Title 7, Chapter 27			
* *	*	*	* *
Subchapter 24, "Prevention of Air Pollution From Consumer Products".	June 6, 2004	January 25, 2006 [Insert FR page citation.].	The specific application of provisions associated with innovative products exemptions, alternative compliance plans, and variances must be submitted to EPA as SIP revisions.
* *	*	*	* *

[FR Doc. 06–703 Filed 1–24–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2005–KY–0001–200521(f); FRL–8023–8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, KY, Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a May 20, 2005, final request to redesignate the Christian County, Kentucky, portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS), and a Kentucky State Implementation Plan (SIP) revision containing a 12-year maintenance plan for Christian County, Kentucky. EPA is also providing information on the status of the Agency's transportation conformity adequacy determination for the new motor vehicle emissions budgets (MVEBs) for the years 2004 and 2016 that are contained in the 12-year 8-hour ozone maintenance plan for Christian County, Kentucky. EPA is approving such MVEBs in this action. This final rule addresses comments made on EPA's proposed rulemaking previously published for this action.

DATES: This rule will be effective February 24, 2006.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2005–KY–0001. 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, *i.e.*, Confidential Business Information 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 Regional Material in E-Docket or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Mr. Hou can be reached via telephone number at (404) 562–8965 or electronic mail at *hou.james@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Actions Is EPA Taking?

EPA is taking final action to change the legal designation of the Christian County, Kentucky, portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area from nonattainment to attainment for the 8-hour ozone NAAQS. The interstate Clarksville-Hopkinsville 8-hour ozone nonattainment area is composed of two counties (*i.e.*, Christian County, Kentucky, and Montgomery County, Tennessee). EPA is also approving Kentucky's 8-hour ozone maintenance plan for Christian County (such approval being one of the Clean Air Act (CAA) criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Clarksville-Hopkinsville area (of which Christian County is a part) in attainment for the 8-hour ozone NAAQS for the next 12 years. These approval actions are based on EPA's determination that the Commonwealth of Kentucky has demonstrated that Christian County, Kentucky, has met the criteria for redesignation to attainment specified in the CAA, and that the entire Clarksville-Hopkinsville 8-hour ozone nonattainment area has attained the 8-hour ozone standard. EPA's analyses for Christian County, Kentucky, and Montgomery County, Tennessee, are described in detail in the direct final rules published September 22, 2005, at 70 FR 55550 and 70 FR 55559, respectively.

EPA is also providing information on the status of the Agency's transportation conformity adequacy determination for the new MVEBs for the years 2004 and 2016 that are contained in the maintenance plan for Christian County, Kentucky. The maintenance plan establishes MVEBs for the years 2004 and 2016, respectively, of 3.83 tons per day (tpd) and 2.08 tpd for volatile organic compound (VOC) emissions, and 9.53 tpd and 3.83 tpd for nitrogen oxides (NO_X). Through this action, EPA is announcing that these MVEBs are adequate for the purposes of transportation conformity. During EPA's Adequacy public comment period which began on March 29, 2005, and closed on April 28, 2005, EPA did not receive any adverse comments related to the MVEBs. EPA is also approving these MVEBs in this action. Upon the publication of this final rulemaking in the **Federal Register**, these MVEBs must be used by the transportation partners in this area for future conformity determinations. Additionally, conformity to these new MVEBs must be demonstrated within 24 months of the effective date of this action, pursuant to section 6011(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users, which was signed into law on August 10, 2005.

Additionally, in this action, EPA is responding to the adverse comment received on the September 22, 2005, rulemaking proposing to approve the aforementioned revisions (70 FR 55613).

II. What Is the Background for the Actions?

In two separate actions published on September 22, 2005, EPA proposed to approve the redesignation of the Kentucky (70 FR 55613) and Tennessee (70 FR 55613) portions of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to attainment. Also on that date, EPA published two companion direct final rules approving the redesignation to attainment of the Kentucky (70 FR 55550) and Tennessee (70 FR 55559) portions of the nonattainment area. The proposed and direct final rules stated that if EPA received adverse comment by October 24, 2005, the direct final rule would be withdrawn and would not take effect. EPA subsequently received an adverse comment regarding the redesignation of the Kentucky portion of the nonattainment area (i.e., Christian County). In this action, EPA is addressing the comment and taking final action as described in section I and section IV.

III. Response to Comments

The following is a summary of the adverse comment received on the proposed rule published September 22, 2005, (70 FR 55613) and EPA's response to the comment.

Comment: The commenter asserts that the Kentucky Division for Air Quality (KDAQ) has permitted a new source of NO_X in Muhlenberg County, Kentucky, which borders Christian County. The commenter states that the source is permitted to emit well over 5,000 tons per year of NO_X. The commenter asserts that until KDAQ establishes that Christian County will be in attainment with the 8-hour ozone NAAQS with the additional NO_X emissions from this source through a reasonable worst case analysis of the source's NO_X emissions during any one-hour or eight-hour hour period, EPA should not redesignate Christian County to attainment.

Response: As detailed in Section III of the September 22, 2005, direct final rule (70 FR 55550), the CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the State containing such area has met all requirements applicable to the area under section 110 and part D. EPA has determined that all of the redesignation requirements are met for the Christian County area as described in the September 22, 2005, rulemaking (70 FR 55550).

KDAQ has demonstrated that ozone precursor emissions inside the Christian County nonattainment area will remain at or below attainment year levels in the future, which indicate the 8-hour ozone standard will be maintained. Furthermore, as for the impact of emissions outside of Christian County, the commenter has provided no analysis indicating that any such emissions would be likely to cause or contribute to violations in the future. Kentucky had performed a cumulative assessment of the impacts of current and proposed Kentucky electric power generating facilities, and concluded that 8-hour ozone violations are not likely to occur as a consequence of these emissions. The Agency reviewed this report in response to the commenter's concerns. The report, "A Cumulative Assessment of the Environmental Impacts Caused by Kentucky Electric Generating Units," dated December 17, 2001, is included in the docket for this action. The report documents Kentucky's analysis of the environmental impacts of 34 existing power plants and 22 proposed new or expanded power plants, including the proposed new source in Muhlenberg County. Specific to air quality, the report provides information on the changes in ozone and fine particulates concentrations with the addition of these 56 proposed and existing power plants in Kentucky. The emissions modeled for the proposed new power plant in Muhlenberg County were: 507.4 tons per year (tpy) of VOCs and 6,030 tpy of NO_X. The impact assessment did not identify potential ozone attainment problems for Christian County, Kentucky, even though it considered far more sources than only the one mentioned by the commenter.

Furthermore, EPA notes that NO_X emissions from the proposed power plant in Muhlenberg County will be subject to the regional NO_X reduction programs of the NO_X SIP Call and, in the future, the Clean Air Interstate Rule (CAIR) (70 FR 25162 (May 12, 2005)). Since Kentucky is regulated by those programs, sources subject to them, including power plants, will remain subject to an overall NO_X emissions budget for the state that will not increase as a result of the possible new plant in Muhlenberg County. Consequently, that source would have to obtain NO_X allowances from other sources subject to the NO_X SIP Call and/or CAIR to emit NO_X and the sources in the Commonwealth of Kentucky would remain subject to the same overall NO_X budget.

The proposed new power plant in Muhlenberg County refers to the Thoroughbred Generating Station (TGS) project. This project is proposed to consist of two pulverized coal electric utility steam generating units with a nominal power generating capacity of 750 megawatts each and a nominal rated capacity heat input rate of 7,443 pounds per million British thermal units (lb/MMBtu) each. The NO_X and VOC emissions limits for the two pulverized coal combustion units are proposed to be as follows: 0.08 lb/MMBtu of NO_X each (equivalent to 5,216 tons per year for both units combined) and 0.0072 lb/MMBtu of VOCs each (equivalent to 235 tons per year for both units combined). The KDAQ has a merged air emissions permitting program in which a single permit serves as the prevention of significant deterioration construction permit and the title V operating permit. The merged permit was issued to Thoroughbred Generating Company, LLC (TGC) on October 11, 2002, with slight revisions on December 6, 2002, and February 17, 2005.

The permit issued to TGC was appealed through Kentucky's administrative appeals procedure. The Administrative Hearing Officer (AHO) issued a report with recommendations on August 9, 2005. The AHO recommended remanding portions of the permit to the KDAQ. The Secretary of the Kentucky Environmental and Public Protection Cabinet makes the final determination on the appeal. No determination has yet been made by the Secretary.

After KDAQ issued the original permit on October 11, 2002, EPA received a petition to object to the title V portion of the permit. EPA is awaiting the conclusion of the Kentucky permit appeal process before completing a response to the petition. Thus the permit appeal process for the source has not yet been concluded, and therefore the permit provisions remain subject to revision. Moreover, EPA believes that for the reasons set forth above that the TGS does not pose a potential problem for attainment or maintenance of the standard in the Clarksville-Hopkinsville area.

Should monitored violations of the 8-hour ozone NAAQS occur in Christian County, the contingency plan within the County's 8-hour ozone maintenance plan will be implemented to promptly correct the violations. In the contingency measures section, Kentucky details actions it will take if there are measured exceedances (i.e., an 8-hour average equal to or greater than 0.085 parts per million) of the 8-hour ozone standard, and reserves the right to implement other contingency measures than those listed for the County if deemed necessary.

IV. Final Action

EPA is taking final action to change the legal designation of the Christian County, Kentucky portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area from nonattainment to attainment for the 8-hour ozone NAAQS. Through this action, EPA is announcing that the new 2004 and 2016 MVEBs are adequate for transportation conformity purposes. EPA is also approving into the Kentucky SIP the 8-hour ozone maintenance plan for

Christian County, and the new MVEBs for the years 2004 and 2016, respectively, of 3.83 tpd and 2.08 tpd for VOC, and 9.53 tpd and 3.83 tpd for NO_X.

V. 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. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. 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 affects the status of a geographical area, does not impose any new requirements on sources, or allow a state to avoid adopting or implementing other requirements, 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, and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

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 Commonwealth 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. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 13, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR parts 52 and 81 are 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 S—Kentucky

■ 2. Section 52.920(e) is amended by adding a new entry at the end of the table for "8-Hour Ozone Maintenance Plan for the Christian County, Kentucky Area" to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	* * * *	*	*	*
8-Hour Ozone Maintenance Plan for the Christian County, Kentucky area.	Christian County	05/20/2005	01/25/06 [Insert citation of publication]	

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.318, the table entitled "Kentucky—Ozone (8-Hour Standard)" is amended by revising the entry for "Clarksville-Hopkinsville, TN-KY: Christian County" to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—OZONE (8-HOUR STANDARD)

Designation	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* *	*	* *	*	*
Clarksville-Hopkinsville, TN-KY Area: Christian County	02/24/06	Attainment.		
* *	*	* *	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. 06–635 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–11; MB Docket No. 03–219; RM–10797, RM–11094]

Radio Broadcasting Services; Clemmons, NC, Iron Gate, VA and Statesville, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Mercury Broadcasting Company, Inc., licensee of Station WFMX (FM), Statesville, North Carolina, Channel 289C1 is substituted for Channel 289C at Statesville, realloted from Statesville to Clemmons, North Carolina, as the community's first local transmission service, and the license for Station WFMX (FM) is modified to reflect the changes. To accommodate the counterproposal filed by Dick Broadcasting Company of Tennessee, licensee of Stations WKZL (FM), Winston-Salem, North Carolina, and WKRR (FM), Asheboro, North Carolina, Channel 270A is allotted at Iron Gate, Virginia. Channel 289C1 is reallotted at Clemmons at a site 32 kilometers (19.9 miles) north of the community at coordinates 36–17–30 NL and 80–15–30 WL. Channel 270A is allotted at Iron Gate, Virginia with a site restriction of 1.5 kilometers (0.9 miles) northwest of the community at coordinates 37–48–14 NL and 79–48–23 WL.

DATES: Effective February 21, 2006.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 06–11, adopted January 4, 2006, and released January 6, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, or via e-mail *qualexint@aol.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ 47 CFR part 73 is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by adding Clemmons, Channel 289C1 and by removing Channel 289C at Statesville.

■ 3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Iron Gate, Channel 270A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–706 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 05–198; MB Docket No. 05–47; RM–11157, RM–11179, RM–11232]

Radio Broadcasting Services; Dubach, LA, Groesbeck, TX, Longview, TX, Nacogdoches, TX, Natchitoches, LA, Oil City, LA, Shreveport, LA, Tennessee Colony, TX and Waskom, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Counterproposal filed by Cumulus Licensing LLC in response to the *Notice of Proposed Rule Making* in this proceeding. *See* 70 FR 8558, February 22, 2005. Specifically, the license of Station KBED, Channel 300C2, Oil City, Louisiana, is modified to specify operation on Channel 247C2 at Waskom, Texas. To accommodate this reallotment, this document makes four related channel substitutions. Channel 300C2 is substituted for vacant Channel 247C2 at Longview, Texas. The license of Station KTBQ, Channel 299C2, Nacogdoches, Texas, is modified to specify operation on Channel 299C3. The license of Station KDBH, Channel 247C3, Natchitoches, Louisiana, is modified to specify operation on Channel 248A. The license of Station KPCH, Channel 249C1, Dubach, Louisiana, is modified to specify operation on Channel 249C2. To replace the loss of the sole local service at Oil City, this document modifies the license of Station KRMD, Channel 266C, Shreveport, Louisiana, to specify Oil City as the community of license. The reference coordinates for the Channel 247C2 allotment at Waskom, Texas, are 32–29–36 and 93–45–55. The reference coordinates for the Channel 266C allotment at Oil City, Louisiana, are 32–40–08 and 93–52–45. The reference coordinates for the Channel 300C2 allotment at Longview, Texas, are 32–42–01 and 94–40–47. The reference coordinates for the Channel 299C3 allotment at Nacogdoches, Texas, are 31–38–09 and 94–38–50. The reference coordinates for the Channel 248A allotment at Natchitoches, Louisiana, are 31–46–09 and 93–01–38. The reference coordinates for the Channel 249C2 allotment at Dubach, Louisiana, are 32–40–09 and 92–37–58. With this action, the proceeding is terminated.

DATES: Effective February 21, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Report and Order* in MB Docket No. 05–47 adopted November 28, 2005, and released December 2, 2005. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the table of FM Allotments under Louisiana, is amended by removing Channel 249C1 and adding Channel 249C2 at Dubach, by removing Channel 247C3 and adding Channel 248A at Natchitoches, by removing Channel 300C2 and adding Channel 266C at Oil City, and by removing Channel 266C at Shreveport.

■ 3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 247C2 and adding Channel 300C2 at Longview, by adding Channel 299C3 at Nacogdoches, by adding Waskom, Channel 247C2.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 06–705 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–12]

Radio Broadcasting Services; Augusta, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Augusta/Bracken Broadcasting directed at the staff's letter action dismissing the Petition for Rulemaking proposing the allotment of Channel 294A at Augusta, Kentucky, as the community's first local aural transmission service.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* adopted January 4, 2006 and released January 6, 2006. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will not send a copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the aforementioned petition for reconsideration was denied.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–577 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–10, MB Docket No. 03–149; RM–10725]

Radio Broadcasting Services; Burnet, Calvert, Cameron, Elgin, Grapeland, Junction, and Mason, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document dismisses the underlying proposal filed by Robert Fabian for a Channel 280A allotment at Grapeland, Texas, and denies a Counterproposal filed by Elgin FM Limited Partnership in response to the *Notice of Proposed Rule Making* in this proceeding. *See* 68 FR 42664, July 18, 2003. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Report and Order* in MB Docket No. 03–149 adopted January 4, 2006, and released January 6, 2006. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–576 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–19; MB Docket No. 03–74, RM–10676]

Radio Broadcasting Services; Eden, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Linda Crawford, allots Channel 294A at Eden, Texas, as the community's second local FM service. Channel 294A can be allotted to Eden, Texas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.4 kilometers (7.1 miles) southwest of Eden. The coordinates for Channel 294A at Eden, Texas, are 31–10–00 North Latitude and 99–57–01 West Longitude. Although Mexican concurrence has been requested, notification has not been received. If a construction permit for Channel 294A at Eden, Texas, is granted prior to receipt of formal concurrence by the Mexican government, the authorization will include the following condition: "Operation with the facilities specified herein for Eden, Texas, is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Mexico-United States FM Broadcast Agreement, or if specifically objected to by the Government of Mexico."

DATES: Effective February 21, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 03–74, adopted January 4, 2006, and released January 6, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 294A at Eden.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–754 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 71, No. 16
Wednesday, January 25, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 724

RIN 3206–AK55

Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002—Reporting & Best Practices

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing regulations to carry out the reporting and best practices requirements of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act). The No FEAR Act requires Federal agencies to report annually on certain topics related to Federal antidiscrimination and whistleblower protection laws. The No FEAR Act also requires a comprehensive study to determine the Executive Branch's best practices concerning disciplinary actions against employees for conduct that is inconsistent with these laws. This proposed rule will implement the reporting and best practices provisions of the No FEAR Act.

DATES: Comments must be received on or before March 27, 2006.

ADDRESSES: Send or deliver written comments to Ana A. Mazzi, Deputy Associate Director for Workforce Relations and Accountability Policy, Office of Personnel Management, Room 7H28, 1900 E Street NW., Washington, DC, 20415; by FAX at (202) 606–2613; or by e-mail at *NoFEAR@opm.gov*.

FOR FURTHER INFORMATION CONTACT: Gary D. Wahlert by telephone at (202) 606–2930; by FAX at (202) 606–2613; or by e-mail at *NoFEAR@opm.gov*.

SUPPLEMENTARY INFORMATION: The United States and its citizens are best served when the Federal workplace is free of discrimination and retaliation. In order to maintain a productive workplace that is fully engaged with the many important missions before the Government, it is essential that the rights of employees, former employees and applicants for Federal employment under antidiscrimination and whistleblower protection laws be protected and that agencies that violate these rights be held accountable. Congress has found that agencies cannot be run effectively if those agencies practice or tolerate discrimination. Furthermore, Congress has found that requiring Federal agencies to provide annual reports on discrimination, whistleblower, and retaliation cases should enable Congress to improve its oversight of compliance by agencies with laws covering these types of cases. Finally, Congress has required that the President or his designee conduct a study of discipline taken against Federal employees for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws. The results of this study are then to be used to develop advisory guidelines that Federal agencies may follow to take such disciplinary actions. Congress entrusted the President with the authority to promulgate rules to carry out this title, and the President in turn delegated to OPM the authority to issue proposed regulations to implement the annual reporting and best practices provisions of Title II of the Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107–174. These proposed regulations carry out that authority.

Reporting Obligations

Section 203 of the No FEAR Act requires Federal agencies to create annual reports on a number of items concerning Federal antidiscrimination and whistleblower protection laws as defined in section 201 of 5 CFR part 724. The reports are to be submitted to Congress, the Equal Employment Opportunity Commission, the Attorney General, and OPM. These regulations describe the required content and time line for the reports. Agencies are required to include in their first reports a one-time submission of five years of historical data, to the extent the data is available.

The regulations call on agencies to report on numbers and types of disciplinary actions they have taken against their employees for conduct that is inconsistent with these laws. For purposes of these regulations, we propose to define "discipline" to include a range of actions that might be taken from reprimands through adverse actions such as removals and reductions in grade. This range reflects the types of actions that adjudicators and neutrals (mediators or others) have considered to be elements of an employee's past disciplinary record for purposes of determining the appropriateness of a penalty in an appeal of a subsequent disciplinary action. In addition, OPM is considering expanding the range of disciplinary actions reported to include unwritten actions such as oral admonishments. Consequently, OPM requests that respondents include in their comments any views as to whether unwritten actions, such as oral admonishments should be reported under the No FEAR Act.

The regulations also require that agencies discuss in detail their policies for taking appropriate disciplinary action(s) against their employees for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws. This information, in turn, will assist OPM in conducting a comprehensive study of the best practices in the Executive Branch for taking appropriate disciplinary actions for conduct that is inconsistent with these laws.

Agencies are also required by the regulations to report the amounts reimbursed to the Judgment Fund for payments made in connection with litigation in Federal court about alleged violations of Federal antidiscrimination and whistleblower protection laws. To the extent such payments are made as part of a settlement agreement, those payments alone, and absent any other information, should not be construed as an admission of wrong-doing by any party to the proceedings.

The regulations require reporting the dollar amounts involved, including a category for attorneys' fees where such fees are separately designated. Agencies are also required to discuss any adjustments to their agencies' budgets needed to meet their obligations to reimburse the Fund.

Finally, the regulations note that the reports are due 180 days after the end of each fiscal year. The first reports under the No FEAR Act were due on

March 30, 2005, based on the express terms of the statute and without regard to the status of the regulations. Thereafter, under the terms of the statute, these reports are due annually on March 30th. We recognize that many agencies already have submitted their reports based on their interpretations of the Act. In those cases, within 60 calendar days after the regulations become final, agencies will need to compare their reports with the regulations, supplement their earlier reports as necessary, and submit the supplemental information to the agencies receiving the annual reports, including OPM. Any such supplemental information would be due within 60 calendar days after the regulations become final. Agencies submitting supplemental reports must cover the data elements described in section 302(a)(1–8)(9 is excluded) of the regulations. Agencies submitting their reports after these regulations become final and any future reports must cover all data elements described in section 302(a). In all cases, agencies' first reports (and/or supplements) would cover information as of September 30, 2004. In addition, agencies that submitted reports before these regulations became final must submit copies of the entire reports to OPM within 60 calendar days after the regulations become final.

Best Practices

Section 204 of the No FEAR Act requires that the President or his designee issue rules to require a comprehensive study of the Executive Branch to determine the best practices concerning appropriate disciplinary actions agencies take against their employees for conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws. The Act also requires the President or his designee to develop advisory guidelines based on this study that agencies can follow in taking appropriate disciplinary actions in such circumstances.

The regulations establish that the comprehensive study will be conducted by OPM. OPM welcomes comments on what and how performance should be measured to determine the effectiveness of agency disciplinary actions subject to the No FEAR Act. The regulations also provide that, as part of the study, OPM will review what agencies submit in their first reports under section 302 of the regulation. These regulations call for agencies to describe in detail their policies for taking disciplinary actions against employees for conduct that is inconsistent with the above laws.

Finally, the regulations state that OPM will issue advisory guidelines to agencies on best practices they may follow in taking such disciplinary actions. Congress requires that agencies state specifically and in detail the extent to which they will follow the guidelines. The regulations require that these statements be in writing and state the extent to which the agency expects to implement the guidelines and the reasons for the stated degree of implementation. These statements must be submitted to Congress, the Attorney General, the Equal Employment Opportunity Commission, and OPM within 30 working days from the date OPM issues the advisory guidelines.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

E.O. 12866—Regulatory Review

This proposed rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

E.O. 13132

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

E.O. 12988—Civil Justice Reform

This regulation meets the applicable standard set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights of obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 5 CFR Part 724

Administrative practice and procedure, Civil rights, Claims.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, OPM proposes to amend part 724, title 5, Code of Federal Regulations, as follows:

PART 724—IMPLEMENTATION OF TITLE II OF THE NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT OF 2002

1. In § 724.102 of subpart A, add a new definition for discipline in alphabetical order to read as follows:

§ 724.102 Definitions.

* * * * *

Discipline means any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal.

* * * * *

2. In part 724, add subparts C and D to read as follows:

Subpart C—Annual Report

Sec.

Subpart C—Annual Report

§ 724.301 Purpose and scope.

This subpart implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 concerning the obligation of Federal agencies to report on specific topics concerning Federal Antidiscrimination Laws and Whistleblower Protection Laws covering employees, former employees, and applicants for Federal employment.

§ 724.302 Reporting obligations.

(a) Except as provided in paragraph (b) of this section, each agency must report no later than 180 days after the end of each fiscal year the following items:

(1) The number of cases in Federal court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws as defined in § 724.102 of subpart A of this

part in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws separating data by the provision(s) of law involved;

(2) In the aggregate, for the cases identified in paragraph (1) of this subsection and separated by provision(s) of law involved:

(i) The status or disposition (including settlement);

(ii) The amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in § 724.102 of subpart A of this part;

(iii) The amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated;

(3) In connection with cases identified in paragraph (1) of this subsection, the total number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part and the specific nature, *e.g.*, reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved;

(4) The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing § 301(c)(1)(B) of the No FEAR Act);

(5) Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part in *accordance with any agency policy* described in paragraph (a)(6) of this section. The specific nature, *e.g.*, reprimand, etc., of the disciplinary actions taken must be identified.

(6) A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws;

(7) An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 CFR 1614 subpart F of the Code of Federal Regulations. Such analysis must include:

(i) An examination of trends;

(ii) Causal analysis;

(iii) Practical knowledge gained through experience; and

(iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace;

(8) For each fiscal year, any adjustment needed or made to the budget of the agency to comply with its Judgment Fund reimbursement obligation(s) incurred under § 724.103 of subpart A of this part; and

(9) The agency's written plan developed under § 724.203(a) of subpart B of this part to train its employees.

(b) The first report also must provide information for the data elements in paragraph (a) of this section for each of the five fiscal years preceding the fiscal year on which the first report is based to the extent that such data is available. Under the provisions of the No FEAR Act, the first report was due March 30, 2005 without regard to the status of the regulations. Thereafter, under the provisions of the No FEAR Act, agency reports are due annually on March 30th. Agencies that have submitted their reports before these regulations became final must ensure that their reports contain data elements 1 through 8 of paragraph (a) of this section and provide any necessary supplemental reports within 60 calendar days after the regulations become final. Future reports must include all of the data elements of paragraph(a) of this section.

(c) Agencies must provide copies of each report to the following:

(1) Speaker of the U.S. House of Representatives;

(2) President Pro Tempore of the U.S. Senate;

(3) Committee on Governmental Affairs, U.S. Senate;

(4) Committee on Government Reform, U.S. House of Representatives;

(5) Each Committee of Congress with jurisdiction relating to the agency;

(6) Chair, Equal Employment Opportunity Commission;

(7) Attorney General; and

(8) Director, U.S. Office of Personnel Management.

Subpart D—Best Practices

Sec.

Subpart D—Best Practices

§ 724.401 Purpose and scope.

This subpart implements Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 concerning the obligation of the President or his designee (OPM) to conduct a comprehensive study of best practices in the Executive Branch for taking disciplinary actions against employees for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws and the obligation to issue advisory guidelines for agencies to follow in taking appropriate disciplinary actions in such circumstances.

§ 724.402 Best practices study.

(a) OPM will conduct a comprehensive study in the Executive Branch to identify best practices for taking appropriate disciplinary actions against Federal employees for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws.

(b) The comprehensive study will include a review of agencies' discussions of their policies for taking such disciplinary actions as reported under § 724.302 of subpart C of this part.

§ 724.403 Advisory guidelines.

OPM will issue advisory guidelines to Federal agencies incorporating the best practices identified under § 724.402 that agencies may follow to take appropriate disciplinary actions against employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Laws.

§ 724.404 Agency obligations.

(a) Within 30 working days of issuance of the advisory guidelines required by § 724.403, each agency must prepare a written statement describing in detail:

(1) Whether it has adopted the guidelines and if it will fully follow the guidelines;

(2) If such agency has not adopted the guidelines, the reasons for non-adoption; and

(3) If such agency will not fully follow the guidelines, the reasons for the decision not to do so and an explanation of the extent to which the agency will not follow the guidelines.

(b) Each agency's written statement must be provided within the time limit stated in paragraph (a) of this section to the following:

(1) Speaker of the U.S. House of Representatives;

(2) President Pro Tempore of the U.S. Senate;

(3) Chair, Equal Employment Opportunity Commission;

(4) Attorney General; and

(5) Director, U.S. Office of Personnel Management.

[FR Doc. E6–933 Filed 1–24–06; 8:45 am]
BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 57

[Docket No. PY–02–003]

RIN 0581–AC25

Update Administrative Requirements for Voluntary Shell Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the **ADDRESSES** section of the proposed rule published in the **Federal Register** on January 13, 2006, regarding Voluntary Shell Egg, Poultry, and Rabbit Grading. This correction clarifies that comments may be submitted electronically to an e-mail address.

FOR FURTHER INFORMATION CONTACT: Charles L. Johnson, Chief, Grading Branch, (202) 720–3271.

Correction

In the proposed rule FR Doc. E6–258, published January 13, 2006, (71 FR 2168) make the following correction. On page 2168, in the first column, information appearing in the **ADDRESSES** section is corrected to read as follows:

ADDRESSES: Send written comments to David Bowden, Jr., Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, STOP 0259, Room 3944-South, 1400 Independence Avenue, SW., Washington, DC 20250–0259. Also, comments may be faxed to (202) 690–0941. Comments should be submitted in duplicate. Comments may also be submitted electronically to: *AMSPYDockets@usda.gov* or *http://www.regulations.gov*. All comments should refer to Docket No. PY–02–003 and note the date and page number of this issue of the **Federal Register.** All comments received will be made available for public inspection at the above location during regular business hours. Comments received also will be made available in the rulemaking section of the AMS Web site *http://www.ams.usda.gov/rulemaking*. A copy of this proposed rule may be found at *http://www.ams.usda.gov/poultry/regulations/index/html*.

Dated: January 19, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–905 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB97

Common Crop Insurance Regulations, Peanut Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Peanut Crop Insurance Provisions to remove all references to quota and non-quota peanuts and add provisions that will allow coverage for peanuts whether or not they are under contract with a sheller to better meet the needs of insured producers. The changes will apply for the 2007 and succeeding crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business March 27, 2006 and will be considered when the rule is to be made final. Comments on information collection under the Paperwork Reduction Act of 1995 must be received on or before March 27, 2006.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676. Comments titled "Peanut Crop Provisions" may be sent via the Internet to *DirectorPDD@rm.fcic.usda.gov*, or the Federal eRulemaking Portal: *http://www.regulations.gov/*. Follow the online instructions for submitting comments. A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., c.s.t., Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Risk Management Specialist, Research and Development, Product Development Division, Risk Management Agency, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through November 30, 2007.

Government Paperwork Elimination Act (GPEA) Compliance

FCIC is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public with the option of submitting information or transacting business electronically to the maximum extent possible. FCIC requires that all reinsured companies be in compliance with the Freedom to E-File Act and section 508 of the Rehabilitation Act.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss.

Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 and 7 CFR part 400, subpart J for the informal administrative review process of good farming practices, as applicable, must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the Common Crop Insurance Regulations; Peanut Crop Insurance Provisions to remove all references to quota and non-quota peanuts because the Farm Security and Rural Investment Act of 2002 eliminated the peanut quota program as administered by the Farm Service Agency (FSA). FCIC anticipated that quotas could be eliminated years ago and previously included provisions that permitted guarantees to be based on the actual production history of the producer. This has allowed the program to operate since 2002. However, reference to quotas in the pricing methodology and other provisions has caused some confusion that will be eliminated when references are removed.

The proposed changes are as follows:

Section 1—Definitions—Add definitions for "base contract price," "handler," "harvest," "marketing association," "price election," "sheller," and "sheller contract" since these terms are required to provide insurance under a sheller contract. To the maximum extent practicable, these definitions will be given the same meaning as similar terms in other insured contracted crops. Revise the definition of "farmers' stock peanuts" to specifically state farmer stock peanuts have to be picked and threshed. Revise the definition of "planted acreage" to recognize peanuts are sometimes planted with two rows close together followed by a space wide enough to permit mechanical cultivation followed by two rows planted close together. This revision allows peanut producers to cultivate their peanuts in a manner recognized by agriculture experts as a good farming practice. Remove the definitions of "approved yield," "county," and "production guarantee (per acre)" because these definitions will now be the same as the definitions in the Basic Provisions. Remove the definitions of "average price per pound," "average support price per pound," "CCC," "effective poundage marketing quota," "inspection certificate and sales memorandum," "non-quota peanuts," "quota peanuts," "segregation I, II, or III," and "value per pound" because the elimination of the peanut quotas make these definitions no longer applicable to the Crop Provisions.

Section 2—Revise section 2 to specify that if the producer insures any peanuts in accordance with a sheller contract all of the producer's peanut acreage in the county will be considered one enterprise unit. It is possible for producers to have several sheller contracts with different prices. Requiring that all peanut acreage in the county be included in one enterprise unit prevents the producer from shifting production from a unit with a higher price to a unit with a lower price in order to create or increase an indemnity. The producer must report all applicable information separately by sheller contract on the acreage report and any claim forms. However, the information for each contract will be aggregated to obtain the total information for the unit. This requirement for reporting separately, and aggregating for the unit, is also necessary if the producer has both peanuts under a sheller contract and non-contract peanuts in the same unit.

Regardless of whether the peanuts are covered by a sheller contract, if the producer elects to insure all of the peanuts in the county using the price election provided by FCIC, the producer will be eligible for unit division (optional, basic, or enterprise) in accordance with section 34 the Basic Provisions if the requirements for such units are met.

Section 3—Remove the references to quota and non-quota peanuts, quota price elections, and the effective poundage marketing quota throughout the section. FCIC is also proposing to now cover peanuts under contract with a sheller at the contract price. Currently, there is only one price election announced by FCIC that is applicable to all peanuts but many producers claim to receive a higher price for their peanuts under contract with shellers. These provisions will permit producers to insure their peanuts at the contract prices if all other conditions in the policy are met. Producers will still have the option to insure their peanuts that are not covered by a sheller contract under the FCIC announced price election. Further, even if the peanuts are covered by a sheller contract, the producer can still elect to insure them using the price election announced by FCIC.

In section 3(a), FCIC also proposes to revise the provisions to specify that the price election percentage the producer chooses for peanuts not insured using the sheller contract price (which also includes peanuts in excess of the amount required to fulfill the producer's sheller contract) and for peanuts insured using the sheller contract price must have the same percentage relationship to the maximum price election offered by the FCIC. For example, if the producer elects a 100 percent price election percentage for peanuts insured at the contract price, the producer must also elect a 100 percent price election percent for peanuts insured using FCIC's announced price election.

FCIC is proposing to revise a new section 3(b) to specify that producers who are insuring contracted peanuts cannot insure more pounds of peanuts than the production guarantee (per acre)

multiplied by the number of acres that will be planted to peanuts. Provisions are also added that specify that production under a sheller contract equal to or less than the production guarantee will be valued by using the price election computed from the base contract price stated in the sheller contract. If the producer did not contract for the total production guarantee, any loss more than the amount stated in the sheller contract will be valued using the price election provided by FCIC. These provisions are necessary to prevent the producer from over insuring his peanuts by producing more than are under contract and insuring all the peanuts produced at the contract price.

FCIC is proposing to remove the current section 3(c) because all producers will now be required to file an annual production report. The previous provisions states producers may be required to annually report production but since they now must report, and such reporting will be in accordance with section 3 of the Basic Provisions, there is no reason to have a separate report in these Crop Provisions. Removal of these provisions will result in a default to the requirements of section 3 of the Basic Provisions.

FCIC is proposing to add a new section 3(c) to specify that any peanuts excluded from the sheller contract at any time during the crop year will be insured at the price election announced by FCIC. Again, this provision is necessary to prevent the over insurance of the peanuts by valuing them at a contract price when they are no longer under contract.

Section 6—Remove the provisions regarding reporting the effective poundage marketing quota because it is no longer applicable and replacing them with provisions that require that a copy of all peanut sheller contracts must be provided to the insurance provider on or before the acreage reporting date if the producer wishes to insure the peanuts in accordance with the sheller contract. This will permit approved insurance providers to properly determine the production guarantees and premium owed.

Section 7—Remove and reserve this section because the elimination of the quotas will permit annual premium to be calculated in accordance with the provisions in the Basic Provisions.

Section 8—Restructure the section and add a new section 8(a)(5) to specify peanuts may be insured whether or not they are grown in accordance with a sheller contract. The policy allows insurance for both, the only issue is the value of the peanuts. The provision will specify that if the peanuts are not grown in accordance with the sheller contract, they will be valued at the price election announced by FCIC. This will prevent peanuts that do not qualify for the contract price from being insured at such price.

FCIC also proposes to add a new section 8(b) specifying when the producer will be considered to have a share in the insured crop. To be insured, the producer must have a risk of loss in the crop. However, there may be contracts where a set payment under the contract is guaranteed by the sheller and the sheller bears the entire risk of crop loss. In such circumstances, the producer would not have an insurable interest. This is consistent with other contracted crops.

FCIC also proposes to add a new section 8(c) that specifies that a peanut producer who is also a sheller or handler may establish an insurable interest if specified requirements are met. Since the sheller controls the contract price and the records of production to count, it is possible for such producers to manipulate losses. As a result, FCIC requires specific conditions to be met before producers who are shellers can insure the crop. This is consistent with other contracted crops.

Section 12—Restructure the section. FCIC also proposes to revise the provisions to make the statement in the Basic Provisions ineffective that states the replanting payment per acre will be limited to the producers actual cost for replanting and remove such references from section 12. The actual costs associated with replanting peanuts have increased over the years and seldom, if ever, would the actual cost be less than the maximum amount allowed in the Crop Provisions. However, it is very burdensome for the approved insurance providers to collect the records of the actual costs. Since such records are seldom ever used, there is no longer the need impose this burden on the approved insurance provider. This change should have little effect on the replant payment amounts. FCIC is also proposing to add a new section 12(d) to specify replanting payments will be calculated using the applicable price election and production guarantee for the crop type that is replanted and insured. A revised acreage report will also be required to reflect the replanted type, if applicable. There have been instances where producers have replanted a different insured crop type that has different yields and prices than the type originally planted. This could result in the crop being over-insured or under-insured if the production guarantee and prices were based on the crop type originally planted. Instead, FCIC has proposed to add provisions to ensure that the production guarantee and replanting payment are based on the yield and prices for the type that is replanted. A revised acreage report will be required to reflect the replanted type, as applicable.

Section 13—FCIC proposes to revise to remove those provisions that are now included in section 14 of the Basic Provisions.

Section 14—FCIC is proposing to remove section 14(b) because it pertains to marketing quotas, which have been eliminated rendering the provisions moot. FCIC also proposes to revise and restructure section 14(b) to remove all references to quotas and instead, allow a distinction to be made between peanuts insured under a sheller contract and the contract price and those that are insured at the FCIC announced price election. Further, FCIC proposes to add provisions that specify the priority given for the contract price to the production to count when there is more than one sheller contract. The production to count will be valued using the highest price election first and will continue in decreasing order to the lowest price election based on the amount or peanuts insured at each price election. These provisions are necessary to prevent the producer from over insuring their peanuts by producing more peanuts than are under contract and insuring all the peanuts produced at the contract price. FCIC also proposes to revise the computations to take into consideration the different values of peanuts depending on whether they are under contract or not. To the extent the producer is unable to fulfill the sheller contract, the value of such lost peanuts will be based on the contracted price. The value of peanuts lost over and above the contracted amount will be valued at the FCIC announced price.

Section 15—FCIC proposes to add a new provision to provide prevented planting coverage. Previously these provisions were in the Special Provisions and are being moved to the Crop Provisions to be consistent with other crops that have prevented planting provisions.

List of Subjects in 7 CFR Part 457

Crop insurance, Peanuts, Reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Revise the introductory text of § 457.134 to read as follows:

§ 457.134 Peanut crop insurance provisions.

The peanut crop insurance provisions for the 2007 and succeeding crop years are as follows:

* * * * *

3. Amend section 1 of § 457.134 by adding definitions for "base contract price," "enterprise unit," "handler," "harvest," "marketing associations," "price election," "sheller" and "sheller contract", revising definitions of "farmers' stock peanuts" and "planted acreage", and removing definitions of "approved yield," "average price per pound," "average support price per pound," "CCC," "county," "effective poundage marketing quota," "inspection certificate and sales memorandum," "non-quota peanuts," "production guarantee (per acre)," "quota peanuts," "segregation I, II, or III," and "value per pound" to read as follows:

1. Definitions

Base contract price. The price for farmers' stock peanuts stipulated in the sheller contract, without regard to discounts or incentives that may apply; not to exceed the maximum amount specified in the Special Provisions.

* * * * *

Enterprise unit. If you do not insure any peanuts in accordance with a sheller contract, an enterprise unit is in accordance with section 34 and the definition of "enterprise unit" in section 1 of the Basic Provisions. However, if you insure any peanuts in accordance with a sheller contract, in lieu of the definition of "enterprise unit" in section 1 of the Basic Provisions, an enterprise unit will be all insurable acreage of the peanuts in the county in which you have a share on the date coverage begins for the crop year.

Farmers' stock peanuts. Picked or threshed peanuts produced in the United States which are not shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels and excess moisture) from the condition in which peanuts are customarily marketed by producers.

* * * * *

Handler. A person who is a sheiler, a buying point, a marketing association, or has a contract with a sheller or a marketing association to accept all of the peanuts marketed through the marketing association for the crop year. The handler acquires peanuts for resale, domestic consumption, processing, exportation, or crushing through a business involved in buying and selling peanuts or peanut products.

Harvest. Removal of peanuts from the field.

Marketing association. A cooperative approved by the Secretary to issue payment programs for peanuts.

Planted acreage. In addition to the requirement in the definition in the Basic Provisions, peanuts must initially be planted in a row pattern which permits mechanical cultivation or in a manner that allows the peanuts to be cared for in a manner recognized by agriculture experts as a good farming practice. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Price election. In addition to the definition in the Basic Provisions, the price election for peanuts insured in accordance with a sheller contract will be the percentage you elect multiplied by the base contract price specified in the sheller contract.

Sheller. Any business enterprise regularly engaged in processing peanuts for human consumption, that possesses all licenses and permits for processing peanuts required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process contracted peanuts within a reasonable amount of time after harvest.

Sheller contract. A written agreement between the producer and a sheller, or between the producer and a handler, containing at a minimum:

(a) The producer's commitment to plant and grow peanuts, and to deliver the peanut production to the sheller or handler;

(b) The sheller's or handler's commitment to purchase all the production stated in the sheller contract (an option to purchase is not a commitment); and

(c) A base contract price.

If the agreement fails to contain any of these terms, it will not be considered a sheller contract.

4. Revise section 2 of § 457.134 to read as follows:

2. Unit Division

(a) If you insure any acreage in the county in accordance with one or more sheller contracts, you are only eligible for an enterprise unit on all insurable acreage of peanuts in the county.

(b) If you insure all acreage in the county under the price election announced by FCIC in accordance with the Basic Provisions, you may elect to insure your peanut acreage in the county as:

(1) An enterprise unit; or

(2) Any other unit structure you may qualify for under section 34 of the Basic Provisions.

5. Revise section 3 of § 457.134 to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) The price election percentage you choose for peanuts which are not insured in accordance with a sheller contract (may also include peanuts in excess of the amount required to fulfill your sheller contract) and for peanuts insured in accordance with a sheller contract must have the same percentage relationship to the maximum price election offered by us for peanuts not insured in accordance with a sheller contract. For example, if you choose 100 percent of the maximum price election for peanuts not insured in accordance with a sheller contract, you must also choose 100 percent of the applicable price election for peanuts insured in accordance with a sheller contract.

(b) You may insure your peanuts in accordance with a sheller contract, however, you may not insure for more pounds of peanuts than your production guarantee (per acre) multiplied by the number of acres that will be planted to peanuts.

(1) Any loss of production equal to or less than your production guarantee (per acre) will be valued by using the price election computed from the base contract price stated in your sheller contract.

(2) If you do not contract for your total production guarantee any loss above the amount stated in the contract will be valued based on the price election issued by FCIC.

(c) Any peanuts excluded from the sheller contract at any time during the crop year will be insured at the price election issued by FCIC and elected by you.

6. Revise section 6 of § 457.134 to read as follows:

6. Report of Acreage

In addition to the requirements of section 6 of the Basic Provisions, you must provide a copy of all sheller contracts to us on or before the acreage reporting date if you wish to insure your peanuts in accordance with your sheller contract.

7. Remove and reserve section 7 of § 457.134.

8. Revise section 8 of § 457.134 to read as follows:

8. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the peanuts in the county for which a premium rate is provided by the actuarial documents:

(1) In which you have a share;

(2) That are planted for the purpose of marketing as farmers' stock peanuts;

(3) That are a type of peanut designated in the Special Provisions as being insurable;

(4) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Planted for the purpose of harvesting as green peanuts;

(ii) Interplanted with another crop; or

(iii) Planted into an established grass or legume; and

(5) Whether or not the peanuts are grown in accordance with a sheller contract (if not grown in accordance with the sheller contract, the peanuts will be valued at the price election issued by FCIC for the purposes of determining the production guarantee, premium, and indemnity).

(b) You will be considered to have a share in the insured crop if, under the sheller contract, you retain control of the acreage on which the peanuts are grown, you are at risk of a production loss, and the sheller contract provides for delivery of the peanuts to the sheller or handler and for a stipulated base contract price.

(c) A peanut producer who is also a sheller or handler may establish an insurable interest if the following requirements are met:

(1) The producer must comply with these Crop Provisions;

(2) Prior to the sales closing date, the Board of Directors or officers of the sheller or the handler must execute and adopt a resolution that contains the same terms as a sheller contract. Such resolution will be considered a sheller contract under this policy; and

(3) Our inspection reveals that the processing facilities comply with the definition of a sheller contained in these Crop Provisions.

9. Revise section 12 of § 457.134 to read as follows:

12. Replanting Payments

(a) A replanting payment is allowed as follows:

(1) In lieu of provisions in section 13 of the Basic Provisions that limit the amount of a replant payment to the actual cost of replanting, the amount of any replanting payment will be determined in accordance with these Crop Provisions;

(2) Except as specified in section 12(a)(1), you must comply with all requirements regarding replanting payments contained in section 13 of the Basic Provisions; and

(3) The insured crop must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of:

(1) 20.0 percent of the production guarantee, multiplied by your price election, multiplied by your share; or

(2) $80.00 multiplied by your insured share.

(c) When the crop is replanted using a practice that is uninsurable for an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

(d) Replanting payments will be calculated using your price election and production guarantee for the crop type that is replanted and insured. A revised acreage report will be required to reflect the replanted type, if applicable.

10. Revise section 13 of § 457.134 to read as follows:

13. Duties in the Event of Damage or Loss

Representative samples are required in accordance with section 14 of the Basic Provisions.

11. Amend section 14 of § 457.134 as follows:

a. Remove paragraphs (b) and (g), redesignate paragraphs (c) through (f) as subsections (b) through (e) respectively;

b. Revise paragraph (a) and newly redesignated paragraph (b);

c. Amend newly redesignated paragraph (d)(3) by removing "(f)" and adding "(e)" in its place;

d. Revise newly redesignated paragraph (e); and

e. Remove the note at the end of section 14.

The revised and added text reads as follows:

14. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres by the respective production guarantee (per acre) for peanuts insured under a sheller contract at the base contract price and for peanuts not insured under a sheller contract or you have elected the FCIC issued price election, as applicable;

(2) Multiplying each result of section 14(b)(1) by the applicable price election for peanuts insured at the base contract price or the price election issued by FCIC, as applicable;

(3) Totaling the results of section 14(b)(2);

(4) Multiplying the production to be counted by the respective price election (If you have one or more sheller contracts, we will value your production to count by using your highest price election first and will continue in decreasing order to your lowest price election based on the amount or peanuts insured at each price election);

(5) Totaling the results of section 14(b)(4);

(6) Subtracting the result of section 14(b)(5) from the result of section 14(b)(3); and

(7) Multiplying the result in section 14(b)(6) by your share.

Example # 1 (without a sheller contract):

You have 100 percent share in 25 acres of Valencia peanuts in the unit, with a production guarantee (per acre) of 2,000 pounds, the price election is $0.17 per pound, and your production to be counted is 43,000 pounds.

(1) 25 acres × 2,000 pounds = 50,000 pound guarantee;

(2) 50,000 pound guarantee × $0.17 price election = $8,500.00 guarantee;

(4) 43,000 pounds of production to be counted × $0.17 price election = $7,310.00;

(5) $8,500.00 guarantee − $7,310.00 = $1,190.00; and

(6) $1,190.00 × 1.000 = $1,190.00; Indemnity = $1,190.00.

Example # 2 (with a sheller contract):

You have 100 percent share in 25 acres of Valencia peanuts in the unit, with a production guarantee (per acre) of 2,000 pounds. You have two sheller contracts, the first is for 25,000 pounds, price election (contract) is $0.23 per pound, and the second is for 10,000 pounds, price election (contract) is $0.21 per pound. The price election (non-contract) is $0.17 per pound, and your production to be counted is 43,000 pounds.

(1) 25 acres × 2,000 pounds = 50,000 pound guarantee;

(2) 25,000 pounds contracted × $0.23 price election (contract) = $5,750.00; 10,000 pounds contracted × $0.21 price

election (contract) = $2,100.00; 50,000 pound guarantee − 25,000 pounds contracted − 10,000 pounds contracted = 15,000 pounds not contracted; 15,000 pounds not contracted × $0.17 price election (non-contract) = $2,550.00;

(3) $5,750.00 + $2,100.00 + $2,550.00 = $10,400.00 guarantee;

(4) 43,000 pounds of production to be counted: 25,000 pounds contracted × $0.23 price election (contract) = $5,750.00; 10,000 pounds contracted × $0.21 price election (contract) = $2,100.00; 43,000 pounds of production to be counted − 25,000 pounds contracted (at $0.23 per pound) − 10,000 pounds contracted (at $0.21 per pound) = 8,000 pounds; 8,000 pounds × $0.17 price election (non-contract) = $1,360.00;

(5) $5,750.00 + $2,100.00 + $1,360.00 = $9,210.00;

(6) $10,400.00 guarantee − $9,210.00 = $1,190.00; and

(7) $1,190.00 × 1.000 = $1,190.00; Indemnity = $1,190.00.

* * * * *

(e) Mature peanuts may be adjusted for quality when production has been damaged by insurable causes.

(1) To enable us to determine the number of pounds, price per pound, and the quality of production for any peanuts that qualify for quality adjustment, we must be given the opportunity to have such peanuts inspected and graded before you dispose of them.

(2) If you dispose of any production without giving us the opportunity to have the peanuts inspected and graded, the gross weight of such production will be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the number of pounds, price per pounds, and quality of such peanuts.

(3) Such production to count will be reduced if the price per pound received for damaged peanuts is less than 85 percent of the applicable price election by:

(i) Dividing the price per pound, as determined by us in accordance with section 14(e)(1), received for the insured type of peanuts by the applicable price election; and

(ii) Multiplying this result by the number of pounds of such production.

12. Add a new section 15 of § 457.134 to read as follows:

15. Prevented Planting

Your prevented planting coverage will be 50 percent of your production guarantee for timely planted acreage. If you have additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

* * * * *

Signed in Washington, DC, on January 17, 2006.

Eldon Gould,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E6–855 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–08–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AH29

Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On November 7, 2005 (70 FR 67598), the Nuclear Regulatory Commission (NRC) published for public comment a proposed rule amending its regulations to permit current power reactor licensees to implement a voluntary, risk-informed alternative to the current requirements for analyzing the performance of emergency core cooling systems during loss-of-coolant accidents. On December 6, 2005, the Nuclear Energy Institute (NEI) requested a 30 day extension to the comment period for the proposed rule. On December 20, 2005, the Westinghouse Owners Group submitted a letter endorsing the NEI extension request. The extension requests were based on the occurrence of two major holidays during the comment period which limited the time available to coordinate industry comments from owners groups, vendors, and licensees. The NRC is extending the comment period on the proposed rule by an additional 30 days from the original February 6, 2006 deadline until March 8, 2006. This comment period extension also applies to related public comments submitted on the NRC report on Seismic Considerations for the Transition Break Size (70 FR 75501).

DATES: The comment period has been extended and now expires on March 8, 2006. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attn: Rulemakings and Adjudications Staff.

Hand delivered comments should also be addressed to the Secretary, U.S. Nuclear Regulatory Commission, and delivered to: 11555 Rockville Pike, Rockville, MD, between 7:30 am and 4:15 pm Federal workdays.

You may also provide comments via the NRC's interactive rulemaking Web site *http://ruleforum.llnl.gov*. This site also provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail: *CAG@nrc.gov*.

Certain documents relating to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Room O1–F21, Rockville, MD. The same documents may also be viewed and downloaded electronically via the rulemaking Web site; *http://ruleforum.llnl.gov*. Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 202–634–3273 or by e-mail to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Richard F. Dudley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–1116, e-mail *rfd@nrc.gov*.

Dated at Rockville, Maryland, this 18th day of January, 2006.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E6–857 Filed 1–24–06; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AE83

Business Loans and Development Company Loans; Liquidation and Litigation Procedures

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule; notice of reopening of the comment period.

SUMMARY: On November 3, 2005, SBA published in the **Federal Register** a proposed rule which establishes procedures for Certified Development Companies (CDCs) that are eligible for, and that request, authority from SBA to handle liquidation and litigation of loans that are funded with the proceeds of debentures guaranteed by the SBA under the 504 business loan program, and rights of appeal from denied applications; provides for new liquidation and debt collection litigation procedures for authorized CDCs and for lenders participating in the 7(a) business loan program (Lenders); establishes procedures for, and restrictions on, the payment by SBA of legal fees and expenses to CDCs and Lenders; requires Lenders to complete all cost-effective debt recovery actions prior to requesting guaranty purchase by SBA; limits to 120 days the number of days of interest that SBA will pay Lenders on 7(a) loans that have gone into default; revises SBA regulations pertaining to loan servicing actions; states that for 7(a) loans approved after the effective date of the rule, a Lender's consent to SBA's sale of certain 7(a) loans after guaranty purchase is granted; and clarifies existing regulations regarding the applicability of SBA regulations and loan program requirements, and regarding SBA purchases of guaranties. The proposed rule provided a 60-day comment period closing on January 3, 2006. We are re-opening the comment period until February 24, 2006, because we have been informed that, given the time of year, the public needs more time to formulate comments.

DATES: Comments on the proposed rule published at 70 FR 66800, November 3, 2005, must be received on or before February 24, 2006.

ADDRESSES: You may submit written comments, identified by agency name and RIN 3245–AE83 for this rulemaking, by any of the following methods: Follow instructions for submitting electronic comments through the Federal eRulemaking Portal: *http://www.regulations.gov;* E-mail: *james.hammersley@sba.gov,* include RIN number in the subject line of the message; Fax: (202) 481–2381; Mail or Hand Delivery/Courier: James Hammersley, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: January 19, 2006.

Michael W. Hager,

Associate Deputy Administrator for Capital Access.

[FR Doc. E6–881 Filed 1–24–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23675; Directorate Identifier 2001–NM–320–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2–203 and A300 B4–203 Airplanes; Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and Model A310–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that affects certain Airbus Model A300 series airplanes and all Model A300–600 and A310 series airplanes. That AD currently requires repetitive inspections of the pitch trim system to detect continuity defects in the autotrim function, and follow-on corrective actions if necessary. For certain airplanes, this proposed AD would also require replacing the flight augmentation computers (FACs) with new improved FACs. This proposed AD also revises the applicability of the existing AD. This proposed AD results from the development of a final action intended to address the unsafe condition. We are proposing this AD to prevent a sudden change in pitch due to an out-of-trim condition combined with an autopilot disconnect, which could result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by February 24, 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.

For service information identified in this proposed AD, contact Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2006–23675; Directorate Identifier 2001–NM–320–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 our docket web site, anyone can find and read the comments in any of our dockets, including the name of the individual

who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

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

Discussion

On November 6, 2000, we issued AD 2000–23–07, amendment 39–11977 (65 FR 68876, November 15, 2000), for certain Airbus Model A300 series airplanes and all Model A300–600 and A310 series airplanes. That AD requires repetitive inspections of the pitch trim system to detect any continuity defect in the autotrim function, and follow-on corrective actions if necessary. That AD was prompted by issuance of mandatory continuing airworthiness information by the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France. We issued that AD to prevent a sudden change in pitch due to an out-of-trim condition combined with an autopilot disconnect, which could result in reduced controllability of the airplane.

Actions Since Existing AD Was Issued

One operator reported an undetected slow pitch trim movement in the nose-down direction leading to an out-of-trim situation and airplane nose-down attitude during climb phase after autopilot engagement. Investigation revealed an open circuit in the existing flight augmentation computer (FAC) software design did not allow the FAC pitch trim monitoring function to provide automatic disengagement of pitch trim.

Since AD 2000–23–07 was issued, as a result of these new findings and the incidents that prompted AD 2000–23–07, a new FAC was developed for Model A300–600 and A310–200 and –300 series airplanes to restore full capability of the FAC autotrim monitoring function.

In AD 2000–23–07, we explain that we consider the requirements "interim action" and were considering further rulemaking. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Relevant Service Information

Airbus has issued Service Bulletins A300–22–6050, dated October 8, 2004, and A310–22–2058, dated April 6, 2005. The service bulletins describe procedures for replacing the FACs with new improved FACs. To ensure the continued airworthiness of these airplanes in France, the DGAC mandated the service information by issuing French airworthiness directive F–2005–111 R1, dated December 21, 2005. (The DGAC also mandated Airbus Service Bulletin A300–22–6041, described in AD 2000–23–07, for Model A300 B2–203 and A300 B4–203 airplanes, in French airworthiness directive F–2000–115–304 R5, dated July 6, 2005.) Accomplishing the actions specified in the service bulletins is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

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

We are proposing to supersede AD 2000–23–07. This proposed AD would retain the requirements of the existing AD. This action would also require accomplishing the actions specified in the service information described in this proposed AD.

Explanation of Changes to Existing AD

We have revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

AD 2000–23–07 requires operators to report their inspection findings. We no longer need this information and have removed this requirement from this proposed AD.

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

This AD would affect about 86 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

COST ESTIMATES

Action	Service bulletins	Work hours	Hourly labor rate	Parts cost	Total per airplane
Inspection required by AD 2000–03–07, per inspection cycle.	A300–22A6042, A300–22A0115, A310–22A2053.	1	$65	None	$65, per inspection cycle.
Proposed FAC replacement ...	A300–22–6050, A310–22–2058.	9	$65	$2,677	$3,262.

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 FAA amends § 39.13 by removing amendment 39–11977 (65 FR 68876, November 15, 2000) and adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2006–23675; Directorate Identifier 2001–NM–320–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by February 24, 2006.

Affected ADs

(b) This AD supersedes AD 2000–23–07.

Applicability

(c) This AD applies to the following Airbus airplanes, certificated in any category.

(1) Model A300 B2–203 and A300 B4–203 airplanes, as identified in Airbus Service Bulletin A300–22A0115, Revision 02, dated March 7, 2000.

(2) Model A300 B4–601, B4–603, B4–620, B4–622, A300 B4–605R, B4–622R, A300 F4–605R, F4–622R, and A300 C4–605R Variant F airplanes, except those modified in production by Airbus Modification 12932.

(3) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, except those modified in production by Airbus Modification 12932.

Unsafe Condition

(d) This AD results from the development of final action intended to address the unsafe condition. We are issuing this AD to prevent a sudden change in pitch due to an out-of-trim condition combined with an autopilot disconnect, which could result in 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.

Restatement of Requirements of AD 2000–23–07

Repetitive Inspections

(f) For airplanes subject to the requirements of AD 2000–23–07: At the applicable time specified by paragraph (f)(1) or (f)(2) of this AD, perform an inspection of the autotrim function by testing the flight control computer (FCC)/flight augmentation computer (FAC) integrity in logic activation of the autotrim, in accordance with Airbus Service Bulletin A300–22A6042, Revision 01 (for Model A300–600 series airplanes); A300–22A0115, Revision 02 (for Model A300 series airplanes); or A310–22A2053, Revision 01 (for Model A310 series airplanes); all dated March 7, 2000; as applicable. If any discrepancy is found, prior to further flight, perform all applicable corrective actions (including trouble-shooting; replacing the FCC and/or FAC, as applicable; retesting; checking the wires between certain FCC and FAC pins; and repairing damaged wires) in accordance with the applicable service bulletin. Repeat the inspection thereafter at intervals not to exceed 500 flight hours. Replacement of both FACs in accordance with paragraph (g) of this AD terminates the inspection requirements of this paragraph.

(1) For airplanes on which the pitch trim system test has been performed in accordance with the requirements of AD 2000–02–04, amendment 39–11522: Inspect within 500 flight hours after accomplishment of the test required by that AD, or within 20 days after December 20, 2000 (the effective date of AD 2000–23–07, whichever occurs later.

(2) For all other airplanes: Inspect within 20 days after December 20, 2000.

New Requirements of This AD

FAC Replacement

(g) At the time specified in Table 1 of this AD, replace the two FACs with new FACs in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–22–6050, dated October 8, 2004, or A310–22–2058, dated April 6, 2005; as applicable.

TABLE 1.—COMPLIANCE TIMES TO REPLACE FACS

Airplane model/series	Configuration	Required compliance time after the effective date of this AD
A300–600	Without accomplishment of Airbus Service Bulletin A300–22–6041, Revision 01, dated February 21, 2001, or previous version, or Modification 12277. And without accomplishment of Airbus Service Bulletin A300–22–6050, dated October 8, 2004, or Modification 12932.	24 months.
	With accomplishment of Airbus Service Bulletin A300–22–6041, Revision 01, dated February 21, 2001, or previous version, or Modification 12277. And without accomplishment of Airbus Service Bulletin A300–22–6050, dated October 8, 2004, or Modification 12932.	36 months.
A310	Without accomplishment of Airbus Service Bulletin A310–22–2052, Revision 01, dated November 8, 2001, or previous version, or Modification 12277. And without accomplishment of Airbus Service Bulletin A310–22–2058, dated April 6, 2005, or Modification 12931.	24 months.
	With accomplishment of Airbus Service Bulletin A310–22–2052, Revision 01, dated November 8, 2001, or previous version, or Modification 12277.	36 months.

TABLE 1.—COMPLIANCE TIMES TO REPLACE FACs—Continued

Airplane model/series	Configuration	Required compliance time after the effective date of this AD
	And without accomplishment of Airbus Service Bulletin A310–22–2058, dated April 6, 2005, or Modification 12931.	

Part Installation

(h) On or after the effective date of this AD, no person may install, on any airplane, any FAC having P/N B471AAM7 (for Model A300–600 series airplanes) or FAC P/N B471ABM4 (for Model A310 series airplanes), unless the FAC is in compliance with this AD.

Alternative Methods of Compliance (AMOCs)

(i)(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

(j) The subject of this AD is addressed in French airworthiness directives F–2005–111 R1, dated December 21, 2005, and F–2000–115–304 R5, dated July 6, 2005.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–897 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23392; Directorate Identifier 2005–NE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) Models 250–C30, 250–C40, and 250–C47 Series Turboshaft Engines

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 Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) (RRC) models 250–C30, 250–40, and 250–C47 series turboshaft engines. This proposed AD would add an additional life limit for third- and fourth-stage turbine wheels. This proposed AD results from analysis by RRC of failures of third- and fourth-stage turbine wheels. We are proposing this AD to prevent loss of power, possible engine shutdown, or uncontained failure.

DATES: We must receive any comments on this proposed AD by March 27, 2006.

ADDRESSES: Use one of the following addresses to comment 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 20590–0001.
- 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 Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206–0420; telephone (317) 230–6400; fax (317) 230–4243, for the service information identified in this proposed AD.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–8180; fax (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2005–23392; Directorate Identifier 2005–NE–47–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments 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 the DOT 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 AD Docket

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the DOT Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

Discussion

Rolls-Royce Corporation investigated and analyzed nine failures of third- and fourth-stage turbine wheels, installed in models 250–C30, 250–40, and 250–C47 series turboshaft engines. The analysis revealed that third- and fourth-stage turbine wheels can prematurely fail if they are operated too many times in the

transient overspeed region. This condition, if not corrected, could result in loss of power, possible engine shutdown, or uncontained engine failure.

Relevant Service Information

We have reviewed and approved the technical contents of RRC Alert Commercial Engine Bulletins (CEBs) No. CEB A–72–3272 (250–C30 series engines), No. CEB A–72–5048 (250–C40 series engines), and No. CEB A–72–6054 (250–C47 series engines), all Revision 1, all dated July 1, 2005 (combined in one document). These Alert CEBs contain revised transient overspeed limit tables, and include the steady-state avoidance range and new transient event thresholds. These Alert CEBs also include requirements to record events exceeding the "Event Threshold".

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require recording the number of times the third- and fourth-stage turbine wheels enter into the speed range between "Event Threshold" and "Maximum Overspeed Transient". This proposed AD would also require retiring and replacing third- and fourth-stage turbine wheels that accumulate six transient overspeed events based on certain duration and speed parameters. The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 1,300 engines installed on airplanes of U.S. registry. We also estimate that it would take about 42 work hours per engine to replace the third- and fourth-stage turbine wheels, and that the average labor rate is $65 per work hour. Required parts would cost about $25,000 per engine. We estimate that only 10% of all turbine wheel replacements would result from operators exceeding the new transient overspeed event limits. Based on these figures, we estimate the total potential maximum cost of the proposed AD to U.S. operators to be $3,604,900.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Rolls-Royce Corporation: Docket No. FAA–2005–23392; Directorate Identifier 2005–NE–47–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by March 27, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) (RRC) models 250–C30, 250–40, and 250–C47 series turboshaft engines. These engines are installed on, but not limited to, Bell 206L–3, Bell 206L–4, Bell 407, MDHI 369F, MDHI 369FF, MDHI 600N, and Sikorsky S–76A helicopters.

Unsafe Condition

(d) This AD results from analysis by RRC of failures of third- and fourth-stage turbine wheels. We are issuing this AD to prevent loss of power, possible engine shutdown, or uncontained failure.

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.

(f) Within 30 days after the effective date of this AD, record each time the third- and fourth-stage turbine wheels enter into the speed range between "Event Threshold" and "Maximum Overspeed Transient". Use paragraph 2.A. through 2.A.(5) of the Accomplishment Instructions and the applicable Figures 1 through 5 of RRC Alert Commercial Engine Bulletins (CEBs) No. CEB A–72–3272, No. CEB A–72–5048, and No. CEB A–72–6054, all Revision 1, all dated July 1, 2005 (combined in one document) to determine the speed range.

(g) Remove and retire any third-stage turbine wheel or fourth-stage turbine wheel after the sixth time the wheel enters into the speed range between "Event Threshold" and "Maximum Overspeed Transient".

Third- and Fourth-Stage Turbine Wheel Life Limits

(h) The retirement criteria in this AD are in addition to the existing third- and fourth-stage turbine wheel hour and cycle life limits. You must retire the wheels when you exceed any published life limit (transient speed excursions, hours, or cycles).

Alternative Methods of Compliance

(i) The Manager, Chicago Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) None.

Issued in Burlington, Massachusetts, on January 18, 2006.

Peter A. White,

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

[FR Doc. E6–898 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23673; Directorate Identifier 2005–NM–233–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP 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 EMBRAER Model EMB–135 and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This proposed AD would require inspecting to determine the part number of the ailerons. For airplanes with affected aileron part numbers, this proposed AD would require reworking the aileron damper fitting. For certain airplanes, this proposed AD would also require replacing the rod end of the aileron damper assembly with an improved rod end. This proposed AD results from reports of structural failure of the rod end of the aileron damper, which was caused by insufficient clearance between the lugs of the aileron damper fitting and the rod end of the aileron damper. We are proposing this AD to prevent failure of the aileron damper, which could result in failure of the aileron actuator and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by February 24, 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao-Jose dos Campos—SP, Brazil, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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–2006–23673; Directorate Identifier 2005–NM–233–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 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

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on all EMBRAER Model EMB–135 and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The DAC advises of reports indicating structural failure of the rod ends of the aileron damper. This failure has been attributed to insufficient clearance between the lugs of the aileron damper fitting and the rod end of the aileron damper. The insufficient clearance is associated with improper clearance between the rod end and its bearing race. A failed rod end is a hidden failure of the aileron damper. Flutter caused by failure of the aileron damper could result in failure of the aileron actuator. This condition, if not corrected, could result in reduced controllability of the airplane.

Relevant Service Information

EMBRAER has issued Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005, which is effective for airplanes that are equipped with an affected aileron. The service bulletin describes procedures for reworking the aileron damper fitting on the left- and right-hand sides of the airplane. For aileron dampers with certain part numbers and serial numbers, the service bulletin also describes procedures for replacing the rod end of the aileron damper assembly with an improved rod end on the left- and right-hand sides of the airplane. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DAC mandated the service information and issued Brazilian airworthiness directive 2005–10–04, dated November 17, 2005, to ensure the continued airworthiness of these airplanes in Brazil.

The EMBRAER service bulletin refers to Textron Service Bulletin 41012130–27–02, dated July 12, 2004, as an additional source of service information for replacing the rod end of the aileron damper assembly. The Textron service bulletin is included within the pages of the EMBRAER service bulletin.

FAA's Determination and Requirements of the Proposed AD

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

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection for Part Number	1	$65	None	$65	680	$44,200.
Rework	2	65	Free ..	130	680	$88,400.
Replacement	2	65	Free ..	130	Up to 680	Up to $88,400.

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):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2006–23673; Directorate Identifier 2005–NM–233–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by February 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB–135BJ, –135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from reports of structural failure of the rod end of the aileron damper, which was caused by insufficient clearance between the lugs of the aileron damper fitting and the rod end of the aileron damper. We are issuing this AD to prevent failure of the aileron damper, which could result in failure of the aileron actuator 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.

Part Number Determination

(f) Within 400 flight hours after the effective date of this AD: Inspect the ailerons on the left- and right-hand sides of the airplane to determine the part number (P/N). A review of airplane maintenance records is acceptable in lieu of this inspection if the P/N of the ailerons can be conclusively determined from that review.

(1) If the P/N of the aileron is not listed under "Affected components" in paragraph 1.A.(1) of EMBRAER Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005: No further action is required by this AD for that aileron.

(2) If the P/N of the aileron is listed under "Affected components" in paragraph 1.A.(1) of EMBRAER Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005: Do paragraph (g) of this AD.

Rework of Aileron Damper Fitting

(g) For any airplane equipped with an aileron having a P/N listed under "Affected components" in paragraph 1.A.(1) of EMBRAER Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005: Within 400 flight hours after the effective date of this AD, rework the aileron damper fitting on the left- and right-hand sides of the airplane, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005.

Replacement of the Rod End of the Aileron Damper Assembly

(h) For airplanes equipped with an aileron damper assembly having P/N 41012130–102, –103, or –104, and serial number 001 through 0712 inclusive: Within 400 flight hours after the effective date of this AD, replace the rod end of the aileron damper assembly, P/N 41011486–101, with an improved rod end, P/N 41011486–102, on the left- and right-hand sides of the airplane, in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005.

Note 1: EMBRAER Service Bulletin 145–27–0108, Revision 01, refers to Textron Service Bulletin 41012130–27–02, dated July 12, 2004, as an additional source of service information for replacing the rod end of the aileron damper assembly. The Textron service bulletin is included within the pages of the EMBRAER service bulletin.

Actions Accomplished Previously

(i) Actions accomplished before the effective date of this AD in accordance with EMBRAER Service Bulletin 145–27–0108, dated July 28, 2004, are acceptable for compliance with the corresponding actions required by this AD.

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) Brazilian airworthiness directive 2005–10–04, dated November 17, 2005, also addresses the subject of this AD.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–901 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23672; Directorate Identifier 2005–NM–237–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727, 727C, 727–100, 727–100C, and 727–200 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing transport category airplanes. This proposed AD would require determining if the terminal fittings of the spars of the wings are made of 7079 aluminum alloy material. For any positive finding, the proposed AD would require doing repetitive inspections for cracks and corrosion of all exposed surfaces of the terminal fitting bores; doing repetitive inspections for cracks, corrosion, and other surface defects, of all exposed surfaces, including the flanges, of the terminal fitting; applying corrosion inhibiting compound to the terminal fittings; and repairing or replacing any cracked, corroded, or defective part with a new part. This proposed AD also provides for an optional terminating action for the repetitive inspections. This proposed AD results from reports of cracking of the terminal fittings of the spars of the wings. We are proposing this AD to detect and correct stress-corrosion cracking of the terminal fittings, which could result in the failure of one of the terminal fitting connections. Such a failure, combined with a similar failure of one of the other three terminal fittings, could result in the inability of the airplane structure to carry fail-safe loads, which could result in loss of structural integrity of the wing attachment points.

DATES: We must receive comments on this proposed AD by March 13, 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: Daniel F. Kutz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6456; 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–2006–23672; Directorate Identifier 2005–NM–237–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

We have received reports of cracking of the terminal fittings of the front and rear spars of the wings. The affected terminal fittings were made from a 7079–T6 aluminum forging. This material is known to be susceptible to stress-corrosion cracking. This condition, if not detected and corrected, could result in the failure of one of the terminal fitting connections. Such a failure, combined with a similar failure of one of the other three terminal fittings, could result in the inability of the airplane structure to carry fail-safe loads, which could result in loss of structural integrity of the wing attachment points.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 727–57A0185, Revision 1, dated November 3, 2005. The service bulletin describes procedures for determining if the terminal fittings of the front and rear spars of the wings are made of 7079 aluminum alloy material by either inspecting the forging number or doing a conductivity test. For any case where the terminal fitting is determined to be made of 7079 aluminum alloy material or where the material cannot be determined, the service bulletin describes procedures for doing repetitive fluorescent dye penetrant inspections for cracks and corrosion of all exposed surfaces of the terminal fitting bores; doing repetitive detailed inspections for cracks, corrosion, and other surface defects, of all exposed surfaces, including the flanges, of the terminal fitting; applying corrosion inhibiting compound to the terminal fittings; and repairing any cracked, corroded, or defective part or contacting Boeing if necessary.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. 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 "Differences Between the Proposed AD and Service Bulletin." In addition, the proposed AD would provide for an optional terminating action for the repetitive inspections. The proposed AD also would require sending the initial inspection results to Boeing.

Differences Between the Proposed AD and Service Bulletin

The service bulletin 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.

In paragraph 1.E., the service bulletins states, "Contact Boeing for replacement of the fitting with a fitting not made from 7079 aluminum alloy. Replacement of the fitting is considered terminating action for that fitting only." However, the Accomplishment Instructions of the service bulletin do not contain any procedures for accomplishing this replacement. Therefore, this proposed AD specifies that the optional replacement be done in accordance with a method approved by the Manager, Seattle Aircraft Certification Office.

Interim Action

This proposed AD 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 extent of the cracking and corrosion of the terminal fittings of the front and rear spars of the wings in the fleet, and to develop additional action if necessary to address the unsafe condition. If additional action is identified, we may consider further rulemaking.

Costs of Compliance

There are about 302 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 157 airplanes of U.S. registry. The proposed determination of forging number/material identification would take about 4 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $40,820, or $260 per airplane.

Accomplishing the fluorescent dye penetrant and detailed inspections, if required, will take about 16 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, we estimate the cost of the inspections to be $1,040 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 adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–23672; Directorate Identifier 2005–NM–237–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by March 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 727, 727C, 727–100, 727–100C, and 727–200 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 727–57A0185, Revision 1, dated November 3, 2005.

Unsafe Condition

(d) This AD results from reports of cracking of the terminal fittings of the front and rear spars of the wings. We are issuing this AD to detect and correct stress-corrosion cracking of the terminal fittings, which could result in the failure of one of the terminal fitting connections. Such a failure, combined with a similar failure of one of the other three terminal fittings, could result in the inability of the airplane structure to carry fail-safe loads, which could result in loss of structural integrity of the wing attachment points.

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.

Determination of Type of Terminal Fittings, Repetitive Inspections, and Corrective Actions

(f) Within 24 months after the effective date of this AD, determine if the terminal fittings of the front and rear spars of the wings are made of 7079 aluminum alloy material by either inspecting the forging number or doing a conductivity test, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 727–57A0185, Revision 1, dated November 3, 2005.

(1) If the forging number is that identified in Table 1 of this AD, or if the terminal fitting material is not made of 7079 aluminum alloy: No further action is required by this AD for that terminal fitting only.

TABLE 1.—FORGING NUMBERS NOT MADE OF 7079 ALUMINUM ALLOY

Forging No. of terminal fittings	Location
(i) 65–16214–3	Rear spar of left wing.
(ii) 65–16213–3	Front spar of left wing.
(iii) 65–16214–4	Rear spar of right wing.
(iv) 65–16213–4	Front spar of right wing.

(2) If any forging number other than those identified in Table 1 of this AD is found, or if any forging material is made of 7079 aluminum alloy, or if the material cannot be determined: Within 24 months after the effective date of this AD, do the inspections specified in Table 2 of this AD and apply corrosion inhibiting compound (CIC) to the terminal fittings, and before further flight, repair or replace any cracked, corroded, or defective part found during the inspections. Repeat the inspections thereafter at intervals not to exceed 60 months for the first two repeat intervals, and then thereafter at intervals not to exceed 30 months. Do the inspections, application of CIC, and repair in accordance with the service bulletin, except as provided by paragraphs (h) and (i) of this AD. Do the replacement in accordance with paragraph (g) of this AD.

TABLE 2.—INSPECTIONS

Do—	For—	Of—
(i) A fluorescent dye penetrant inspection.	Cracks and corrosion	All exposed surfaces of the terminal fitting bores.
(ii) A detailed inspection	Cracks, corrosion, and other surface defects.	All exposed surfaces, including the flanges, of the terminal fitting.

Optional Terminating Action

(g) Replacement of any terminal fitting of the front and rear spars of the wings with a new terminal fitting not made of 7079 aluminum alloy, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, ends the repetitive inspections required by paragraph (f)(2) of this AD for that terminal fitting only. For the replacement to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

Exception to Service Information

(h) Where the service bulletin specifies to contact Boeing for appropriate action:

Before further flight, repair the cracked, corroded, or defective part using a method approved in accordance with the procedures specified in paragraph (l) of this AD, or replace in accordance with paragraph (g) of this AD.

(i) Although the note in paragraph 3.B.7. of the service bulletin specifies procedures for a fluorescent dye penetrant inspection of the body fitting bore and repair if necessary, those procedures are not required by this AD.

Parts Installation

(j) As of the effective date of this AD, no person may install any terminal fitting having forging number 65–16213–1/–2 or 65–16214–1/–2, or install any terminal fitting material made of 7079 aluminum alloy, on any airplane.

Reporting

(k) Submit a report of the findings (both positive and negative) of the initial inspection required by paragraph (f)(2) of this AD to Boeing Commercial Airplane Group, Attention: Manager, Airline Support, P.O. Box 3707, Seattle, WA 98124–2207, at the applicable time specified in paragraph (k)(1) or (k)(2) of this AD. The report must include the operator's name, inspection results, a detailed description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle 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.

(3) 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 January 17, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–903 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23578; Directorate Identifier 2006–CE–01–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries MU–2B Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Mitsubishi Heavy Industries (MHI) MU–2B series airplanes. This proposed AD would require you to do the following: Remove and visually inspect the wing attach barrel nuts, bolts, and retainers for cracks, corrosion, and fractures; replace any cracked, corroded, or fractured parts; inspect reusable barrel nuts and bolts for deformation and irregularities in the threads; replace any deformed or irregular parts; and install new or reusable parts and torque to the correct value. This proposed AD results from a recent safety evaluation that used a data-driven approach to evaluate the design, operation, and maintenance of the MU–2B series airplanes in order to determine their safety and define what steps, if any, are necessary to ensure their safe operation. Part of that evaluation was the identification of unsafe conditions that exist or could develop on the affected type design airplanes. We are issuing this proposed AD to detect and correct cracks, corrosion, fractures, and incorrect torque values in the wing attach barrel nuts, which could result in failure of the wing barrel nuts and/or associated wing attachment hardware. This failure could lead to in-flight separation of the outer wing from the center wing section and result in loss of controlled flight.

DATES: We must receive comments on this proposed AD by February 27, 2006.

ADDRESSES: Use one of the following addresses to comment 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: 1–202–493–2251.
- 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 Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, Minato-Ku, Nagoya, Japan, or Turbine Aircraft Services, Inc., 4550 Jimmy Doolittle Drive, Addison, Texas 75001; telephone: (972) 248–3108; facsimile: (972) 248–3321, for the service information identified in this proposed AD.

You may examine the comments on this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, "FAA–2006–23578; Directorate Identifier 2006–CE–01–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 rulemaking. Using the search function of the DOT docket web site, anyone can find and read the comments received into 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 Dockets

Where can I go to view the docket information? You may examine the docket that contains the proposal, any comments received and any final disposition on the Internet at *http://dms.dot.gov*, or in person at the DOT Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management Facility receives them.

Discussion

What events have caused this proposed AD? Recent accidents and the service history of the Mitsubishi MU–2B series airplanes prompted FAA to conduct an MU–2B Safety Evaluation. This evaluation used a data-driven approach to evaluate the design, operation, and maintenance of MU–2B series airplanes in order to determine their safety and define what steps, if any, are necessary to ensure their safe operation.

The safety evaluation provided an in-depth review and analysis of MU–2B incidents, accidents, safety data, pilot training requirements, engine reliability, and commercial operations. In conducting this evaluation, the team employed new analysis tools that provided a much more detailed root cause analysis of the MU–2B problems than was previously possible.

Part of that evaluation was to identify unsafe conditions that exist or could develop on the affected type design airplanes. One of these conditions is the discovery of the right wing upper forward and lower forward barrel nuts found cracked during a scheduled 7,500-hour inspection on one of the affected airplanes. The manufacturer conducted additional investigations of the barrel nuts on other affected airplanes. The result of this investigation revealed no other cracked barrel nuts. However, it was discovered that several airplanes had over-torqued barrel nuts, which could result in cracking.

What is the potential impact if FAA took no action? This condition, if not detected and corrected, could result in failure of the wing barrel nuts and/or associated wing attachment hardware. This failure could lead to in-flight separation of the outer wing from the center wing section and result in loss of controlled flight.

Relevant Service Information

Is there service information that applies to this subject? We have reviewed Mitsubishi Heavy Industries, Ltd. MU–2 Service Bulletin referenced as JCAB T.C.: No. 241, dated July 14, 2004, and MU–2 Service Bulletin referenced as FAA T.C.: No. 103/57–004, dated August 2, 2004.

What are the provisions of this service information? These service bulletins describe procedures for:

- Removing and inspecting the wing attach barrel nuts and retainer for cracks, corrosion, and fractures;
- Replacing any wing attach barrel nuts and retainer with cracks, corrosion, or fractures;
- Inspecting any bolts or barrel nuts to be reused for deformation or irregularities in the threads;
- Replacing any bolts or barrel nuts with deformation or irregularities in the threads; and
- Reinstalling the wing attach barrel nuts and hardware to the correct torque value.

Since Japan is the State of Design for the affected airplanes on one of the two type certificates, did the Japan Civil Airworthiness Board (JCAB) take any action? The MU–2B series airplane was initially certificated in 1965 and again in 1976 under two separate type certificates that consist of basically the same type design. Japan is the State of Design for TC No. A2PC, and the United States is the State of Design for TC No. A10SW. The affected models are as follows (where models are duplicated, specific serial numbers are specified in the individual TCs):

Type certificate	Affected models
A10SW	MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–35, MU–2B–36, MU–2B–36A, MU–2B–40, and MU–2B–60.
A2PC	MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–30, MU–2B–35, and MU–2B–36.

The JCAB approved Mitsubishi Heavy Industries, Ltd. MU–2 Service Bulletin referenced as JCAB T.C.: No. 241, dated July 14, 2004, and MU–2 Service Bulletin referenced FAA T.C.: No. 103/57–004, dated August 2, 2004, to ensure the continued airworthiness of these airplanes in Japan.

FAA's Determination and Requirements of the Proposed AD

Why have we determined AD action is necessary and what would this proposed AD require? We are proposing this AD to address an unsafe condition that we determined is likely to exist or develop on other products of this same type design. This proposed AD would require you to do the following:

- Remove and visually inspect the wing attach barrel nuts, bolts, and retainers for cracks, corrosion, and fractures;
- Replace any cracked, corroded, or fractured wing attach barrel nuts, bolts, and retainers with new parts;
- Inspect reusable barrel nuts and bolts for deformation and irregularities in the threads; replace any deformed or irregular wing attach barrel nuts or bolts with new parts; and
- Install new or reusable parts and torque to the correct value.

This proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 397 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × $65 per hour = $65	N/A	$65	$65 × 397 = $25,805.

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

Labor cost	Parts cost	Total cost per airplane to replace all 8 barrel nuts
11 work hours × $65 per hour = $715	$60 for each barrel nut. There are 8 barrel nuts on each airplane. Possible total cost of: $60 × 8 = $480.	$715 + $480 = $1,195.

Are there other actions that FAA is issuing that would present a cost impact on the MU–2B series airplane fleet? This is one of several actions that FAA is evaluating for unsafe conditions on the MU–2B airplanes. To date, this is the first proposed AD action to be taken.

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? 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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration 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):

Mitsubishi Heavy Industries, Ltd.: Docket No. FAA–2006–23578; Directorate Identifier 2006–CE–01–AD.

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) The FAA must receive comments on this AD action by February 27, 2006.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects the following Mitsubishi Heavy Industries, Ltd. airplane models and serial numbers that are certificated in any category:

Model	Serial numbers
MU–2B–10	101 through 347 (Except 313 and 321).
MU–2B–15	101 through 347 (Except 313 and 321).
MU–2B–20	101 through 347 (Except 313 and 321).
MU–2B–25	101 through 347 (Except 313 and 321), 313SA, 321SA, and 348SA through 394SA.
MU–2B–26	101 through 347 (Except 313 and 321), 313SA, 321SA, and 348SA through 394SA.
MU–2B–26A	313SA, 321SA, and 348SA through 394SA.
MU–2B–30	501 through 696 (Except 652 and 661).
MU–2B–35	501 through 696 (Except 652 and 661), 652SA, 661SA, and 697SA through 730SA.
MU–2B–36	501 through 696 (Except 652 and 661), 652SA, 661SA, and 697SA through 730SA.
MU–2B–36A	652SA, 661SA, and 697SA through 730SA.

What Is the Unsafe Condition Presented in This AD?

(d) This AD results from a recent safety evaluation that used a data-driven approach to evaluate the design, operation, and maintenance of the MU–2B series airplanes in order to determine their safety and define what steps, if any, are necessary to ensure their safe operation. Part of that evaluation was to identify unsafe conditions that exist or could develop on the affected type design airplanes. The actions specified in this AD are intended to detect and correct cracks, corrosion, fractures, and incorrect torque values in the wing attach barrel nuts, which could result in failure of the wing barrel nuts and/or associated wing attachment hardware. This failure could lead to in-flight separation of the outer wing from the center wing section and result in loss of controlled flight.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Remove each wing attach barrel nut, bolt, and retainer and do a detailed visual inspection for cracks, corrosion, and fractures.	Within the next 200 hours time-in-service (TIS) or 12 months after the effective date of this AD, whichever occurs first, unless already done.	Follow Mitsubishi Heavy Industries, Ltd. MU–2 Service Bulletins referenced as JCAB T.C.: No. 241, dated July 14, 2004, and FAA T.C.: No. 103/57–004, dated August 2, 2004, as applicable.
(2) If any signs of cracks, corrosion, or fractures are found on any wing attach barrel nut during the inspection required in paragraph (e)(1) of this AD, replace that wing attach barrel nut, bolt, and retainer with new parts and install to the correct torque value.	Before further flight after the inspection required in paragraph (e)(1) of this AD, unless already done.	Follow Mitsubishi Heavy Industries, Ltd. MU–2 Service Bulletins referenced as JCAB T.C.: No. 241, dated July 14, 2004, and FAA T.C.: No. 103/57–004, dated August 2, 2004, as applicable, and the appropriate maintenance manual.

Actions	Compliance	Procedures
(3) If no signs of cracks, corrosion, or fractures are found during the inspection required in paragraph (e)(1) of this AD, you may reuse the barrel nuts and bolts if they have been inspected and are free of deformation and irregularities in the threads. Reinstall inspected parts to the correct torque value. If the barrel nuts and bolts are not free of deformation and irregularities in the threads, install new parts to the correct torque value.	Before further flight after the inspection required in paragraph (e)(1) of this AD, unless already done.	Follow Mitsubishi Heavy Industries, Ltd. MU–2 Service Bulletins referenced as JCAB T.C.: No. 241, dated July 14, 2004, and FAA T.C.: No. 103/57–004, dated August 2, 2004, as applicable, and the appropriate maintenance manual.

May I Request an Alternative Method of Compliance?

(f) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD, if requested using the procedures found in 14 CFR 39.19.

(g) For information on any already approved alternative methods of compliance or for information pertaining to this AD, contact Andrew McAnaul, Aerospace Engineer, ASW–150 (c/o MIDO–43), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; telephone: (210) 308–3365; facsimile: (210) 308–3370.

Is There Other Information That Relates to This Subject?

(h) Mitsubishi Heavy Industries, Ltd. MU–2 Service Bulletins JCAB T.C.: No. 241, dated July 14, 2004, and FAA T.C.: No. 103/57–004, dated August 2, 2004, pertain to the subject of this AD.

May I Get Copies of the Documents Referenced in This AD?

(i) To get copies of the documents referenced in this AD, contact Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, Minato-Ku, Nagoya, Japan, or Turbine Aircraft Services, Inc., 4550 Jimmy Doolittle Drive, Addison, Texas 75001; telephone: (972) 248–3108; facsimile: (972) 248–3321. 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, or on the Internet at *http://dms.dot.gov*. The docket number is Docket No. FAA–2006–23578; Directorate Identifier 2006–CE–01–AD.

Issued in Kansas City, Missouri, on January 19, 2006.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–912 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23674; Directorate Identifier 2005–NM–234–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120, –120ER, –120FC, –120QC, and –120RT Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120, –120ER, –120FC, –120QC, and –120RT airplanes. This proposed AD would require a one-time inspection of the interior of the internal elevator torque tube of each elevator control surface for oxidation and corrosion, and corrective actions. This proposed AD results from corrosion in torque tubes of the elevators found during scheduled maintenance. We are proposing this AD to detect and correct corrosion in the torque tubes of the elevators, which could lead to an unbalanced elevator and result in reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by February 24, 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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–2006–23674; Directorate Identifier 2005–NM–234–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 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

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on all Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120, –120ER, –120FC, –120QC, and –120RT airplanes. The DAC advises that, during scheduled maintenance, corrosion was found inside the torque tubes of the elevators. Corrosion in the torque tubes can lead to an unbalanced elevator. This condition, if not corrected, could result in reduced controllability of the airplane.

Relevant Service Information

EMBRAER has issued Service Bulletin 120–55–0015, dated January 14, 2005. The service bulletin describes procedures for doing a visual inspection of the interior of the internal elevator torque tube of each elevator control surface for oxidation and corrosion, and corrective actions. If no oxidation or corrosion is found and the internal diameter of the torque tube is protected (painted), the corrective action includes cleaning the internal diameter and applying a corrosion inhibiting compound. If no oxidation or corrosion is found but the internal diameter of the torque tube is unprotected, the corrective action includes cleaning the internal diameter and applying a chemical conversion coating, finishing coat, and corrosion inhibiting compound. If only oxidation is found, the corrective action includes removing the oxidation and applying a chemical conversion coating, finishing coat, and corrosion inhibiting compound. If oxidation is found but cannot be completely removed or if any corrosion points are found, the corrective action includes removing the affected elevator; removing any oxidation or corrosion from the interior part of the torque tubes with sandpaper; and applying a chemical conversion coating, finishing coat, and corrosion inhibiting compound. If the thickness of the removed corrosion is greater than 0.005 inch, the corrective action is to replace the corroded torque tube with a new torque tube.

The DAC mandated the service information and issued Brazilian airworthiness directive 2005–10–03, dated November 3, 2005, to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Determination and Requirements of the Proposed AD

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

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the Proposed AD and Service Bulletin."

Difference Between the Proposed AD and Service Bulletin

Brazilian airworthiness directive 2005–10–03 is applicable to "all EMB–120( ) aircraft models in operation." However, this does not agree with EMBRAER Service Bulletin 120–55–0015, which states that only certain EMB–120 airplanes are affected and identifies them by serial number. This proposed AD would be applicable only to the airplanes listed in the service bulletin. This difference has been coordinated with the DAC.

Clarification of Inspection Terminology

The "visual inspection" specified in the EMBRAER service bulletin is referred to as a "detailed inspection" in this proposed AD. We have included the definition for a detailed inspection in a note in this proposed AD.

Costs of Compliance

This proposed AD would affect about 108 airplanes of U.S. registry. The proposed actions would take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $21,060, or $195 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD 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):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2006–23674; Directorate Identifier 2005–NM–234–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by February 24, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB–120, –120ER, –120FC, –120QC, and –120RT airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 120–55–0015, dated January 14, 2005.

Unsafe Condition

(d) This AD results from corrosion in torque tubes of the elevators found during scheduled maintenance. We are issuing this AD to detect and correct corrosion in the torque tubes of the elevators, which could lead to an unbalanced elevator and result in 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.

Detailed Inspection and Corrective Actions

(f) Within 4,000 flight hours or 730 days after the effective date of this AD, whichever is first: Do a detailed inspection of the interior of the internal elevator torque tube of each elevator control surface for oxidation and corrosion, and the applicable corrective actions, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of EMBRAER Service Bulletin 120–55–0015, dated January 14, 2005. The corrective actions must be done before further flight after accomplishing the inspection.

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)

(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 § 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) Brazilian airworthiness directive 2005–10–03, dated November 3, 2005, also addresses the subject of this AD.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–902 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2005–AL–0003–200539; FRL–8024–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of the Birmingham 8-Hour Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 16, 2005, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a request for parallel processing to redesignate the Birmingham 8-hour ozone nonattainment area (Birmingham area) to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS); and for EPA approval of an Alabama draft State Implementation Plan (SIP) revision containing a maintenance plan with a 2017 end year for the Birmingham area. The Birmingham area is composed of two counties, Jefferson and Shelby. EPA is proposing to approve the 8-hour ozone redesignation request for the Birmingham area. Additionally, EPA is parallel processing the redesignation request and draft 8-hour ozone maintenance plan SIP revision for the Birmingham area (a required component of any redesignation to attainment) and is proposing approval of this draft maintenance plan because EPA has determined that the draft plan complies with the requirements of Section 175A of the Clean Air Act (CAA).

This proposed approval is based on EPA's determination that Alabama has demonstrated that the Birmingham area has met the criteria for redesignation to attainment specified in the CAA, including the determination that the entire Birmingham area has attained the 8-hour ozone standard. In this action, EPA is also providing information on the status of its transportation conformity adequacy determination for the new motor vehicle emissions budgets (MVEBs) for the year 2017 that is contained in the 8-hour ozone maintenance plan for the Birmingham area. EPA is proposing to approve the 2017 MVEBs.

DATES: Written comments must be received on or before February 24, 2006.

ADDRESSES: Submit your comments, identified Docket ID No. EPA–R04–OAR–2005–AL–0003, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. E-mail: *lakeman.sean@epa.gov.*
3. Fax: 404.562.9019.
4. Mail: "EPA–R04–OAR–2005–AL–0003", Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. Hand Delivery or Courier. Deliver your comments to: Sean Lakeman Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. 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, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. "EPA–R04–OAR–2005–AL–0003". 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 *www.regulations.gov* or e-mail,

information that you consider to be CBI or otherwise protected. The *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 *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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the electronic docket are listed in the *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 Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Proposed Actions Is EPA Taking?

Through this rulemaking, EPA is proposing to take several related actions. The Birmingham area is a basic 8-hour nonattainment ozone area and is composed of two counties, Jefferson and Shelby. EPA is proposing to determine that the Birmingham area has attained the 8-hour ozone standard, and has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to approve the redesignation request to change the legal designation of the Birmingham area from nonattainment to attainment for the 8-hour ozone NAAQS.

EPA is also proposing to approve Alabama's 8-hour ozone maintenance plan for the Birmingham area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Birmingham area in attainment for the 8-hour ozone NAAQS through 2017.

Additionally, through this rulemaking, EPA is announcing the status of EPA's Adequacy Process for the newly-established 2017 MVEBs for the Birmingham area. The Adequacy comment period for the 2017 MVEBs began on November 17, 2005, with EPA's posting of the availability of this submittal on EPA's Adequacy Web site (at *http://www.epa.gov/otaq/transp/conform/adequacy.htm*). The Adequacy comment period for the 2017 MVEBs closed on December 19, 2005. No requests or adverse comments on this submittal were received during EPA's Adequacy comment period. EPA is proposing to approve the 2017 MVEBs. Please see section VII of this rulemaking for further explanation of this process.

II. What Is the Background for the Proposed Actions?

Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone. The CAA establishes a process for air quality management through the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour ozone standard. Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e. 0.084 ppm when rounding is considered). (See 69 FR 23857 (April 30, 2004) for further information). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50. Specifically, section 2.3 of 40 CFR part 50, Appendix I, "Comparisons with the Primary and Secondary Ozone Standards" states:

> The primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. The number of significant figures in the level of the standard dictates the rounding convention for comparing the computed 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration with the level of the standard. The third decimal place of the computed value is rounded, with values equal to or greater than 5 rounding up. Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm.

The CAA required EPA to designate as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years of ambient air quality data. The Birmingham 8-hour ozone nonattainment area was designated using 2001 to 2003 ambient air quality data. The **Federal Register** document making these designations was signed on April 15, 2004, and published on

April 30, 2004, (69 FR 23857). The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and control requirements for ozone nonattainment areas. (Both are found in title I, part D.) Subpart 1 (which EPA refers to as "basic" nonattainment) contains general, less prescriptive, requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as "classified" nonattainment) provides more specific requirements for certain ozone nonattainment areas. Some 8-hour ozone nonattainment areas are subject only to the provisions of subpart 1. Other 8-hour ozone nonattainment areas are also subject to the provisions of subpart 2. Under EPA's Phase I 8-hour ozone implementation rule (69 FR 23857), signed on April 15, 2004, an area was classified under subpart 2 based on its 8-hour ozone design value (i.e., the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations), if it had a 1-hour design value at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2). All other areas are covered under subpart 1, based upon their 8-hour ambient air quality design values. The Birmingham area was originally designated as a "basic" 8-hour ozone nonattainment area by EPA on April 30, 2004, (69 FR 23857) and is subject to subpart 1 of part D. In 2005, the ambient ozone data for the Birmingham nonattainment area indicated no further violations of the 8-hour ozone standard, using data from the 3-year period of 2003–2005 (with the 2003–2005 design value of 0.084 ppm), to demonstrate attainment.

On November 16, 2005, Alabama requested redesignation to attainment for the 8-hour ozone standard for the Birmingham area. The redesignation request includes three years of complete, quality-assured ambient air quality data for the ozone seasons of 2003 through 2005, indicating the 8-hour ozone NAAQS had been achieved for the Birmingham area. The ozone season for this area is from April 1 until October 31 of a calendar year. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements in section 107(d)(3)(E).

III. What Are the Criteria for Redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the State containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. "Technical Support Documents (TSD's) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17,1993;
8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why Is EPA Proposing These Actions?

On November 16, 2005, Alabama requested redesignation of the Birmingham area to attainment for the 8-hour ozone standard. EPA believes that Alabama has demonstrated that the Birmingham area has attained the standard and has met the requirements for redesignation set forth in section 107(d)(3)(E) of the CAA.

V. What Is the Effect of EPA's Proposed Actions?

Approval of this redesignation request would change the official designation of the Birmingham area for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Alabama SIP a plan for maintaining the 8-hour ozone NAAQS in the area through 2017. The 8-hour ozone maintenance plan includes contingency measures to remedy future violations of the 8-hour ozone NAAQS, and establishes MVEBs of 23 tons per day (tpd) for VOC, and 42 tpd for NO_X for the year 2017.

VI. What Is EPA's Analysis of the Request?

EPA is proposing to determine that the Birmingham 8-hour ozone nonattainment area has attained the 8-hour ozone standard, and that all redesignation criteria have been met. The basis for EPA's determination is as follows:

(1) *The Birmingham area has attained the 8-hour ozone NAAQS.*

EPA is proposing to determine that the area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over

each year must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

ADEM submitted ozone monitoring data from ten ambient ozone monitoring stations in the Birmingham area for the ozone seasons from 2003 to 2005. This data has been quality assured and is recorded in AQS. The fourth high averages for 2003, 2004 and 2005, and the 3-year average of these values (i.e. design value), are summarized in the following table:

8-HOUR OZONE

[Parts per million, ppm]

Monitor	County	4th high 8-hr ozone average			
		2003	2004	2005	3-year average
Fairfield	Jefferson	0.075	0.070	0.081	0.075
McAdory	Jefferson	0.073	0.073	0.085	0.077
Hoover	Jefferson	0.077	0.077	0.085	0.079
Pinson	Jefferson	0.081	0.068	0.072	0.073
Tarrant	Jefferson	0.075	0.068	0.084	0.075
Comer	Jefferson	0.077	0.068	0.077	0.074
Providence	Jefferson	0.070	0.070	0.079	0.073
N. Birmingham	Jefferson	0.068	0.070	0.079	0.072
Leeds	Jefferson	0.070	0.073	0.071	0.071
Helena	Shelby	0.083	0.084	0.085	0.084

The design value for an area is the highest design value recorded at any monitor in the area. Therefore, the design value for the Birmingham area is 0.084 ppm, which meets the standard as described above.

ADEM has also committed to continue monitoring in these areas in accordance with 40 CFR part 58. In summary, EPA believes that the data submitted by Alabama provides an adequate demonstration that the Birmingham 8-hour ozone nonattainment area has attained the 8-hour ozone NAAQS.

(2) *Alabama has a fully approved SIP under section 110(k) for the Birmingham area and*

(5) *Alabama has met all applicable requirements under section 110 and part D of the CAA.*

Below is a summary of how these two criteria were met.

EPA has determined that Alabama has met all applicable SIP requirements for purposes of redesignation for the Birmingham area under section 110 of the CAA (general SIP requirements). EPA has also determined that the Alabama SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA (requirements specific to subpart 1 basic 8-hour ozone nonattainment areas) in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all applicable requirements for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the area for purposes of redesignation and that if applicable they are fully approved under section 110(k). SIPs must be fully approved only with respect to applicable requirements.

a. Alabama has met all applicable requirements under section 110 and part D of the CAA.

The September 4, 1992, Calcagni memorandum (see "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E). Under this interpretation, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. See also Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, MI). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA; *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of St. Louis, Missouri).

General SIP requirements: Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the transport of air pollutants (NO_X SIP Call, Clean Air Interstate Rule (CAIR)).

However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state.

Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The State will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity (i.e. for redesignations) and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh redesignation (66 FR 50399, October 19, 2001).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Any section 110 requirements that are linked to the Part D requirements for 8-hour ozone nonattainment areas are not yet due, since, as explained below, no Part D requirements applicable for purposes of redesignation under the 8-hour standard became due prior to submission of the redesignation request. Therefore, as discussed above, for purposes of redesignation, they are not considered applicable requirements.

EPA has previously approved general requirements in the Alabama SIP addressing section 110 elements (May 31, 1972, 37 FR 10842).

Part D requirements: EPA has also determined that the Alabama SIP meets applicable SIP requirements under part D of the CAA since no requirements applicable for purposes of redesignation became due prior to submission of the area's redesignation request. Sections 172–176 of the CAA, found in subpart 1 of part D, set forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's nonattainment classification. Subpart 2 is not applicable to the Birmingham area.

Part D, subpart 1 applicable SIP requirements: For purposes of evaluating this redesignation request, the applicable part D, subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498). No requirements applicable for purposes of redesignation under part D became due prior to submission of the redesignation request, and therefore none is applicable to the area for purposes of redesignation. For example, the requirements for an attainment demonstration that meets the requirements of section 172(c)(1) are not yet applicable, nor are the requirements for Reasonably Achievable Control Technology (RACT) and Reasonably Available Control Measures (RACM) (section 172(c)(1)), Reasonable Further Progress (RFP) (section 172(c)(2)), and contingency measures (section 172(c)(9)).

In addition to the fact that no part D requirements applicable for purposes of redesignation became due prior to submission of the redesignation request and therefore are not applicable, EPA believes it is reasonable to interpret the conformity and NSR requirements as not requiring approval prior to redesignation.

Section 176 Conformity Requirements: Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the United States Code and the Federal Transit Act ("transportation conformity") as well as to all other Federally supported or funded projects ("general conformity"). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required the EPA to promulgate. EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. See also 60 FR 62748 (Dec. 7, 1995, Tampa, FL).

EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR in effect since PSD requirements will apply after redesignation. The rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Alabama has demonstrated that the area will be able to maintain the standard without part D NSR in effect, and therefore, Alabama need not have a fully approved part D NSR program prior to approval of the redesignation request. Alabama's PSD program will become effective in the area upon redesignation to attainment. See rulemakings for Detroit, MI (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, OH (61 FR 20458, 20469–70, May 7, 1996); Louisville, KY (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Thus, the area has satisfied all requirements applicable for purposes of redesignation under section 110 and part D of the CAA.

b. *The area has a fully approved applicable SIP under section 110(k) of the CAA.*

EPA has fully approved the applicable Alabama SIP for the Birmingham area under section 110(k) of the Clean Air Act for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request, see Calcagni Memo at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner*, 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001); plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003) and citations therein.

Following passage of the CAA of 1970, Alabama has adopted and submitted, and EPA has fully approved at various times, provisions addressing section 110 elements under the 1-hour standard applicable in the Birmingham area (May 31, 1972, 37 FR 10842).

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation. EPA also believes that since the part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, they also are therefore not applicable requirements for purposes of redesignation.

(3) *The air quality improvement in the Birmingham 8-hour ozone area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.*

EPA believes that Alabama has demonstrated that the observed air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state-adopted measures. EPA has determined that the implementation of the following permanent and enforceable emissions controls have reduced local NO_X and VOC emissions and brought the area into attainment during 2003–2005:

The Reid Vapor Pressure (RVP) Control Program—gasoline sold from June 1st until September 15th of each year, in Jefferson and Shelby Counties was required to have a RVP no greater than 7.0 pounds per square inch (psi).

Since 2003, utility NO_X controls on Alabama Power Company plants Gorgas (in Jefferson Co.) and Miller (in Shelby Co.) have been required for the period of May 1st to September 30th each year. NO_X emission limitations have been established at 0.21 lb/mmbtu for the two plants, based on a rolling 30-day average.

Alabama's NO_X SIP Call established a NO_X budget from 2004 and beyond for large industrial sources such as boilers, turbines, and electric generating units that are subject to the NO_X SIP Call.

EPA has implemented several programs that have resulted in reduced emissions in recent years. For cars and light trucks, EPA has instituted the National Low Emissions Vehicles (NLEV) program, which went into effect nationally in 2001, and EPA's Tier 2 rules, which went into effect in 2004. In addition, Tier 2 standards for nonroad diesel engines were phased in between 2001 and 2004. Over time the phase-in of these programs has resulted in reductions in emissions as new vehicles have replaced older, higher-polluting vehicles. Further reductions have occurred as a result of further implementation of EPA standards for small spark-ignited engines (*e.g.* lawnmowers) and locomotives. The heavy duty highway truck engine rule also implemented reductions beginning in 2004.

EPA promulgated the Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements in 2000 (65 FR 6697).

In addition to the reductions mentioned above, the State of Alabama is also relying on the following controls to maintain the 8-hour standard:

1. Onboard Refueling Vapor Recovery for Light-Duty Vehicles
2. Federal Non-road Diesel Engine Standards
3. Federal Marine Engine Requirements
4. Federal Locomotive Requirements
5. Consumer Solvents Requirements
6. Architectural and Industrial Maintenance Coatings Requirements
7. Automobile Refinishing Requirements
8. The National Emission Standards for Hazardous Air Pollutants (NESHAP); the majority of which are also VOCs
9. Phase II Acid Rain Program for NO_X
10. Clean Air Interstate Rule (CAIR)
11. NO_X SIP Call Phase II
12. Highway Diesel Fuel Sulfur Requirements

Alabama has demonstrated that the implementation of permanent and enforceable emissions controls have reduced local VOC and NO_X emissions. Alabama has also demonstrated that year-to-year meteorological changes and trends have an impact on ozone precursor emissions and the formation of ozone but, that they are not the likely source of the overall, long-term improvement in ozone levels. EPA believes that permanent and enforceable emissions reductions in and surrounding the nonattainment area are the cause of the long-term improvement in ozone levels, and resulted in the area achieving attainment of the 8-hour ozone standard. Jefferson County alone has reduced point source NO_X emissions by 37 percent from 2002 to 2004 and will reduce them by 65 percent by 2017. The whole area has reduced the total NO_X emissions by 22 percent from 2002 to 2004 and will reduce them by 45 percent by 2017. Additional reductions from outside the Birmingham area will be realized as the above programs are implemented throughout the State.

NO_X EMISSIONS FROM 2002 TO 2004

[Tons per Summer Day, tpsd]

County/source category	2002	2004
Jefferson:		
Point	110	69
Area	3	3
Non-road	18	17
Total	131	89
Shelby:		
Point	97	94
Area	1	1
Non-road	6	6
Total	104	101
Total for the Birmingham area:		
Point	207	163
Area	4	4
Mobile	57	54

NO_X EMISSIONS FROM 2002 TO 2004—Continued

[Tons per Summer Day, tpsd]

County/source category	2002	2004
Non-road	24	23
Total	292	244

(4) *The area has a fully approved maintenance plan pursuant to section 175A of the CAA.*

In conjunction with its request to redesignate the Birmingham 8-hour ozone nonattainment area to attainment status, ADEM submitted a SIP revision to provide for the maintenance of the 8-hour ozone NAAQS in the Birmingham area for at least 10 years after the effective date of redesignation to attainment. Alabama requested that EPA "parallel process" the redesignation request and maintenance plan SIP revision. Under this procedure, the Regional Office works closely with Alabama while developing new or revised regulations. The State submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed State action, and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the **Federal Register** between the time frame Alabama submits its prehearing and final submittal. Alabama and EPA then provide for public comment periods on both the State action and the Federal action.

After Alabama submits the final request and State-effective SIP revision (including a response to all public comments raised during the State's public participation process, and the approved maintenance plan for the Birmingham area), EPA will prepare a final rulemaking notice on the redesignation request and maintenance plan SIP revision. If Alabama's formal maintenance plan SIP revision contains changes which occur after EPA's notice of proposed rulemaking, such changes must be described in EPA's final rulemaking action. If Alabama's changes are significant, then EPA must decide whether it is appropriate to re-propose the State's maintenance plan SIP revision action. In addition, if Alabama's final maintenance plan SIP revision changes significantly and/or is disapprovable in its final form, EPA will also not take final action to approve the Birmingham redesignation request because the existence of a fully EPA-approved maintenance plan is a necessary criterion for redesignation to attainment status.

a. What Is Required in a Maintenance Plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, Alabama must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memorandum, dated September 4, 1992, provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan.

b. Attainment Emissions Inventory

Point source emissions were obtained for calendar year 2004 as a result of the annual data obtained from regulated facilities and projected to 2009, 2015 and 2017. Non-road mobile emissions were calculated using the most recent non-road model. On-road mobile source emissions were calculated using MOBILE 6.2 for 2004 and three horizon years, 2009, 2015 and 2017. Area source emissions were grown from the 2002 National Emissions Inventory for 2004, 2009, 2015 and 2017. The maintenance plan establishes an attainment inventory for the year 2004. This attainment inventory identifies the level of emissions in the area which is sufficient to attain the 8-hour ozone standard.

c. Maintenance Demonstration

The November 16, 2005, submittal includes a maintenance plan with a 2017 end year for the Birmingham area. This demonstration:

(i) Shows compliance and maintenance of the 8-hour ozone standard by assuring that current and future emissions of VOC and NO_X remain at or below attainment year 2004 emissions levels. The year 2004 was chosen as the attainment year because it is one of the most recent three years (*i.e.*, 2003, 2004, and 2005) for which the Birmingham area has clean air quality data for the 8-hour ozone standard.

(ii) Uses 2004 as the attainment year and includes future inventory projected years for 2009, 2015, and 2017.

(iii) Identifies an "out year" at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, MVEBs were established for the last year of the maintenance plan. See section VII below.

(iv) Provides the following actual and projected emissions inventories for the Birmingham area.

NO_X EMISSIONS TPSD

County/source category	2004	2009	2015	2017
Jefferson:				
Point	69	45	48	49
Area	3	4	4	4

NO_X EMISSIONS TPSD—Continued

County/source category	2004	2009	2015	2017
Non-road	17	14	11	10
Total	89	63	63	63
Shelby:				
Point	94	69	72	73
Area	1	1	1	1
Non-road	6	5	4	4
Total	101	75	77	78
Total for the Birmingham area:				
Point	163	114	120	122
Area	4	5	5	5
Mobile [1]	54	39	24	21
Non-road	23	19	15	14
Total	244	177	164	162
2004 NO_X Safety Margin *	.....	67	80	82

* After assigning 21 tpsd of the NO_X safety margin to the NO_X MVEB, the revised 2017 NO_X safety margin will be 61 tpsd.
[1] Since the transportation network is based on the two-County (Jefferson and Shelby) area, mobile source emissions were not broken out by county.

VOC EMISSIONS TPSD

County/source category	2004	2009	2015	2017
Jefferson:				
Point	13	14	17	18
Area	57	47	51	52
Non-road	10	8	7	7
Total	80	69	75	77
Shelby:				
Point	2	2	2	2
Area	11	9	9	10
Non-read	5	4	4	3
Total	18	15	15	15
Total for the Birmingham NA:				
Point	15	16	19	20
Area	68	56	60	62
Mobile [2]	32	28	20	19
Non-road	15	12	11	10
Total	130	112	110	111
2004 VOC Safety Margin *	.....	18	20	19

* After assigning 4 tpsd of the VOC safety margin to the VOC MVEB, the revised 2017 VOC safety margin will be 15 tpsd.
[2] Since the transportation network is based on the two-County (Jefferson and Shelby) area, mobile source emissions were not broken out by county.

A safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS.

d. Monitoring Network

There are currently ten monitors measuring ozone, located within Jefferson and Shelby Counties which provide air quality data for the entire Birmingham area. Alabama has committed in the maintenance plan to continue operation of the ozone monitors in compliance with 40 CFR part 58, and has addressed the requirement for monitoring.

e. Verification of Continued Attainment

Alabama has the legal authority to enforce and implement the requirements of the ozone maintenance plan for the Birmingham area. This includes the authority to adopt, implement and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Alabama will track the progress of the maintenance plan by performing future reviews of actual emissions for the area using the latest emissions factors, models and methodologies. For the purpose of verifying continued attainment based upon the emissions inventory, major point sources of air

pollution will continue to submit data on an annual basis and area and mobile sources will continue to be quantified on a three-year cycle. The next overall emissions inventory will be compiled for 2005. For these periodic inventories, Alabama will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions result in future growth greater than or equal to 10 percent, Alabama will re-project emissions and reassess the area's ability to maintain attainment.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that Alabama will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the November 16, 2005, submittal, Alabama commits to implement all measures that were contained in the SIP before the redesignation as expeditiously as possible. Alabama also affirms that all programs instituted by Alabama and EPA will remain enforceable, and that sources are prohibited from reducing emissions controls following the redesignation of the area. In the submittal, Alabama commits to adopt, within 18 months of a violation, one or more contingency measures as needed to re-attain the standard. Alabama also identified that in the event that any individual monitor in the Birmingham area records an annual fourth high reading of 0.085 ppm or higher, Alabama will evaluate existing control measures to determine if further emission reduction measures should be implemented. Also, if periodic emissions inventory shows a future growth greater than or equal to ten percent, Alabama will re-project emissions and reassess the area's ability to maintain attainment. Alabama notes that all regulatory programs will be implemented within 18 months of a violation. The State will consider and implement one or more of the following contingency measures:

RACT for NO_X sources—The State would investigate other smaller point sources of lower thresholds for specific controls.

RACT for additional VOC sources—Rules would be implemented for application of RACT to additional VOC sources not currently subject to RACT.

Schedule for Point Source Regulation Development—A schedule for the development of NO_X and/or VOC regulations from the time of a violation of the 8-hour ozone standard or inventory trigger of future growth follows:

1. Identify potential stationary sources for reductions—3 months
2. Identify applicable RACT—3 months
3. Initiate a stakeholder process—3 months
4. Draft SIP regulations—3 months
5. Initiate rulemaking process (including public comment period, hearing, Commission adoption and final submission to EPA)—6 months

Completion no later than—18 months

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The maintenance plan SIP revision submitted by Alabama for the Birmingham area meets the requirements of section 175A of the CAA.

VII. What Is an Adequacy Determination and What Is the Status of EPA's Adequacy Determination for the Birmingham 8-Hour Ozone Maintenance Area's New MVEBs for the Year 2017?

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (e.g., reasonable further progress SIPs and attainment demonstration SIPs) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB is established for the last year of the maintenance plan. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and revise the MVEB.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. "Conformity" to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. If a transportation plan does not "conform," most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

When reviewing submitted "control strategy" SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEBs contained therein "adequate" for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and federal agencies in determining whether proposed transportation projects "conform" to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining "adequacy" of MVEBs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining "adequacy" consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." This guidance was finalized in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change" on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

Alabama's maintenance plan submission contained new VOC and NO_X MVEBs for the year 2017. The availability of the SIP submission with these MVEBs was announced for public comment on EPA's adequacy Web page

on November 17, 2005, at: *http://www.epa.gov/otaq/transp/conform/currsips.htm.*

The EPA public comment period on adequacy of the 2017 MVEBs for the Birmingham area closed on December 19, 2005. EPA did not receive any adverse comments or requests for the submittal.

EPA intends to make its determination of the adequacy of the 2017 MVEBs for the Birmingham area for transportation conformity purposes in the final rulemaking on the Birmingham area 8-hour ozone redesignation. If EPA finds the 2017 MVEBs adequate for transportation conformity purposes prior to EPA's final approval, or finds the 2017 MVEBs adequate and approves the 2017 MVEBs in the final rulemaking action, the new MVEBs must be used for future transportation conformity determinations. The new 2017 MVEBs, if found adequate and approved in the final rulemaking, will be effective the date of publication of EPA's final rulemaking in the **Federal Register**. For required regional emissions analysis years that involve the year 2016 or before, the applicable budget for the purposes of conducting transportation conformity will be the applicable MVEBs from the Birmingham 1-hour ozone attainment demonstration or the 1-hour ozone maintenance plan. The 1-hour ozone attainment demonstration established MVEBs for the year 2003 of 65 tpd for NO_X and 52 tpd for VOCs. The 1-hour ozone maintenance plan established MVEBs for the year 2015 of 41 tpd for NO_X and 23 tpd for VOCs. For required regional emissions analysis years that involve the year 2017 or beyond, the applicable budget for the purposes of conducting transportation conformity analyses will be the 2017 VOC (23 tpsd) and NO_X (42 tpsd) MVEB for this maintenance area.

Birmingham Area 2017 MVEBs

NO_X, tpsd—42
VOC, tpsd—23

EPA is proposing to approve the 2017 MVEBs because the maintenance plan demonstrates that expected emissions for the area in 2017, including the 2017 MVEBs plus the estimated emissions for all other source categories, will continue to maintain the 8-hour ozone standard.

VIII. Proposed Action on the Redesignation Request, the Maintenance Plan SIP Revision Including Proposed Approval of the 2017 MVEBs

After evaluating Alabama's redesignation request, EPA has determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. Based on the discussion of compliance with the redesignation criteria above, and on the fact that Alabama is in the process of completing the adoption of a maintenance plan meeting the requirements of section 175A, we conclude that the area will comply with the criteria for redesignation to attainment of the 8-hour ozone NAAQS. Therefore we are proposing to approve this redesignation request and maintenance plan. If the State substantially revises the maintenance plan from the version proposed by the State and reviewed here, this may result in the need for additional proposed rulemaking.

Additionally, EPA is providing the status of its Adequacy Determination for the 2017 MVEBs and is proposing to approve the 2017 MVEBs, submitted by Alabama for the Birmingham area, in conjunction with its redesignation request. Within 24 months from the effective date of the final rule for this action, the transportation partners will need to demonstrate conformity to these new MVEBs pursuant to 40 CFR 93.104(e) as effectively amended by new section 172(c)(2)(E) of the CAA as added by the Safe, Accountable, Flexible, Efficient Transportation Equity Act–A Legacy for Users (SAFETEA–LU), which was signed into law on August 10, 2005.

IX. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 affects the status of a geographical area, does not impose any new requirements on sources, or allow a state to avoid adopting or implementing other requirements and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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 and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. 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 proposed 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.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: January 17, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6–907 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0487; FRL–7754–8]

Pesticides: Minimal Risk Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to reorganize certain existing tolerance exemptions. All of these chemical substances were reviewed as part of the tolerance reassessment process required under the Food Quality Protection Act of 1996 (FQPA). As a result of that review, 13 chemical substances are now classified as "minimal risk." The Agency intends to shift the existing tolerance exemptions for these chemicals to 40 CFR 180.950(e). The Agency is merely moving certain tolerance exemptions from one section of the CFR to another section: No tolerance exemptions are lost or added as a result of this action.

DATES: Comments must be received on or before March 27, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0487, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Agency Website*: *http://www.epa.gov/edocket/*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail*: Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number EPA–HQ–OPP–2005–0487.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number EPA–HQ–OPP–2005–0487.
- *Hand delivery*: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2005–0487. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- *Instructions*: Direct your comments to docket ID number EPA–HQ–OPP–2005–0487. 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.epa.gov/edocket/*, 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 EDOCKET, *regulations.gov*, or e-mail. The EPA EDOCKET and the *regulations.gov* websites are *anonymous access* systems, 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 EDOCKET or *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. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL–7181–7).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. 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 EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB). Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Registration Division, (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; fax number: (703) 305–0599; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, *regulations.gov*, or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What is the Agency's Authority for Taking this Action?

This proposed rule is issued under section 408 of FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170). Section 408(e) of FFDCA authorizes EPA to establish, modify, or revoke tolerances, or exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities and processed foods.

III. What Action is the Agency Taking?

In the **Federal Register** of May 24, 2002 (67 FR 36534) (FRL–6834–8) EPA established a new section 180.950 to list the pesticide chemical substances that are exempted from the requirement of a tolerance based on the Agency's determination that these chemical substances are of "minimal risk." This proposed rule shifts existing tolerance exemptions for certain inert ingredients that have been classified by the Agency as List 4A, "minimal risk," to 40 CFR 180.950(e). The decision documents supporting the minimal risk, List 4A classification, are in the docket. Because this action merely moves certain tolerance exemptions from one section of CFR to another section, it will have no substantive or procedural effect on the moved tolerance exemptions. No tolerance exemptions are lost or added as a result of this action.

The Agency is proposing to shift the following tolerance exemptions to 40 CFR 180.950(e):

- From 40 CFR 180.910: Ascorbic acid (CAS Reg, No. 50–1–7); beeswax; carnauba wax; glycerol; isopropyl alcohol; soap (sodium or potassium salts of fatty acids); sodium benzoate; sodium bicarbonate; sorbitol; and sperm oil conforming to 21 CFR 172.210;
- From 40 CFR 180.920: Vanillin
- From 40 CFR 180.930: Carnauba wax (CAS Reg. No. 8015–86–9); glycerol(glycerin); isopropyl alcohol; and sodium benzoate
- From 40 CFR 180.940(a): 2-propanol(isopropanol); and sodium bicarbonate
- From 40 CFR 180.940(b): 2-propanol(isopropanol)
- From 40 CFR 180.940(c): 2-propanol(isopropanol); and sodium bicarbonate
- One of the exemptions (sorbic acid, and potassium salt) covers two chemicals. One of the chemicals has been determined to be List 4A and other List 4B. Another tolerance exemption (potassium carbonate) covers three chemicals. One of the chemicals has been determined to be List 4A, and the other two are List 4B. Therefore, these tolerance exemptions are essentially "split" with only the 4A chemicals to be shifted to 40 CFR 180.950, while the 4B chemicals are to remain where currently established. Therefore, these two existing tolerance exemptions are to be revised to specify only the List 4B chemicals.

IV. Nomenclature Changes

For most of the chemical substances that are being shifted to 40 CFR 180.950(e), EPA is changing the chemical substance names that were previously used. The Agency has attempted to identify each of the listed chemical substances using the Chemical Abstracts Service Registry Number (CAS No.). The CAS No. provides one of the most distinct and universally accepted means of identifying chemical substances. Generally, there will be only one CAS No. per listed substance. EPA has both broadened and consolidated names to account for differing terminologies and current usage status. These name changes are not intended to broaden or narrow the scope of the existing exemption but rather to define the scope of the exemption more precisely.

V. Statutory and Executive Order Reviews

This proposed rule merely re-organizes existing exemptions in 40 CFR part 180. This has no substantive effect and hence causes no impact. On its own initiative, the Agency is acting under section 408(e) of the FFDCA in shifting these existing tolerance exemptions to a different section of CFR. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993) this action is not a "significant regulatory action" subject to review and by the Office of Management and Budget (OMB). Because the proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to*

Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA 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." "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." This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This proposed rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 12, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374

2. In §180.910, the table is amended by removing the following entries: Ascorbic acid (CAS Reg, No. 50–81–7); beeswax; carnauba wax; glycerol; isopropyl alcohol; soap (sodium or potassium salts of fatty acids); sodium benzoate; sodium bicarbonate; sorbitol; and sperm oil conforming to 21 CFR 172.210; and by revising the entry for sorbic acid (and potassium salt) to read as follows:.

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert Ingredients	Limits	Uses
* * * *	*	* *
Sorbic acid (CAS Reg. No. 110–44–1)		Preservative for formulations
* * * *	*	* *

3. In §180.920, the table is amended by removing the entry for vanillin; and the entry for potassium carbonate is removed and replaced with two new entries to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert Ingredients	Limits	Uses
* * * *	*	* *
Carbonic acid, dipotassium salt (CAS Reg. No. 584–08–7)		Buffering agent
Carbonic acid, dipotassium salt, trihydrate (CAS Reg. No. 18662–52–7)		Do.
* * * *	*	* *

§ 180.930 [Amended]

4. In §180.930 the table is amended by removing the following entries: Carnauba wax (CAS Reg. No. 8015–86–9); glycerol(glycerin); isopropyl alcohol; and sodium benzoate.

§ 180.940 [Amended]

5. In §180.940, the table in paragraph (a) is amended by removing the entries for 2-propanol(isopropanol) and sodium bicarbonate; the table in paragraph (b) is amended by removing the entry for 2-propanol(isopropanol); and the table in paragraph (c) is amended by removing the entries for 2-propanol(isopropanol) and sodium bicarbonate.

6. In §180.950, the table in paragraph (e) is amended by adding alphabetically the following entries to read as follows:

§ 180.940 Tolerance exemptions for minimal risk active and inert ingredients.

(e) * * *

Chemical Name	CAS Reg. No.
*	
* * * * * *	*
Ascorbic acid (vitamin C)	50–81–7
Beeswax	8012–89–3
Benzoic acid, sodium salt	532–32–1
*	
* * * * * *	*
Carnauba wax	8015–86–9
Carbonic acid, monopotassium salt	298–14–6
Carbonic acid, monosodium salt (sodium bicarbonate)	144–55–8
*	
* * * * * *	*
D-Glucitol (sorbitol)	50–70–4
Glycerol (glycerin) (1,2,3-propanetriol)	56–81–5
*	
* * * * * *	*
2-Propanol (isopropyl alcohol)	67–63–0
*	
* * * * * *	*
Soap (The water soluble sodium or potassium salts of fatty acids producted by either the saponification of fats and oils, or the neutralization of fatty acid	None
Sorbic acid, potassium salt	24634–61–5
Sperm oil	8002–24–2
*	
* * * * * *	*
Vanillin	121–33–5

[FR Doc. 06–574 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–17, MB Docket No. 03–179, RM 10752]

Radio Broadcasting Services; Quitaque, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: The Audio Division dismisses a petition for rulemaking filed by Charles Crawford proposing the allotment of Channel 261C3 at Quitaque, Texas, as potentially the community's second local FM transmission service. *See* 68 FR 47284, August 8, 2003. A showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. Therefore, we will dismiss the instant petition.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 03–179, adopted January 4, 2006, and released January 6, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. This document is not subject to the Congressional Review Act. The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 06–575 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket No. NHTSA–2005–22899]

Petition for Rulemaking; Diane and Dorsey Smith

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of Petition for Rulemaking.

SUMMARY: This notice denies a petition filed by Diane and Dorsey Smith requesting that the National Highway Traffic Safety Administration (NHTSA) amend its regulation concerning odometer disclosure requirements to eliminate the exemption for vehicles having a Gross Vehicle Weight Rating of more than 16,000 pounds.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

For technical issues, you may contact Richard C. Morse, Director of the Office of Odometer Fraud Investigation, by phone at (202) 366–4761.

For legal issues, you may contact Katherine Gehringer of the NHTSA Office of Chief Counsel by telephone at

(202) 366–5263 and by fax at (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Background

In 1972, Congress enacted the Motor Vehicle Information and Cost Savings Act, which included requirements regarding odometers in motor vehicles. Public Law 92–513, 86 Stat. 947, 961–63.[1] Among other things, the Act prohibits disconnecting, resetting, or altering motor vehicle odometers and requires the execution of an odometer disclosure statement on the title incident to the transfer of ownership of a motor vehicle. The Act also subjects violators to civil and criminal penalties and provides for federal injunctive relief, state enforcement, and a private right of civil action.

The Act directs the Secretary of Transportation (the Secretary) to promulgate rules governing the making and retention of odometer disclosure statements. 49 U.S.C. 32705. Pursuant to a delegation from the Secretary, 49 CFR 1.51, NHTSA promulgated 49 CFR Part 580, which requires that each transferor of ownership in an automobile must disclose the mileage to the transferee in writing on the title, the document being used to reassign the title, or in cases where the title has been lost or is being held by a lienholder, on a secure power of attorney form issued by the states. In these cases, the secure power of attorney form must be returned to the state that issued it for retention. All dealers and distributors are required to keep a copy of each odometer disclosure statement they issue and receive for a period of five years.

The regulations exempt certain categories of vehicles, including vehicles more than ten years old, from the disclosure requirements. 49 CFR 580.17(a). Another exemption relates to vehicles in excess of a certain weight. One important reason for exempting these categories of vehicles is that the odometer reading is not the principal guide to the condition and value of the vehicles, either because of their age or the use to which the vehicles are put. Because other information is a better source of the condition of the vehicles, NHTSA has exempted them from the odometer disclosure requirements.

The Petition for Rulemaking filed by Diane and Dorsey Smith pertains to 49 CFR 580.17(a)(1), which provides that the transferor of a vehicle having a Gross Vehicle Weight Rating (GVWR), as defined in 49 CFR 571.3, of more than 16,000 pounds need not disclose the vehicle's odometer mileage.

This exemption for large vehicles was adopted in 1973. 49 CFR 580.5 (1973), 38 FR 2979 (Jan. 31, 1973). In the course of a rulemaking, NHTSA agreed with certain comments, submitted by Freightliner Corporation, White Motor Corporation, and the National Association of Motor Bus Operators, that buses and large trucks are routinely driven hundreds of thousands of miles and their buyers have traditionally relied on their maintenance records as the principal guide to their condition and value. *Id.* The comments pointed out that such vehicles often accumulate more than 100,000 miles in a year and that major components are often overhauled or replaced during the life of a typical bus or large truck. The most important factor in assessing the condition of such vehicles is to determine when and how such maintenance occurred. Odometer mileage is linked only to the vehicle as a whole and provides no indication of whether and when such important work was done on major components of these heavy-use vehicles. Freightliner Corp., Comment (January 8, 1973) (docket no. 73–31–N01–029). NHTSA amended the regulations in 1988 (53 FR 29476) and 1989 (54 FR 35888) and redesignated the exemptions as § 580.17 in 1997. 62 FR 47765.

The Petition

On June 30, 2005, the Smiths filed a petition seeking an amendment to NHTSA's regulation that would eliminate the exemption in § 580.17(a)(1) for vehicles having a GVWR of more than 16,000 pounds. The Smiths purchased a used truck with 450,000 miles on the odometer and, as recently as the date of their petition, were unable to determine if the odometer reading is the actual mileage or to obtain the maintenance records for the truck. The Smiths have not provided any evidence that the odometer reading on the truck they purchased was incorrect. Instead, they contend that the problems they have experienced with the truck are likely due to its having more mileage than the odometer shows or to the previous owner's having not done certain maintenance they believed had been done.

The Smiths believe that an odometer disclosure requirement for these vehicles would deter odometer fraud and that without the odometer disclosure, the true mileage of the vehicles can never be ascertained. According to the Smiths, being assured that the mileage is true and correct assists purchasers in determining a vehicle's mechanical condition and value. The Smiths further state that a vehicle's mechanical history or maintenance records are not always available from the previous owner.

Discussion

As enacted in 1972, the primary purpose of the odometer disclosure law was to protect buyers of motor vehicles who "rely heavily on the odometer reading as an index of the condition and value of such vehicle." 86 Stat. 961, 49 U.S.C. 32701(a)(1). In establishing the exemptions to its odometer disclosure regulation in 1973, NHTSA paid close attention to the purposes of the Act. The exemptions in the regulations focused on the types of vehicles for which the odometer reading is not used as a principal guide to the condition and value of the vehicles. Under these exemptions, the public and state agencies were not burdened with paperwork that has not been particularly beneficial to purchasers.[2]

The Smiths have not provided information to persuade NHTSA that conditions have changed meaningfully since the agency's original determination with regard to the importance of odometer readings in purchases of these large vehicles. Indeed, in a copy of a news article submitted by the petitioners, the president of the Used Truck Association is quoted as saying that high mileage does not hurt a truck, but the lack of maintenance does. Sean Kelly, *Something Used,* Commercial Carrier Journal Magazine, July 2005, at *http://www.etrucker.com/apps/news/article.asp?id=48018.* Although some news articles submitted by the petitioners address the advantages of purchasing trucks with lower mileage, the articles go on to say that those advantages can vanish if the trucks are not maintained properly. *See, e.g.,* Sean Kilcarr, *Used Trucks: Maximizing Value,* Drivers Magazine, March 1, 2003, at *http://driversmag.com/ar/fleet_used_trucks_maximizing/.*

With regard to the lack of availability of maintenance records, a problem of particular concern to the Smiths with regard to their own purchase, neither the Act nor NHTSA's regulations

[1] The Motor Vehicle Information and Cost Savings Act, as amended, was repealed in the course of the 1994 recodification of various laws pertaining to the Department of Transportation and was reenacted and recodified without substantive change. Public Law 103–272; *see* 108 Stat. 745, 1048–1056, 1379, 1387 *et seq.*

[2] We also note that in a recent amendment, Congress endorsed exemptions for classes and categories of vehicles. Under this amendment, the Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these disclosure requirements. 49 U.S.C. 32705(a)(5). This provision was added by Public Law 105–178, 7105, 112 Stat. 467.

require that such records be kept for any vehicles. However, buyers of heavy vehicles are free to insist that maintenance records be made available to them at the time of, and as a condition of, purchase of such vehicles, just as buyers of automobiles, light trucks, and other motor vehicles not exempt from odometer disclosure ensure that the odometer disclosure statement is available at the time of purchase. Removing the odometer certification exemption would not alleviate this concern over maintenance records, and purchasers have sufficient market power to mandate records before they purchase the vehicles in question.

In NHTSA's experience, there has not been a significant odometer fraud problem involving heavy trucks or buses. The agency receives very few complaints pertaining to these types of vehicles. Eliminating the exemption for these vehicles would impose costs on state and the sellers of such vehicles that, in the aggregate, are not insignificant. Moreover, expenditure of agency resources on a rulemaking to eliminate this exemption would divert those resources from the agency's regulatory priorities, which involve measures that may save numerous of lives on the nation's highways.

For the foregoing reasons, the petition is denied.

Issued on: January 18, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6–858 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Petitions To Reclassify the Florida Scrub-Jay From Threatened to Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on two petitions to reclassify the Florida scrub-jay (*Aphelocoma coerulescens*) from threatened to endangered under the Endangered Species Act of 1973, as amended (Act). We find the petitions do not provide substantial scientific information indicating that reclassification of the Florida scrub-jay may be warranted. Therefore, we will not initiate a further status review in response to these petitions. However, the public may submit to us any new information that becomes available concerning the status of the species or threats to it at any time.

DATES: The administrative finding announced in this document was made on January 25, 2006.

ADDRESSES: Data, comments, information, or questions concerning these petitions should be sent to the Field Supervisor, Jacksonville Ecological Services Office, 6620 Southpoint Drive South, Suite 310, Jacksonville, FL 32216; or by electronic mail (e-mail) to *floridascrubjay@fws.gov*. The petition finding, supporting information, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David L. Hankla, Field Supervisor, at the above address (telephone 904/232–2580; facsimile 904/232–2404).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

This finding summarizes information included in the petitions and information available to us at the time of the petition review. Under section 4(b)(3)(A) of the Act and our regulations in 50 CFR 424.14(b), our review of a 90-day finding is limited to a determination of whether the information in the petition meets the "substantial scientific information" threshold. Our standard for substantial information with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)).

We have to satisfy the Act's requirement that we use the best available science to make our decisions. However, we do not conduct additional research at this point, nor do we subject the petition to rigorous critical review. Rather, at the 90-day finding stage, we accept the petitioner's sources and characterizations of the information, to the extent that they appear to be based on accepted scientific principles (such as citing published and peer reviewed articles, or studies done in accordance with valid methodologies), unless we have specific information to the contrary. Our finding considers whether the petition states on its face a reasonable case for reclassification. Thus our 90-day finding expresses no view as to the ultimate issue of whether the species should be reclassified.

Petitions

On March 13, 2002, we received a petition, dated March 13, 2002, from John A. Fritschie on behalf of the Partnership for a Sustainable Future of Brevard County, Florida; Indian River Audubon Society; Friends of the Scrub; Sierra Club Turtle Coast Group; Conradina Chapter of the Florida Native Plant Society; Sea Turtle Preservation Society; League of Women Voters of the Space Coast, Inc.; and Barrier Island Preservation Association, Inc. (hereafter referred to as the 2002 petition). The 2002 petition requested that the Florida scrub-jay be reclassified from threatened to endangered and that critical habitat be designated with reclassification. The 2002 petition contained supporting information regarding the species' taxonomy and ecology, historical and current distribution, present status, and potential causes of decline. We acknowledged the receipt of the 2002 petition in a letter to Mr. Fritschie, dated April 12, 2002.

On May 1, 2003, we received a petition, dated April 22, 2003, from Brett M. Paben, WildLaw Florida Office, on behalf of Save Our Big Scrub, Inc. (hereafter referred to as the 2003 petition). The 2003 petition requested that the Florida scrub-jay be reclassified from threatened to endangered and that critical habitat be designated with reclassification. The 2003 petition contained supporting information regarding the species' taxonomy and ecology, historical and current distribution, present status, and potential causes of decline. We acknowledged the receipt of the 2003 petition in a letter to Mr. Brett Paben, dated June 20, 2003.

On March 14, 2004, several of the petitioners filed a complaint (*Save Our Big Scrub, Inc.* v. *Norton,* Case No. 6:04cv349–Orl–28KRS) (M.D. Fla.) alleging our failure to make 90-day and 12-month petition findings on reclassifying the Florida scrub-jay and to revise the critical habitat designation. In a stipulated settlement agreement adopted by the court on December 20, 2004, we agreed to submit one 90-day finding for both petitions to the **Federal Register** by January 15, 2006, and to

complete, if applicable, a combined 12-month finding for both petitions by January 15, 2007. A decision on whether or not to designate critical habitat will be considered if reclassification is warranted.

On August 1, 2005, the Service received two supplements to the 2003 petition (dated July 12, 2005 and July 14, 2005), containing additional information for our consideration in making a finding on the 2003 petition. References to the 2003 petition in the following discussion includes the supplements.

Species Information

For more information on the Florida scrub-jay, please refer to the final listing rule published in the **Federal Register** on June 3, 1987 (52 FR 20715), and the most recent recovery plan for this species (see the **ADDRESSES** or **FOR FURTHER INFORMATION CONTACT** sections, above, for information on how to obtain a hard or electronic copy of the plan).

The Florida scrub-jay is in the order Passeriformes and the family Corvidae. It was considered a subspecies (*A. c. coerulescens*) for several decades (AOU 1957). It regained recognition as a full species (Florida scrub-jay, *Aphelocoma coerulescens*) from the American Ornithologists' Union (AOU 1995) because of genetic, morphological, and behavioral differences from the other members of this group: The western scrub-jay (*A. californica*) and the island scrub-jay (*A. insularis*). In this notice, Florida scrub-jays will be referred to as scrub-jays.

Scrub-jays are about 25 to 30 centimeters (cm) (10 to 12 inches (in)) long and weigh about 77 grams (3 ounces). They are similar in size and shape to blue jays (*Cyanocitta cristata*) but differ significantly in coloration (Woolfenden and Fitzpatrick 1996a). It lacks the crest, conspicuous white-tipped wing and tail feathers, black barring, and bridle of the blue jay. The scrub-jay's head, nape, wings, and tail are pale blue, and its body is pale gray on its back and belly. Its throat and upper breast are lightly striped and bordered by a pale blue-gray "bib" (Woolfenden and Fitzpatrick 1996a).

Scrub-jays forage mostly on or near the ground, often along the edges of natural or man-made openings. They visually search for food while hopping or running along the ground beneath the scrub or by jumping from shrub to shrub. Insects, particularly orthopterans (such as locusts, crickets, grasshoppers, beetles) and lepidopteran (butterfly and moth) larvae, form most of the animal diet throughout most of the year (Woolfenden and Fitzpatrick 1984). Small vertebrates are eaten when encountered, including frogs and toads, lizards, snakes, rodents, and some young birds. Acorns are the principal plant food (Woolfenden and Fitzpatrick 1984; Fitzpatrick *et al.* 1991).

Scrub-jays have a social structure that involves cooperative breeding, a trait that the other North American species of scrub-jays do not show (Woolfenden and Fitzpatrick 1984, 1990). Scrub-jays live in families ranging from two birds (a single mated pair) to extended families of eight adults (Woolfenden and Fitzpatrick 1984) and one to four juveniles.

Scrub-jay pairs occupy year-round, multi-purpose territories (Woolfenden and Fitzpatrick 1978, 1984; Fitzpatrick *et al.* 1991). Territory size averages 9 to 10 hectares (ha) (22 to 25 acres (ac)) (Woolfenden and Fitzpatrick 1990; Fitzpatrick *et al.* 1991), with a minimum size of about 5 ha (12 ac) (Woolfenden and Fitzpatrick 1984; Fitzpatrick *et al.* 1991). Persistent breeding populations of scrub-jays exist only where there are scrub oaks in sufficient quantity and form to provide an ample winter acorn supply, cover from predators, and nest sites during the spring (Woolfenden and Fitzpatrick 1996b).

The scrub-jay has specific habitat needs. It is endemic to peninsular Florida's ancient dune ecosystems or scrubs, which occur on well-drained to excessively well-drained sandy soils (Laessle 1958, 1968; Myers 1990; Fitzpatrick *et al.* unpubl. data). This community type is adapted to nutrient-poor soils, periodic drought, and frequent fires (Abrahamson 1984). Xeric oak scrub on the Lake Wales Ridge is predominantly made up of four species of stunted, low-growing oaks: sand live oak (*Quercus geminata*), Chapman oak (*Q. chapmanii*), myrtle oak (*Q. myrtifolia*), and scrub oak (*Q. inopina*) (Myers 1990). In optimal habitat for scrub-jays, these oaks are 1 to 3 m (3 to 10 ft) high, interspersed with 10 to 50 percent unvegetated, sandy openings, and a sand pine (*Pinus clausa*) canopy of less than 20 percent (Woolfenden and Fitzpatrick 1991). Trees and dense herbaceous vegetation are rare. Other vegetation noted along with the oaks includes saw palmetto (*Serenoa repens*), scrub palmetto (*Sabal etonia*), and such woody shrubs as Florida rosemary (*Ceratiola ericoides*) and rusty lyonia (*Lyonia ferruginea*).

Status and Distribution

The Florida scrub-jay was federally listed as threatened in June 3, 1987, primarily because of habitat fragmentation, degradation, and loss (52 FR 20715). A threatened species is one that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Scrub habitats associated with Florida's barrier islands, mainland coasts, and Lake Wales Ridge are some of the most imperiled natural communities in the United States, with estimates of habitat loss since pre-European settlement times ranging from 70 to more than 80 percent (Woolfenden and Fitzpatrick 1996a; Fitzpatrick *et al.* unpubl. data). Historically, oak scrub occurred as numerous isolated patches in peninsular Florida. These patches were concentrated along both the Atlantic and Gulf coasts and on the central ridges of the peninsula (Davis 1967). Today, only relict patches of xeric oak scrub remain. Fitzpatrick *et al.* (1994) believed that fire suppression was just as responsible as habitat loss in the decline of the scrub-jay, especially in the northern third of its range. Cox (1987) noted local extirpations and major decreases in numbers of scrub-jays and attributed them to the clearing of scrub for housing and citrus groves. The greatest population decline had occurred during the early 1980s with an estimated 25 to 50 percent reduction in scrub-jay numbers (Fitzpatrick *et al.* 1994).

A Statewide scrub-jay census was last conducted in 1992–1993, at which time there were an estimated 4,000 pairs of scrub-jays in 31 counties in Florida (Fitzpatrick *et al.* 1994). The scrub-jay was considered extirpated in 10 counties (Alachua, Broward, Clay, Dade, Duval, Gilchrist, Hernando, Hendry, Pinellas, and St. Johns), and was considered functionally extinct in an additional 5 counties (Flagler, Hardee, Levy, Orange, and Putnam), where 10 or fewer pairs remained. Recent information indicates that there are at least 12 to 14 breeding pairs of scrub-jays located within Levy County, higher than previously thought (K. Miller, FWC, in litt. 7/16/04), and there is at least one breeding pair of scrub-jays remaining in Clay County (K. Miller, FWC, in litt. 7/16/04). A scrub-jay has been documented in St. Johns County as recently as 2003 (J.B. Miller, FDEP, in litt. 5/13/03). In 1992–1993, population numbers in 21 of the counties were below 30 or fewer breeding pairs (Fitzpatrick *et al.* 1994).

Results from a population viability analysis indicated that a population of scrub-jays with fewer than 10 breeding pairs had a 50 percent probability of extinction over 100 years (Stith 1999). Populations with at least 100 pairs had a 2 to 3 percent chance of extinction. Results from this population viability analysis indicated that 3 of 21

metapopulations identified had enough breeding pairs to have a low extinction risk and an estimated 99 percent probability of survival over 100 years (Stith 1999).

Threats Analysis

Pursuant to section 4 of the Act, we may determine whether a species, subspecies, or distinct population segment of vertebrate taxa is endangered or threatened because of any of the following five factors: (A) Present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. In making this 90-day finding, we evaluated whether the scientific information presented and referenced in the petitions would lead a reasonable person to believe that the species may now meet the definition of endangered (that is, in danger of extinction throughout all or a significant portion of its range) instead of threatened, and thus reclassification may be warranted. Our evaluation of these threats, based on information provided in the petition and available in our files, is presented below.

A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

Information Provided in the Petitions

The 2003 petition stated that, historically, scrub habitat occurred as large contiguous patches, some more than hundreds of miles (Cox 1987). Today, only relict patches remain. The 2002 petition stated that most of the remaining populations of scrub-jays are vulnerable to extinction due to low population size and the continued loss, degradation, and fragmentation of scrub habitat. The 2002 and 2003 petitions estimate that the historic range of the scrub-jay has decreased anywhere from 70 to 90 percent, and that these losses of habitat equate to equal loss of scrub-jays. The 2002 petition contained no references for the estimate provided, but the 2003 petition referenced Bergen (1994). The 2003 petition states that habitat losses are a result of conversion to citrus and residential development (Fernald 1989; Fitzpatrick *et al.* 1991) due to Florida's rapidly growing human population (USCB 1995, 1997, undated; FHDC undated). The population growth and resulting urbanization bring transportation projects, and any increase in roads, traffic volumes, and speeds through scrub-jay habitat are significant concerns for the continued survival of the scrub-jay (Noss undated; Mumme *et al.* 2000).

As an example of habitat loss, the 2002 and 2003 petitions noted the vulnerability of the central Brevard County, Florida, population of scrub-jays to human population expansion there. The petitioners stated that the area provides the necessary link between the relatively large southern population and potentially large northern population of scrub-jays and that loss of the link will put the core population at risk of extinction (Breininger *et al.* 2001, 2003). As other examples of habitat loss, the 2003 petition also expressed concern about the decline in the scrub-jay populations in and around the Cedar Key State Reserve in Levy County (Miller *et al.* 2003) and scrub-jay population declines in southwest Florida (Service 1999).

Evaluation of Information in the Petitions

While Cox (1987) did discuss the historical range of scrub-jays, he did not make any statements about how scrub historically was situated within the state of Florida, as stated in the 2003 petition. The 2002 petition did not provide documentation that the remaining populations of scrub-jays are more vulnerable to extinction due to a reduced population size, and the claim of continued loss, degradation, and fragmentation of scrub habitat was provided with no supporting documentation.

In the 2002 petition, no reference was given to support estimates of scrub loss, but the 2003 petition cited Bergen (1994). However, Bergen (1994) made no estimates of scrub loss Statewide, because his work dealt only with Brevard County, Florida. Within Brevard County, however, Bergen (1994) estimated that 68.8 percent of scrub habitat was lost between 1943 and 1991. Bergen (1994) does not provide an estimate of the amount of scrub lost in Brevard County between 1987 (the year that the scrub-jay was listed as threatened) and 1991, the year of the most recent information utilized in his review. Other studies report that the majority of the habitat loss occurred prior to 1987 and was one of the reasons the scrub-jay was listed as threatened. Cox (1987) relayed a 1980 report that the number of scrub-jays in Brevard County had declined sharply since 1955. Further, Fitzpatrick *et al.* (1994) report that the greatest population decline had occurred during the early 1980s with an estimated 25 to 50 percent reduction in scrub-jay numbers. The petition also stated that the scrub habitat rangewide has been fragmented by agriculture and commercial and residential development (Fernald 1989; Fitzpatrick *et al.* 1991). No substantial information was presented by the petitioner that indicates what proportion of the scrub loss has occurred since the time of the scrub-jays' listing, nor has the petitioner provided justification that as a result of the land-clearing activity, and destruction and fragmentation of scrub habitat, the species is now in danger of extinction throughout all or a significant portion of its range.

The 2003 petition cites U.S. Census Bureau and Florida Housing Data Clearinghouse figures to support its claim that the extensive loss of scrub-jay habitat is a result of Florida's rapidly growing human population. These data, however, do not provide an analysis of whether or not the new development is occurring in scrub habitat. Further, the 2003 petition acknowledged that a growing human population alone is not proof that scrub habitat has been destroyed. There has been no substantial information presented by the petitioner that the growing human population of Florida is placing the scrub-jay in danger of extinction throughout all or a significant portion of its range.

Both petitions stated that along with population growth and urbanization comes an increase in transportation projects. Roadsides often provide attractive habitat for scrub-jays to hunt insects and cache acorns, and scrub-jay territories often spread across roads (meaning that the scrub-jays will frequently cross the roads). The 2003 petition alleged that the construction of high-speed roads adjacent to scrub habitat occupied by scrub-jays has been shown to impact negatively the scrub-jay populations living there (Mumme *et al.* 2000). However, Mumme *et al.*'s work looked at only a small portion of one high-speed road, so we are unable to draw conclusions about the rangewide effect of this threat and whether the scrub-jay is threatened with extinction because of it.

As examples of loss of scrub habitat and scrub-jay populations since the species was listed in 1987, the 2002 and 2003 petitions discuss in detail human impacts to scrub-jay habitat serving as critical connectors between metapopulations in central Brevard County, Florida (Breininger *et al.* 2001, 2003). However, Breininger *et al.*'s (2001, 2003) work only focused on the non-Federal lands in Brevard and a small portion of Indian River County. Regarding the risk of extinction for this

portion of the range, Breininger *et al.* (2001) acknowledges that their "ideas about population dynamics are untested and insufficient data on edge effects, density dependence, and metapopulation dynamics provide much uncertainty." The 2003 petition also raised concerns about loss of scrub habitat and scrub-jays in the area in and around Cedar Key State Reserve (Miller *et al.* 2003) and the scrub-jay population declines in southwest Florida (FWS 1999). While we acknowledge that some scrub-jay populations have declined, the petitioners have not provided substantial information indicating that the species is now in danger of extinction throughout all or a significant portion of the range.

While a variety of activities that affect scrub habitat are occurring in Florida (such as agriculture and development (Cox 1987; Fernald 1989; Fitzpatrick *et al.* 1991; Bergen 1994; Mumme *et al.* 2000; Breininger *et al.* 2001, 2003; Miller *et al.* 2003)), the petitions do not provide substantial information that these activities, either singly or in combination, may be destroying or modifying the Florida scrub-jay's habitat to the extent that the species is now in danger of extinction throughout all or a significant portion of the species' range. Also, with some exceptions, the petitions fail to provide scientific documentation to demonstrate that the areas where habitat loss has occurred are also the areas where scrub-jay populations occur.

Although the limited amount of scrub habitat in Florida makes this species vulnerable to additional habitat loss and fragmentation, the petitions do not address what the effects of these changes have been on scrub-jay population numbers across the range of the species since the time the species was listed. Based on the preceding discussion, we do not believe that substantial information has been presented by the petitioners indicating that the present or threatened destruction, modification, or curtailment of habitat or range may, either singularly or in combination with other factors, rise to the level at which the scrub-jay is now in danger of extinction throughout all or a significant portion of its range and should be reclassified from threatened to endangered status.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Information Provided in the Petitions

The petitions cited the original listing rule (52 FR 20715) as evidence that malicious shooting of the birds by vandals continues to pose a threat to the scrub-jay.

Evaluation of Information in the Petitions

The information presented is not different from that addressed in the original listing rule and the petitioners did not present any information about how this threat has affected population viability. Therefore, the petitions did not present substantial information indicating that the scrub-jay may now be in danger of extinction throughout all or a significant portion of its range as a result of malicious shooting by vandals.

C. Disease or Predation

Information Provided in the Petitions

The 2003 petition stated that scrub-jay populations are affected by the frequency and severity of catastrophic mortalities (Fitzpatrick *et al.* unpubl. data) and that epidemic disease is the only known catastrophe that affects scrub-jay populations (Fitzpatrick *et al.* 1991). Both petitions expressed concern for the arrival of West Nile virus in Florida and its potential negative impacts on scrub-jays, since scrub-jays are in the same family (Corvidae) as are blue jays, American crows, fish crows, and Western scrub-jay; all of these species have been negatively affected by West Nile virus (Root 1996; Allison 2001; CDC undated; USGS 2003). In addition, the 2003 petition expressed concern for scrub-jays' vulnerability to predation from domestic animals, particularly feral cats (Fitzpatrick *et al.* unpubl. data; FWC 2001; ABC undated).

Evaluation of Information in the Petitions

We acknowledge the vulnerability of scrub-jays to catastrophic mortalities (Woolfenden and Fitzpatrick 1984; Breininger *et al.* 1999; Stevens and Hardesty 1999; Fitzpatrick *et al.* unpubl. data), especially that resulting from epidemic disease (Woolfenden and Fitzpatrick 1984; Fitzpatrick *et al.* 1991; Breininger *et al.* 1999; Stevens and Hardesty 1999; Breininger *et al.* 2001, 2003). The arrival of the West Nile virus in Florida in 2001 (Stark and Kazanis 2001; Wallace 2001; Breininger *et al.* 2001, 2003) is of particular concern because of the scrub-jay's close familial relationship to other species which have been negatively impacted by this virus (CDC undated), even though it has not been confirmed that scrub-jays have been affected in Florida (Stark and Kazanis 2001; Collins *et al.* 2002, 2003; Rivers *et al.* 2004). Local die-offs of scrub-jays have been reported since the arrival of West Nile Virus in Florida, with the causes not yet determined (Breininger *et al.* 2001, 2003). The petitioners have presented no substantial information that the scrub-jay may now be in danger of extinction throughout all or a significant portion of its range as a result of the arrival of West Nile virus in Florida.

Scrub-jays are vulnerable to predation by feral and domestic cats, as alleged in the petitions (Fitzpatrick *et al.* 1991; Bowman and Averill 1993; Bergen 1994; Breininger *et al.* 1995, 2001; Woolfenden and Fitzpatrick 1996a, 1996b; Breininger 1999; Toland 1999; Christman 2000). These references, however, do not discuss the extent of the threat by feral and domestic cats to scrub-jays. Woolfenden and Fitzpatrick (1996b) state that in suburban habitats, house cats are "important" predators to young and adult scrub-jays. Fitzpatrick *et al.* (1991) suspect that domestic cats supported by human food offerings could eliminate a small local population of scrub-jays, but there has not been any quantitative work done on this issue to date. Thus, the petitioner did not provide substantial information that such predation has placed the scrub-jay in danger of extinction throughout all or a significant portion of its range.

D. Inadequacy of Existing Regulatory Mechanisms

Information Provided in the Petitions

Service Regulatory Process

Both petitions claim that, because critical habitat has not been designated for the scrub-jay, the section 7 consultation process of the Act does not consider impacts to unoccupied suitable habitat and the loss of both occupied and adjacent unoccupied suitable habitat (Service 2002a cited in the 2002 petition; FEAR 2003 cited in the 2003 petition). The 2003 petition claims that without the designation of critical habitat, section 7 consultation with the U.S. Army Corps of Engineers (USACE) has proven to be difficult for the protection of unoccupied habitat of listed species (*Defenders of Wildlife* v. *Ballard*, 73F. Supp.2d at 1094 (D. Ariz. 1999), concerning pygmy owls; *Fund for Animals* v. *Rice*, 85 F.3d 535 (11th Cir. 1996), concerning Florida panthers). The 2003 petition, therefore, asks that critical habitat be designated for the scrub-jay.

The 2002 petition contends that the USACE is failing to consider the cumulative impact of its actions (Service 2001b). Both petitions express concern for the Service regulatory program regarding scrub-jays (Fritschie 2002, Attachment B; Service 2003), with

the 2002 petition citing the Plantation Point biological opinion as an example (Service 2001b; Fritschie 2002, Attachment B). The 2003 petition contends that the location of incidental take permits issued between 1994 and 2002 demonstrates that a lot of development activity is occurring in scrub-jay habitat without the necessary permits required by the Act (USCB 1995, 1997; Service 2003). The 2002 petition further cites the failure of the Service to develop a county-wide approach to deal with scrub-jay mitigation as evidence of the inadequacy of existing regulatory mechanisms in protecting the scrub-jay (Service 2001a). The 2003 petition contends that the Service fails to follow its own mitigation guidance when consulting under section 7 of the Act (Service 1999; 2002b) and that the Service doesn't hold local counties responsible for illegal taking of scrub-jays (Service 1991a, 1991b, 1992, 1993, 1998; Brevard County 1996; PSF 1998). The petitioners believe that, as a result, local governments do not require Federal permits prior to issuing local ones (Service 1994a, 1994b), which could facilitate unauthorized take of scrub-jays.

The 2003 petition claims that, despite Federal agencies' knowledge of the presence of scrub-jays on lands they manage, scrub-jay numbers have continued to decline on those lands since the species was listed as threatened (52 FR 20715). In the Ocala National Forest, for example, the petitioner states that there has been a 31 percent decrease in scrub-jays since the estimate made during the period of 1981 to 1983 (U.S. Forest Service (USFS) 2002; Cox 1987). One reason hypothesized by the petitioner for the decline is that naturally-occurring fires are suppressed at Ocala National Forest (outside of congressionally designated wilderness areas) and by the State of Florida (USFS 1999; F.S. section 590.01).

In addition, both petitions contend that the scrub-jay recovery plan needs to be revised and implemented because it is out-of-date.

State Regulatory Process

The 2003 petition contends that Florida law does not protect scrub-jays from habitat destruction, which is the major cause of the species' decline in Florida (F.A.C. 68A–27.004(1)(a); 52 FR 20717). In addition, the 2003 petition claims that in 1999, the Florida Fish and Wildlife Conservation Commission (FWC) adopted a new process for classifying species as endangered, threatened, or species of special concern (IUCN 1994); therefore, it is questionable whether the scrub-jay still classifies as a threatened species under the Florida statute. The International Union for Conservation of Nature and Natural Resources (IUCN) classifies the scrub-jay as "vulnerable" (IUCN 2002), which would be the equivalent of a "species of special concern" for the purposes of the FWC classification, meaning that the scrub-jay would receive less protection if the status is subsequently adopted by FWC. Such a designation would allow catastrophic losses to the scrub-jay population before it could be classified as threatened by the FWC.

Evaluation of Information in the Petitions

Service Regulatory Process

Under the section 7 consultation process, Federal agencies are required to consult with us when their actions may affect a listed species. Therefore, impacts to unoccupied habitat may not be considered unless the unoccupied habitat has been designated as critical habitat for the species under consultation. The petitions, therefore, present a factual statement about the Act. The 2002 petition cites a letter from the Service, in which we acknowledge that there are many areas with potentially suitable scrub habitat that have become overgrown due to fire suppression. Most of these sites are unoccupied by scrub-jays due to the unsuitable condition of the site's habitat, and therefore, the consultation requirement is not triggered. The 2003 petition cites court cases that do not relate specifically to the scrub-jay. The petitions do not provide substantial information showing a clear link between the section 7 process and their assertion that the species should be reclassified. We do, however, address the petitions' claims regarding threats of habitat destruction and fragmentation under Factor A. We also note that designation of unoccupied areas as critical habitat would not impose any requirement that land owners or land managers not suppress fires or conduct prescribed burns on that land.

The Service and the USACE have permitted numerous developments in central Brevard County and other portions of the species' range, as claimed by the petitioners. These permits are processed in accordance with applicable laws, regulations, and agency policies. The 2002 petition cited a project for Plantation Point (Service 2002b; Fritschie 2002, Attachment B) as evidence that development in central Brevard County that may affect scrub-jays continues to occur. The court determined that the biological opinion for this project followed the provisions of the Act (U.S. District Court 2002). Further, the claim raised by the 2002 petition is not different from that addressed in the 1987 final rule listing the species, because section 7 of the Act has not been radically changed since that time. As for the evidence cited by the 2003 petition (Service 2003), that 28 incidental take permits had been issued by the Service for projects involving scrub-jay habitat between 1994 and 2002 and that additional applications have been received and processed to date, this information is factual. However, cumulative impacts of these actions are addressed as part of compliance with the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and in the individual intra-Service section 7 consultations conducted on the actions. The petitions do not provide substantial information showing a link between these regulatory actions and their assertion that the scrub-jay should be reclassified to endangered. We do, however, address the petitions' claims regarding threats of habitat destruction and fragmentation under Factor A.

The Service has a rangewide approach to scrub-jay mitigation for development activity, which has been revised most recently in 2004 (Service 2004). The 2003 petition claims that we fail to follow our own mitigation guidance for impacts to scrub-jays, as shown in the outcome of the Plantation Point project (Service 1999, 2002b). The mitigation guidelines referenced (Service 1999) are written for incidental take permit actions under section 10(a)(1)(B) of the Act, which requires that impacts be avoided, minimized, and mitigated to the maximum extent practicable. The project used as an example to demonstrate our failure to follow the guidelines, however, was not processed under the provisions of section 10, but rather section 7. Under section 7, the action agency is required only to minimize impacts; the measures outlined in the mitigation guidance are utilized for section 7 subject to the "ultimate determination of acceptability by the action agency" (Service 2002b, 2004). The petitioners have not presented substantial information that indicates that as a result of this mitigation guidance, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

All counties in which scrub-jays are present, as well as many of the local municipalities, have been advised of their responsibilities under the Act. Even though Brevard County did not

adopt a regional HCP, numerous individual permit applications have been reviewed by the Service. The petition does not provide substantial information to support their claim that take is occurring as a result of local governments that are not requiring Federal permits. Further, the petition does not identify a clear link between the claim and the need to reclassify the species to endangered status.

The 2003 petition cites the Ocala National Forest as an example of the inadequacies of regulatory programs, citing a 31 percent drop in the number of scrub-jays from the early 1980s to the early 2000s. (Cox 1987; USFS 2002). We contend, however, that the survey methodologies cited in these two studies were different from one another and cannot be compared to demonstrate a drop in scrub-jay numbers. Further, no substantial information was presented by the petitioner that population declines on Federal lands in Florida are placing the scrub-jay in danger of extinction throughout all or a significant portion of its range.

Finally, both the 2002 and 2003 petitions contend that the scrub-jay recovery plan is in need of revision. Recovery plans are not regulatory documents; therefore, this claim is not relevant to this factor. Further, the petitions do not provide substantial information that as a result of the lack of revision to the scrub-jay recovery plan, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range. We note, however, that the recovery plan is being revised.

State Regulatory Process

The 2003 petition's contention that Florida law does not protect scrub-jays from habitat destruction is not different from that addressed in the 1987 final rule. In addition, while the information that a new process has been adopted by FWC for classifying species as endangered, threatened, or species of special concern is factual, according to the most recent list of imperiled species for the State of Florida (FWC 2004), the scrub-jay is still listed as threatened. The petition provides no substantial information that indicates as a result of the existing State laws, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

E. Other Natural or Manmade Factors Affecting the Species Continued Existence

Information Provided in the Petitions

Both the 2002 and 2003 petitions claim that the fire regime in scrub habitat has been altered, which has negatively affected scrub-jays (TNC 2001). Scrub-jay habitat, if not continuously managed, can quickly become population sinks for scrub-jays, creating difficulties for land managers and negatively impacting scrub-jays (Breininger and Carter 2003; Breininger and Oddy 2004). Throughout the northern portion of the species' range, the petitioners attribute population declines of scrub-jays to scrub fragmentation and degradation, due primarily to widespread fire suppression (Cox et al. 1994). In addition, the 2003 petition claims that a previous model for the scrub-jay (Root 1998) may have been too optimistic, because the possibility that certain kinds of impacts of environmental noise (such as loud sounds) on scrub-jays was ignored (Heino and Sabadell 2003).

Evaluation of Information in the Petitions

We share opinions provided in both the 2002 and 2003 petitions regarding the negative effects to scrub-jays from fire suppression (Breininger and Carter 2003; Breininger and Oddy 2004). However, fire suppression was considered a threat to the scrub-jay when the species was first listed as threatened in 1987 (52 FR 20715). The petitions provided no substantial information that indicates as a result of fire suppression, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

The work presented by Heino and Sabadell (2003) indicates that ignoring the effects of environmental noise on scrub-jays in population viability analysis can result in serious biases to a model. However, the petitioner did not provide substantial information that by not considering environmental noise, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

Finding

We have reviewed the petitions and literature cited in the petitions, and we have evaluated that information in relation to other pertinent literature. After this review and evaluation, we find the petitions do not present substantial scientific information to indicate that reclassification of the Florida scrub-jay from threatened to endangered may be warranted at this time. Although we will not be commencing a status review in response to these petitions, we will continue to monitor the species' population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the scrub-jay across its range.

We encourage interested parties to continue to gather data that will assist with the conservation of the species. If you wish to provide information regarding scrub-jays, you may submit your information or materials to the Field Supervisor, Jacksonville Fish and Wildlife Office (see **ADDRESSES** section).

References Cited

A complete list of all references cited herein is available, upon request, from the Jacksonville Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this notice is Dawn Zattau, U.S. Fish and Wildlife Service, Jacksonville Field Office (see **ADDRESSES** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 13, 2006.

Matt Hogan,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 06–551 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT38

Endangered and Threatened Wildlife and Plants; Designating the Greater Yellowstone Ecosystem Population of Grizzly Bears as a Distinct Population Segment; Removing the Yellowstone Distinct Population Segment of Grizzly Bears From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Notice of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the location and time of a public hearing to receive public comments on the proposal to establish a distinct population segment (DPS) of the grizzly bear (*Ursus arctos horribilis*) for the greater Yellowstone Ecosystem and surrounding area and to remove the Yellowstone DPS from the List of Threatened and Endangered Wildlife.

DATES: We will consider comments on this proposed rule received until the close of business on February 15, 2006. A public hearing will be held February 9, 2006.

ADDRESSES: If you wish to comment on the proposal, you may submit your comments and materials concerning this proposal by any one of several methods—

1. You may submit written comments to the Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall 309, University of Montana, Missoula, Montana 59812.

2. You may hand deliver written comments to our office at the address given above.

3. You may send comments by electronic mail (e-mail) to *FW6_grizzly_yellowstone@fws.gov*. See the "Public Comments Solicited" section below for file format and other information about electronic filing.

Comments and materials received, as well as supporting documentation used in preparation of this proposed action, will be available for inspection after the close of the public comment period, by appointment, during normal business hours, at the above address.

We will hold an additional public hearing from 7 p.m. to 9 p.m. on February 9, 2006, at Hilton Garden Inn, 2023 Commerce Way, Bozeman, Montana 59715.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone (406) 243–4903.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2005, the Service published a proposal to establish a DPS of the grizzly bear (*Ursus arctos horribilis*) for the greater Yellowstone Ecosystem and surrounding area and to remove the Yellowstone DPS from the List of Threatened and Endangered Wildlife (70 FR 69854). This proposal announced four open houses and one public hearing in early-to mid-January. We are scheduling an additional public hearing in Bozeman, Montana, before the close of the public comment period (see **ADDRESSES**).

The purpose of the public hearing is to provide additional opportunity for the public to comment on this complex proposal. Public hearings are the only method for comments and data to be presented verbally for entry into the public record of this rulemaking and for our consideration during our final decision. Comments and data also can be submitted in writing or electronically, as described in our November 17, 2005, proposal (70 FR 69854, November 17, 2005) and in the **ADDRESSES** section above.

Public Comments Solicited

We intend that any final action resulting from this proposed rule will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Generally, we seek information, data, and comments concerning the status of grizzly bears in the Yellowstone Ecosystem. Specifically, we seek documented, biological data on the status of the Yellowstone Ecosystem grizzly bears and their habitat, and the management of these bears and their habitat.

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. 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 this rule, will be available for public inspection, by appointment, during normal business hours at the above address. In making a final decision on this proposed rule, we will take into consideration the comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposal.

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: January 19, 2006.

Thomas O. Melius,

Acting Director, Fish and Wildlife Service.

[FR Doc. 06–741 Filed 1–23–06; 12:26 pm]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 71, No. 16
Wednesday, January 25, 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

January 19, 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) 720–8681.

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.

Farm Service Agency

Title: Brokerage Agreement for the Transportation of USDA Commodities.

OMB Control Number: 0560–0224.

Summary of Collection: 49 U.S.C. 13102(2), 13712, and 49 CFR chapter 10, part 1090–1099, authorizes the Export Operations Division (EOD) to collect information to determine Broker compliance with KCCO requirements and to determine the eligibility of Brokers to haul agricultural products for the United States Department of Agriculture (USDA). Brokers must complete the Brokerage Agreement for the transportation of USDA commodities. The Brokerage Agreement is used to establish the transportation service needs of the USDA, Farm Service Agency (FSA), Kansas City Commodity Office (KCCO), operating as Commodity Credit Corporation (CCC), for the brokered movement of its freight.

Need and Use of the Information: FSA will collect information to ensure that the applicant has both the willingness and the capability to meet the needs of KCCO and to establish the rules for which the broker can expect compensation. Without the information, KCCO could not meet program requirements.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, local or tribal government.

Number of Respondents: 47.

Frequency of Responses: Reporting: Other (Once).

Total Burden Hours: 47.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–860 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 20, 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) 720–8681.

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.

Rural Housing Service

Title: 7 CFR Part 1822–G, Rural Housing Loans, Policies, Procedures and Authorizations.

OMB Control Number: 0575–0071.

Summary of Collection: Section 523 and 524 of the Housing Act of 1949 authorizes loans for acquiring and developing housing sites for low and moderate-income housing. Information is necessary to protect the public from projects being built in areas of low need by applicants that are unable to administer the program properly.

Need and Use of the Information: Rural Housing Service (RHS) uses the information collected to verify and ensure program eligibility requirements, appropriate use of loans, and continuing with legislative requirements. If the information is not collected, RHS would

be unable to determine if the organization qualifies for loan assistance.

Description of Respondents: Not-for-profit institutions; State, local or tribal government.

Number of Respondents: 6.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 36.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–861 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–06–302]

United States Standards for Grades of Sweet Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS), prior to undertaking research and other work associated with revising official grade standards, is soliciting comments on the possible revisions of the United States Standards for Grades of Sweet Cherries. At a 2003 meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to review the Fresh Fruit and Vegetable grade standards for usefulness in serving the industry. As a result AMS has identified row sizes for possible inclusion into the sweet cherries grade standards. Additionally, AMS is seeking comments regarding any other revisions that may be necessary to better serve the industry.

DATES: Comments must be received by March 27, 2006.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; Fax (202) 720–8871, E-mail *FPB.DocketClerk@usda.gov*. Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. The United States Standards for Grades of Sweet Cherries are available either at the above address or by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/standards/stanfrfv.htm*.

FOR FURTHER INFORMATION CONTACT: Cheri L. Emery, at the above address or call (202) 720–2185; E-mail *Cheri.Emery@usda.gov*.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture "To develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices." AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities. AMS makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables not connected with Federal Marketing Orders or U.S. Import Requirements no longer appear in the Code of Federal Regulations, but are maintained by USDA/AMS/Fruit and Vegetable Programs.

AMS is proposing to revise the voluntary United States Standards for Grades of Sweet Cherries using procedures that appear in Part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36). These standards were published on May 7, 1971.

Background

At a 2003 meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to review the Fresh Fruit and Vegetable grade standards for usefulness in serving the industry. AMS has identified the United States Standards for Grades of Sweet Cherries for possible revision. AMS is considering incorporating a standard row size into the standards. This row size would correspond with current row sizes being used by the industry. However, prior to undertaking detailed work to develop the proposed revision to the standards, AMS is soliciting comments on the proposed revision and any other comments on the United States Standards for Grades of Sweet Cherries to better serve the industry.

This notice provides for a 60-day comment period for interested parties to comment on whether any changes are necessary to the standards. Should AMS conclude that there is a need for any revisions of the standards, the proposed revisions will be published in the **Federal Register** with a request for comments in accordance with 7 CFR part 36.

Authority: 7 U.S.C. 1621–1627.

Dated: January 19, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–862 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Change to Address for Hand Delivery of 2006 Applications to the Market Development Programs, Technical Assistance for Specialty Crops (TASC); Quality Samples Program (QSP); Market Access Program (MAP); Foreign Market Development Program (FMD); and Emerging Markets Program (EMP)

Reference Original **Federal Register** Notice Publication Dates and Catalog of Federal Domestic Assistance (CFDA) Numbers: TASC—70 FR 76230, December 23, 2005, CFDA 10.604; QSP—70 FR 76742, December 28, 2005, CFDA 10.605; MAP—70 FR 76740, December 28, 2005, CFDA 10.601; FMD—70 FR 76738, December 28, 2005, CFDA 10.600; and EMP—70 FR 76735, December 28, 2005, CFDA 10.603.

SUMMARY: The Commodity Credit Corporation is notifying the public of a change in address for hand delivery (including FedEx, DHL, UPS, etc.) of applications for the programs referenced above. Deliver to: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, 1400 Independence Ave., SW., Room 4932 South Building, Washington, DC 20250–1042.

DATES: All applications for the TASC program for the February 1 deadline must be received by 5 p.m. eastern standard time February 1, 2006. All applications for the QSP, MAP, FMD, and EMP programs must be received by 5 p.m. eastern standard time, March 13, 2006.

FOR FURTHER INFORMATION CONTACT: Entities wishing to apply for funding assistance should contact the Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1042, Washington, DC 20250–1042, phone: (202) 720–4327, fax: (202) 720–9361, e-mail: *mosadmin@fas.usda.gov*. Information is also available on the Foreign Agricultural Service Web site at *http://www.fas.usda.gov/mos/marketdev.asp*.

Signed at Washington, DC, on January 18, 2006.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 06–679 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service Final Revised Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Final notice.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is implementing the revisions to the Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds [64 FR 19242–19248]. These guidelines prescribe the procedures to be followed by the eligible institutions receiving Federal agricultural research and extension formula funds under the Hatch Act of 1887, as amended (7 U.S.C. 361a *et seq.*); sections 3(b)(1) and (c) of the Smith-Lever Act of 1914, as amended (7 U.S.C. 343 (b)(1) and (c)); and sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3221 and 3222). The recipients of these funds are commonly referred to as the 1862 land-grant institutions and 1890 land-grant institutions, including Tuskegee University and West Virginia State University. CSREES also is revising and reinstating a previously approved information collection (OMB No. 0524–0036) associated with these Guidelines.

FOR FURTHER INFORMATION CONTACT: Mr. Bart Hewitt; Program Analyst, Planning and Accountability, Office of the Administrator; CSREES–USDA; Washington, DC 20250; at 202–720–5623, 202–720–7714 (fax) or via electronic mail at *bhewitt@csrees.usda.gov.*

SUPPLEMENTARY INFORMATION: CSREES published a notice and request for comment on the Proposed Revised Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds in the **Federal Register** on June 7, 2005 (70 FR 33055–33062).

Public Comments and Guideline Changes in Response

In the Notice of the Proposed Guidelines, CSREES invited comments on the Proposed Guidelines as well as comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collections techniques or other forms of information technology.

CSREES received 22 sets of comments.

Burden

Comment: Half of the commentors (11) stated that the number of burden hours required is underestimated. One commentor stated that the number of burden hours required is overestimated. And one commentor stated that the number of burden hours appeared to be reasonable estimates. The other nine commentors had no comment on burden hours required.

CSREES Response: CSREES fully expected that half of the commentors would indicate that the number of burden hours was underestimated. CSREES contacted nine states for a burden survey based on the proposed guidelines. Seven States responded. We asked these states to complete the survey giving the estimated number of hours it will take to complete each portion of the Plan of Work (POW) and Annual Report, above and beyond the number of hours it would normally take to plan and report for their own State's purposes. The number represented in the guidelines is based on the median of the results of this survey, and based on a per institutional response. Thus, half of the responses are at or below this figure and half of the responses are at or above this figure. Also, since this number is based on each individual institutional response, it must be understood that a combined research institution and extension institution cooperating on a POW is considered to be two responses and is, thus, expected to be double this published figure since it represents two institutional responses. It also is significant to note that none of the states surveyed which were below this median estimate commented that the burden hours were underestimated.

Comment: One commentor stated that quantifying inputs would be overly burdensome.

CSREES Response: While quantifying inputs does put some burden on the States, it is necessary to report to Congress and the Office of Management and Budget what impacts are generated by what dollars. To reduce the burden on the states, CSREES will only ask for the types of funds used, and the estimated number of Full-Time Equivalents (FTEs) in the initial POW. Actual numbers on these will be asked in the Annual Report.

Hatch Act Funding

Comment: One commentor felt that there is no need for the Hatch Act anymore and that the budget should be cut. Moreover, this commentor stated that all research should be funded by agribusiness.

CSREES Response: CSREES appreciates and accepts all comments. However, this comment is beyond the scope of these Guidelines.

Due Date

Comment: Three commentors noted that the period covered in the Guidelines appears incorrect. The Guidelines state October 1, 2007, through September 30, 2011.

CSREES Response: CSREES agrees. The period should read October 1, 2006, through September 30, 2011. This is corrected in the final Guidelines.

Comment: Nine commentors state that the April 1, 2006, deadline for submitting the POW will be difficult to meet. One commentor suggests that having the Annual Report and POW submitted 60 days apart from each other would be less burdensome.

CSREES Response: CSREES needs to have 90 days to review and approve the POWs before funds can be released for the first quarter of fiscal year (FY) 2007. CSREES agrees to move the initial due date for the FY 2007–2011 POW to June 1, 2006. However, if any State institution does not submit their Plan by June 1, 2006, CSREES cannot guarantee prompt release of the first quarter funds for FY 2007 on October 1, 2006, since it can only do so with an approved POW. The due dates for the subsequent Annual Report of Accomplishments and the Annual Plan of Work Update will remain April 1 each year.

Elements of the Planned Programs Section

Comment: Two commentors suggest that while the Program Logic Model is

commonly used by many State Cooperative Extension Services, it is not a proven model or shown to be an effective tool for research. They suggest it is a flawed assumption that research and extension programs can use the same model.

CSREES Response: CSREES disagrees. Although it may be a relatively new concept for State Agricultural Experiment Stations (SAESs), many Federal research and development agencies and many private research and development organizations have shown the Program Logic Model to be an effective tool and are touting its use.

Comment: Another commentor is concerned that while the general flow of inputs-activities-outputs-outcomes can be used to describe any process, including research, one must be careful to articulate what is appropriate and acceptable for each of these categories in the model, particularly outputs and outcomes.

CSREES Response: CSREES agrees. CSREES conducted a series of regional sessions on Evaluation Training for the POW in October and November 2005, to augment the electronic versions of training materials that have been released and will be released. CSREES wants the 1862 and 1890 land-grant institutions to be clear on what is acceptable in the POW and subsequent Annual Reports of Accomplishments and Results.

Comment: Another commentor states that the Logic Model lends itself effectively to Extension Programs, while Knowledge Areas appear to be more applicable to research activities.

CSREES Response: CSREES agrees in part. CSREES also feels that an integration by using both methods will give richness to the planning and accountability process in both research and extension.

Comment: One commentor questioned the value of including assumptions in the POW. It only adds to reporting burden that will be useless for any accountability benefits.

CSREES Response: CSREES disagrees. Assumptions are key to the Logic Model. They are the beliefs we have about the program and the people involved; the way we think the program will work; and the underlying beliefs in how it will work. These are validated with research and experience. Assumptions underlie and influence the program decisions we make. Assumptions are principles, beliefs, ideas about, the problem or situation, the resources and staff, the way the program will operate, what the program expects to achieve, the knowledge base, the external and internal environment, and the participants and how they learn, their behavior, motivations, etc.

Comment: Twelve commentors stated that there was a lack of information about the Knowledge Area Classification (KAC) codes to judge them.

CSREES Response: CSREES has now published the KAC manual. For the Knowledge Areas, the research community will quickly notice that a vast majority of the codes are really no different than that of the Research Problem Areas (RPAs) that have been used for years in the Current Research Information System (CRIS). CSREES has augmented the KAC manual with some additional codes to encompass Extension and Higher Education, and also the language in the manual has been revised so Extension and Higher Education can find and use them for their programs. The KAC manual can be found at *http://www.csrees.usda.gov/business/reporting/planrept/plansofwork.html.*

Comment: One commentor requested that the Knowledge Areas not be changed once they have been implemented. Changes create extra work and less continuity in the information collected.

CSREES Response: CSREES intends to use the KACs to classify all the work performed by CSREES and its Partners to include Research, Extension, and Higher Education. The KAC manual is, however, designed to be a dynamic document that can be revised and augmented over time as need arises for new classification codes or to retire outdated or unused codes.

Comment: Two commentors strongly support the use of the Logic Model to develop plans and evaluation reports for both extension and research.

CSREES Response: CSREES appreciates all comments both positive and negative.

Comment: One commentor questions the use of the word "may" in section II.B.5 of the Guidelines that describe inputs as it relates to reporting on dollars other than Formula Funds. They feel the word "may" indicates that the inclusion of data is optional. Another commentor suggests that CSREES has no oversight authority in requesting this data and that it should be optional. Yet another commentor suggests that requesting states to quantify other funds is overly burdensome and that a compromise might be to simply describe the source/nature of other funds that will be expended to address critical issues. Moreover, two commentors stated a need for clarity on the funds to be reported on in the POW.

CSREES Response: To alleviate confusion, CSREES will change the word "may" to "shall" to be consistent with the wording in the legislation. The Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) legislation uses the word "shall" when it refers to a requirement. Thus, the wording in this section is being changed to read, "AREERA requires that this component shall not only include the amount of Federal agricultural research and/or extension formula funds allocated to this planned program, but also the manner in which funds, other than formula funds, will be expended to address the critical issues being targeted by this planned program." This is in keeping with Section 202 (for Smith-Lever and Hatch), and Section 225 (for 1890 Research and Extension funds) of AREERA. These sections state that "Each Plan of Work for a State * * * shall contain descriptions of the following: The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly." For the purpose of this 5-year POW, only those programs that use Federal Formula Funds and its accompanying matching funds need be reported. Thus, in the POW, CSREES will only ask whether or not Formula Funds are being used in a State-defined program and whether or not funds other than Formula Funds are being used. CSREES will not ask for the amount that is expected to be used in the POW, but will ask for this data in subsequent Annual Reports against the POW. However, CSREES will require the number of FTE positions participating in the planned programs identified in the 5-Year POW. In addition, a recurring comment made by State land-grant partners was that in formulating the POW requirements, CSREES needs to consider how much is leveraged with the Federal formula dollars.

Comment: Two commentors want a clarification of the definition of the word "Activities" as it relates to the Logic Model.

CSREES Response: CSREES has attempted to clarify the definition of the word "Activities" in the definition section of these guidelines. CSREES will amend the definition to include the following: "Activities are what a program does with its inputs, the services it provides to fulfill its mission. They include the research processes, workshops, services, conferences,

community surveys, facilitation, in-home counseling, etc."

Comment: Two commentors suggested that CSREES change the name of "community and resource development" to just "community development" in the definition of "Agricultural issues."

CSREES Response: CSREES has changed the wording in this definition to broaden it by including both "community development" and "resource development."

Comment: Two commentors suggested that CSREES change the phrase "social issues such as youth development, etc." to "youth development, strengthening families (parenting, communication, financial management), and related topics" in the definition of "Agricultural issues."

CSREES Response: CSREES agrees and has changed the wording to reflect this.

Comment: Four commentors have suggested that CSREES needs to clarify the definition of outcome and output indicators to reflect that of the Program Logic Model. One commentor asked, "What is the difference between outcomes and outcome indicators?" Another commentor asks if the word "indicators" is relevant to the Program Logic Model.

CSREES Response: CSREES believes the word "indicators" is very relevant to the Program Logic Model, because indicators are the measures of program success that are derived from the goals set in the Program Logic Model. Indicators are the evidence or information that represent the phenomenon of interest that has been explained in the Program Logic Model. Indicators answer the evaluation questions derived from the Program Logic Model, and define the data that will need to be collected, analyzed, and reported.

For example, a Program Logic Model may recognize a national problem, such as the need for nutrition education to help combat the nationwide epidemic of obesity, and lay out the planned course of action to deliver activities, such as courses for certain target groups, that will result in planned results, such as increases in knowledge, changes in attitudes, and changes in behavior, that we know from experience and health literature will lead to lower weight. This example also illustrates the difference between output and outcome indicators. Output indicators measure the activities that comprise the process of the program, such as counting the number of courses provided and the number of participants, while outcome indicators measure the results of those activities, such as changes in nutrition knowledge measured by a test, changes in attitudes, and changes in behavior. Some evaluation studies also collect physical outcome data, such as measuring calories consumed each day, changes in weight, etc.

Using the word "outcomes" in the Program Logic Model refers to the planned conceptual goal for the cluster of output activities to which it is linked, while "outcome indicator" refers to the selected measure of progress toward that goal. However, in common usage, people often may use "outcomes" as shorthand for the measure.

Comment: Three commentors have suggested that CSREES change the wording from "identification of national problem," to "identification of state problem" in the definition of Program Logic Model. Moreover, one commentor points out that there is conflicting language in the Guidelines which implies the POW must address only national priorities.

CSREES Response: CSREES agrees in part and has changed the wording in this definition to provide greater clarity in that the POW should address both state and national priorities. National issues are usually best addressed at the state level by the States affected. Collectively, state and national priorities are cohesive and solutions are mutually beneficial.

Comment: Two commentors stated that it would be helpful if CSREES would give some indication of the scale of "programs" that is expected for state programs. In addition, the commentor requested brief examples.

CSREES Response: The purpose of letting the States define their own program unit, or unit of work, is to allow greater flexibility in how States plan and report. CSREES does not want to dictate the programs around which States do their planning. However, CSREES has published its Strategic Plan on its Web site at *http://www.csrees.usda.gov/about/offices/pdfs/strat_plan_04_09.pdf*, and a list of eleven National Emphasis Areas that CSREES uses for its own planning. This list is published on the CSREES Web site at *http://www.csrees.usda.gov/nea/emphasis_area.html*.

Comment: Two commentors stated that it appears that the POW system will request specific measures of program accomplishment. In practice, these measures may not be uniform for all projects across the entire Nation, and CSREES will ask for the number of persons adopting a technology of practice, dollars saved or generated, etc. The commentor proposes that the POW and Annual Report serve as a broad Federal umbrella, under which the States are allowed to use measures of evaluation deemed appropriate by each State. Moreover, two commentors stated CSREES needs to list the standard performance measures for outputs.

CSREES Response: CSREES agrees. It was never the intention of the POW to craft many nation-wide standard measures for outputs and outcomes. In fact, there are only three standard "output" measures for the FY 2007–2011 POW. Thus far, there are no standard "outcome" measures put forth by CSREES for the FY 2007–2011 POW, but we will continue to work with national task forces to develop some over time. The standard output measures for extension are number of direct and indirect contacts, and extension education methods for extension. The only standard output measure for research in the POW is number of patents. In the Annual Report, we will ask what those patents are. The other output measures and all outcome measures are left to the discretion of the institution to craft as they deem appropriate for their programs. More detail on the standard performance measures are published in the training presentation modules for the POW on the CSREES Web site at *http://www.csrees.usda.gov/business/reporting/planrept/plansofwork.html*.

Comment: One commentor suggested that there is redundancy in asking for information under situation and priorities sections and in the Multistate Extension and Integrated Research and Extension activities sections, and the stakeholder input process sections.

CSREES Response: CSREES has revised the situation and priorities section to clarify what is needed and to reduce redundancy of these sections.

Comment: One commentor suggest that it will be difficult to estimate indirect and direct contacts during the first year of the POW given that they have not counted these in this manner previously, but it sees value in this information as it reaches many clientele by both indirect and direct means. Staff will feel better about being able to count all their contacts as some have felt unsettled at being told to count only direct contacts in the past. Their numbers for both may be more accurate as a result.

CSREES Response: CSREES agrees that this may be difficult for some states that have not counted these in the past. Also, we understand that, for the POW, that these will be estimates. However, in the first Annual Report due on April 1, 2008, CSREES feels institutions will be able to count the actual contacts for the first fiscal year. The Plan numbers are

milestones to strive for, while the real output measures in the Annual Report are what we typically will use for determining success.

Multistate Extension and Integrated Research and Extension

Comment: One commentor states that for Smith-Lever Multistate Extension, the formal documentation discussed to provide evidence appears to be a new requirement for the POW. The requirement of formal written agreements will be a distraction to faculty-to-faculty multistate activities and will require considerable time to develop the agreements. Most agreements are non-formal. Another commentor agrees, but goes further to state that e-mail communications can be viewed as primary evidence that a multistate relationship exists and that this requirement is creating a bureaucracy and hours spent in preparing reports without any benefit to the stakeholder. If faculty members are told they must have this agreement signed prior to initiating a multi-state effort, all regional programming will come to a halt.

CSREES Response: This requirement was in the original POW Guidelines published on July 1, 1999. The requirement for formal written agreements, letters of memorandum, etc. has been deleted. However, it is expected that these activities meet the criteria and definition of multistate extension as stated in the Guidelines. CSREES expects that, with the elimination of the requirement for formal written agreements or letters of memorandum, institutions will be better able to meet their target percentages. In fact, CSREES expects that some institutions (i.e., those with low target percentages) may be better able to achieve higher target percentages, closer to 25 percent, with the elimination of the need for formal written agreements in order to provide evidence of multistate extension activities.

Comment: One commentor feels we should strike the statement that "these programs must be reported consistently across the units of an institution as well as with the 5-Year POW of the cooperating State(s) or State institutions" in both the Multistate Extension and Integrated Research and Extension sections to be consistent with the Administrative Guidance on our CSREES Web site.

CSREES Response: CSREES agrees and will clarify this statement in both sections to be consistent with the Administrative Guidance on both sections.

Comment: One commentor states that the guidance continues to ignore what is meant by "at least equal to the lesser of 25 percent or twice the * * *" in reference to which funds are being addressed for Multistate Extension and Integrated Research and Extension programs. This should be interpreted that States report on the value of 25 percent of Federal formula dollars regardless of the source of those dollars, whether Federal formula dollars or state matching dollars. If this means only 25 percent of Federal formula dollars this is a concern. To limit reporting to only Federal dollar funded positions is difficult as the Federal dollars have fallen so far behind in keeping up with the operating costs and many States are not hiring new employees on Federal dollars. Clarity on this point is needed.

CSREES Response: The requirements of AREERA are very clear in that they do refer only to the Federal formula funds: "Of the Federal formula funds that are paid to each State for fiscal year 2000 and each subsequent fiscal year under subsections (b) and (c), the State shall expend for the fiscal year for multistate activities a percentage that is at least equal to the lesser of (i) 25 percent; or (ii) twice the percentage for the State determined under subparagraph A." CSREES realizes the difficulty for some States to meet these requirements with Federal formula funds and does understand that many times these multistate extension and integrated activities are being supported with other sources of funding (e.g., State funds). However, the statutory requirement applies to the Federal formula funds only.

Comment: One commentor inquired about whether States would have the opportunity to establish new target percentages for Multistate Extension Activities and Integrated Research and Extension Activities.

CSREES Response: Yes, States will have the opportunity to and in some cases, may be required to establish new target percentages for Multistate Extension Activities and Integrated Research and Extension Activities. A revised Administrative Guidance for Multistate Extension Activities and Integrated Research and Extension Activities is currently being drafted.

Merit Review

Comment: One commentor needs a clarification on "program goals" in the Merit Review definition. The commentor questioned: "Whose Program Goals? Are these to be State goals or Federal goals?" This statement can be interpreted to be state goals.

CSREES Response: CSREES will clarify this statement to say "Merit review means an evaluation whereby the quality and relevance to state program goals are assessed." This refers to the merit review of state programs.

Stakeholder Input

Comment: One commentor feels the template approach to the sections on stakeholder input and merit review processes is too constraining. Such disaggregation trivializes the integrated approaches they have established and brings all programs to a lowest common denominator of description, regardless of quality of the processes involved. In contrast, the open narrative format of the current plan allowed fair descriptions of such processes and permitted qualitative differentiation.

CSREES Response: As CSREES was designing the new POW, it specifically received many positive responses to the way it was handling these two sections of the Plan. CSREES feels it is alleviating limitations by incorporating into the software both checkboxes and text boxes to allow for the flexibility to further explain the important institutional strategies and processes. CSREES is, however, forcing conciseness and brevity in its narrative sections as requested by institutions receiving funds and mandates by Federal laws and regulations.

General

Comment: One commentor suggests that the following language seems contradictory. The section on Schedule states that "Five-Year Plans of Work accepted by CSREES will remain in effect for five years and will be publicly available in a CSREES database." Earlier language indicates that the Annual Update to the 5-Year POW will add an additional year to the continuous 5-Year POW. The commentor asks whether the approval of the Annual Update also extends the POW another year.

CSREES Response: CSREES agrees that this seems contradictory and it has changed the language in the section on "Schedule" to clarify the meaning. The intention is that an approval of the Annual Update also does extend the POW for another year. But, this update, in effect, is a "new" 5-Year POW that is effective for the "new" 5-year period.

Comment: One commentor stated that for CSREES to require future 5-Year POWs is redundant since the States are required to provide annual updates to the plans, adding an additional year each time. Another commentor stated that this point needs to be clarified.

CSREES Response: CSREES agrees in part. CSREES will strike the last

sentence of the paragraph and clarify this statement. However, technically CSREES is still requiring future 5-Year POWs since each year the update is a new 5-Year Plan. For example, the update due by April 1, 2007, will be the FY 2008–2012 5-Year POW, even though an additional year is being added to the previous FY 2007–2011 5-Year POW. Moreover, CSREES will allow data to be revised, if needed, for any future year in the Plan, not just the added year.

Comment: Three commentors believe that the core of the POW (the planned programs) for the SAESs is already in the CRIS database, and the Hatch projects in each State's Program of Research should be accepted de facto as the research planned programs sections for the POW.

CSREES Response: CSREES agrees in part. Although much information is in CRIS, it is primarily a reporting mechanism, and is mostly retrospective, and does not sufficiently make use of the planning standard, the Program Logic Model, which is in use by many Federal research and development agencies. The Program Logic Model is key to the development of the POW. CSREES understands the frustration of redundancy and is working toward eliminating duplication via the "One Solution" initiative. The "One Solution" initiative is exploring ways to meld the information contained in CRIS and the POW to eliminate or reduce this duplication of effort. The FY 2007–2011 POW is part of Phase 1 of the "One Solution" initiative, and future phases, which include the FY 2007 Annual Report (which is not due until April 1, 2008), will address this issue fully.

Comment: One commentor feels CSREES should precede the first sentence in the paragraph with the phrase "For extension * * *" when describing education and outreach programs that are pertinent to the critical agricultural issues identified in the "Statement of Issue."

CSREES Response: CSREES agrees and has changed the language to reflect this.

Comment: One commentor wants CSREES to clarify the definition and consistently apply the meaning of "planned program," which is crucial to both State and Federal partners. The commentor believes the proposed guidelines are ambiguous.

CSREES Response: CSREES has purposely given the States ample discretion and flexibility to interpret their own state-defined program units or units of work and does not want to impose a standard program unit that will not fit all circumstances.

Comment: One commentor wants CSREES to clarify the definition of "Under-served" and "Under-represented." One commentor stated that they conduct 10–15 civil rights reviews on an annual basis and have never seen these definitions. Both phrases seem to be addressing the same concept and yet, after several readings, it is still unclear to the commentor what is meant.

CSREES Response: CSREES agrees that both phrases seem to be addressing the same concept, but also feels the current definitions are clear. Under-served are those whose "needs" have not been fully addressed in the past; whereas, under-represented are those who may not have participated fully in programs. The populations for each state that fit these definitions may differ from state to state and within different areas of a single state.

Comment: One commentor states that the failure of the proposed guidelines to integrate or coordinate with Smith-Lever Act section 3(d) programs and Civil Rights reporting calls to question the validity of the "One Solution" approach. Another commentor states that CSREES needs to eliminate duplicative effort in reporting impact and accounting for Federal formula funding received by organizations, and that reporting into the CSREES Science and Education Impact database is another example of duplicative work.

CSREES Response: CSREES has begun the process to coordinate with the Smith-Lever Act section 3(d) programs. However, reporting under the "One Solution" is taking place in several phases over several years. The POW is only part of Phase 1 of the "One Solution" initiative. The Annual Report of Accomplishments for the Formula funded programs covered by AREERA are part of a future phase of the "One Solution" that also will integrate many other programs, including Smith-Lever Act section 3(d) funded programs, and projects reporting to reduce redundancy in reporting.

Comment: One commentor states that the web-entry system should come with a support plan. Also, the new system should be functional in offline use since they cannot do all the data entry in one sitting and must be able to save between entries and drafts. If this must be done online, then it must have a "save as we go" feature. Also there should be no limitations on characters and symbols that can be uploaded when cutting and pasting from word processing documents.

CSREES Response: The web-entry system will be supported by the Information Systems and Technology Management unit of CSREES. The new system will not be functional offline, but it will have a "save as you go" feature to allow for multiple editing until submitted in final by the Director or Administrator of the institution. There will, however, be some special character limitations due to software constraints.

Comment: The Connecticut Agricultural Experiment Station in New Haven states that they are not a land-grant institution, but receive Hatch Act funds, thus the sentence which begins with "Responders will be the 57 land-grant institutions and the 18 1890 land-grant institutions* * *" excludes them.

CSREES Response: CSREES will clarify this statement to include the Connecticut Agricultural Experiment Station in New Haven and the Geneva Agricultural Experiment Station in New York.

Comment: One commentor encourages CSREES to provide a training session, one in the East and one in the West, using computer-based simulation to train each institution's lead 5-Year POW planner. There also should be an online help desk available for the software.

CSREES Response: CSREES held four regional Evaluation Training for the POW sessions in October and November 2005. Information on these training sessions can be found on the CSREES AREERA Plan of Work Web page at *http://www.csrees.usda.gov/business/reporting/planrept/plansofwork.html.* There also will be web-based training materials available for the software. The POW software itself will contain help screens for each section of the POW and there will be a help desk available for both software and content.

Comment: One commentor states that data related to external factors may only be able to be documented in a qualitative form and inquires if the "One Solution" will have the capacity to capture such data.

CSREES Response: The POW software will make use of checkboxes with an "other" choice with a text field as well as a text box to capture the qualitative nature of this item.

Comment: One commentor states that a clear declaration must be made by CSREES that states how input, output, and outcome data are to be used. Is the data base to enhance planning and scientific peer-review as articulated in AREERA or is it also intended to link dollar inputs with specific outputs/outcomes, both within the state and across regional and multi-state efforts? Another commentor inquires how linking impact to dollars will be shared

with legislators and other resource allocators.

CSREES Response: CSREES Plans to use the input, output, and outcome data to enhance planning, and also to link dollar inputs with Knowledge Areas for use in assessing CSREES-funded programs in the portfolio review process for budget purposes. We also will link outputs and outcomes to the Knowledge Areas for use in the portfolio review process.

Comment: One commentor discourages the tracking or documentation of multi-county programming work. The time invested would be very cumbersome and distract from the many successes already occurring. Another commentor states that to require or even encourage multi-county cooperation violates the sovereignty of the county government and the local stakeholders to fund what they perceive as a priority and oversteps the bounds of the Federal Government.

CSREES Response: CSREES must uphold the mandates of AREERA as written into the law. The AREERA legislation states that for Smith-Lever Act formula funds and the 1890 Extension formula funds that "[e]ach extension Plan of Work for a State * * * shall contain description of the following:" "(5) The education and outreach programs already underway to convey available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research results." CSREES has no intention of tracking multi-county programming work in the POW. However, as stated above, AREERA requires that States document efforts to encourage multi-county cooperation in the dissemination of research information. This can be discussed briefly in the Plan Overview text and/or the Stakeholder Input section of the Plan.

Comment: Eight commentors stated a need for more information on the concept of a rolling 5-year POW and the required Annual Update to the POW, and how this differs from an update being submitted when formula funds change by more than 10 percent in one year or by 20 percent or more cumulatively during the 5-year period.

CSREES Response: The POW does become a rolling 5-Year Plan. Each April, the just-completed-and-reported-on year drops off and is updated by adding the next fifth year. Also, annual updates will allow for amending any and all future years of the plan already entered. CSREES has attempted to add clarity in these guidelines and has published more thorough training presentation modules on the CSREES Web site at *http://www.csrees.usda.gov/business/reporting/planrept/plansofwork.html*. Since an update is submitted each year, CSREES will drop the reference to needing an update when baseline formula funds change by more than 10 percent in one year or by 20 percent or more cumulatively during the 5-year period, but note that annual updates will allow for amending any and all future years of the plan already entered.

Comment: CSREES needs to improve its search capabilities to search for impacts by Congressional district.

CSREES Response: While this is beyond the scope of the POW Guidelines, CSREES is striving to improve on the way we search and find impacts through the "One Solution" initiative which will incorporate data entry systems with the Research, Education, and Economics Information System (REEIS). This system has been designed to serve all with an interest in research, education and extension efforts performed or financially supported by USDA. The ultimate objective of the system is to enable users to measure the impact and effectiveness of research, extension and education programs.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements imposed by the implementation of these guidelines will be submitted to OMB as a revision of Information Collection No. 0524–0036, Reporting Requirements for State Plans of Work for Agricultural Research and Extension Formula Funds. These requirements will not become effective prior to OMB approval. The eligible institutions will be notified upon this approval.

Background and Purpose

The Cooperative State Research, Education, and Extension Service (CSREES) is implementing the following revised Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds which implement the plan-of-work reporting requirements enacted in the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), Public Law 105–185.

These guidelines incorporate some of the recommendations from the USDA Office of Inspector General (OIG) Audit Report No. 13001–3–Te, CSREES Implementation of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), which was published on August 16, 2004. In an earlier **Federal Register** notice [69 FR 6244–6248], CSREES amended the Guidelines to the State Plans of Work to allow for the submission of an interim FY 2005–2006 Plan of Work (POW) in order for CSREES to consider the audit recommendations as well as develop a viable electronic option for compliance with the Government Paperwork Elimination Act (GPEA). This notice implements this electronic option through a web-based data entry system which will reduce the reporting burden to the institutions while providing more accountability over agricultural research and extension formula funds.

Pursuant to the Plan of Work requirements enacted in the Agricultural Research, Extension, and Education Reform Act of 1998, the Cooperative State Research, Education, and Extension Service hereby revises the Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds as follows:

Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds

Table of Contents

B. Format

I. Preface and Authority

Sections 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), Public Law 105–185, enacted amendments requiring all States and 1890 institutions receiving formula funds authorized under the Hatch Act of 1887, as amended (7 U.S.C. 361a *et seq.*), the Smith-Lever Act, as amended (7 U.S.C. 341 *et seq.*), and sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended (7 U.S.C. 3221 and 3222), to prepare and submit to the Cooperative State Research, Education, and Extension Service (CSREES) a Plan of Work for the use of those funds.

While the requirement for the Hatch Act and Smith-Lever Act funds applies to the States, CSREES assumes that in most cases the function will be performed by the 1862 land-grant institution in the States. The only "eligible institutions" to receive formula funding under sections 1444 and 1445 of NARETPA are the 1890 land-grant institutions and Tuskegee University and West Virginia State University. Therefore, these guidelines refer throughout to "institutions" to include both the 1862 and 1890 land-grant institutions, including Tuskegee University and West Virginia State University.

Further, these guidelines require a POW that covers both research and extension. Although the District of Columbia receives extension funds under the District of Columbia Postsecondary Education Reorganization Act, Public Law 93–471, as opposed to the Smith-Lever Act, CSREES has determined that it should be subject to the POW requirements imposed under these guidelines except where expressly excluded.

All the requirements of AREERA with regard to agricultural research and extension formula funds were considered and were incorporated in these POW guidelines including descriptions of the following: (1) The critical short-term, intermediate, and long-term agricultural issues in the State and the current and planned research and extension programs and projects targeted to address the issues; (2) the process established to consult with stakeholders regarding the identification of critical agricultural issues in the State and the development of research and extension projects and programs targeted to address the issues; (3) the efforts made to identify and collaborate with other colleges and universities that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional and multistate efforts) to work with those other institutions; (4) the manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, sequentially, or jointly; and (5) For extension, the education and outreach programs already underway to convey available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research information.

These guidelines also take into consideration the requirement in section 102(c) of AREERA for the 1862, 1890, and 1994 land-grant institutions receiving agricultural research, extension, and education formula funds to establish a process for receiving stakeholder input on the uses of such funds. This stakeholder input requirement, as it applies to research and extension at 1862 and 1890 land-grant institutions, has been incorporated as part of the POW process.

The requirement of section 103(e) of AREERA also is addressed in these POW guidelines. This section requires that the 1862, 1890, and 1994 land-grant institutions establish a merit review process, prior to October 1, 1999, in order to obtain agricultural research, extension, and education funds. These were established by all institutions in the FY 2000–2004 5-Year POW. For purposes of these guidelines applicable to formula funds, a description of the merit review process must be restated, and if applicable, the merit review process must be re-established for extension programs funded under sections 3(b)(1) and (c) of the Smith-Lever Act and under section 1444 of NARETPA, and for research programs funded under sections 3(c)(1) and (2) of the Hatch Act (commonly referred to as Hatch Regular Formula Funds) and under section 1445 of NARETPA. Section 104 of AREERA amended the Hatch Act of 1887 also to stipulate that a scientific peer review process (that also would satisfy the requirements of a merit review process under section 103(e)) be established for research programs funded under section 3(c)(3) of the Hatch Act (commonly referred to as Hatch Multistate Research Funds). As previously stated, a description of these program review processes must be restated, and if applicable, these review processes must be re-established in order for the institutions to obtain agricultural research and extension formula funds. Consequently, a description of the merit review and scientific peer review process has been included as a requirement in the submission of the 5-Year POW.

These POW guidelines also require reporting on the multistate and integrated research and extension programs. Section 104 of AREERA amended the Hatch Act of 1887 to redesignate the Hatch regional research funds as the Hatch Multistate Research Fund, specifying that these funds be used for cooperative research employing multidisciplinary approaches in which a State agricultural experiment station (SAES), working with another SAES, the Agricultural Research Service, or a college or university, cooperates to solve the problems that concern more than one State. Section 105 of AREERA amended the Smith-Lever Act to require that each institution receiving extension formula funds under sections 3(b) and (c) of the Smith-Lever Act expend for multistate activities in FY 2000 and thereafter a percentage that is at least equal to the lesser of 25 percent or twice the percentage of funds expended by the institution for multistate activities in FY 1997. Section 204 of AREERA amended both the Hatch and Smith-Lever Acts to require that each institution receiving agricultural research and extension formula funds under the Hatch Act and sections 3(b) and (c) of the Smith-Lever Act expend for integrated research and extension activities in FY 2000 and thereafter a percentage that is at least equal to the lesser of 25 percent or twice the percentage of funds expended by the institution for integrated research and extension activities in FY 1997. These sections also required that the institutions include in the POW a description of the manner in which they will meet these multistate and integrated requirements. These were included as part of the FY 2000–2004 5-Year POW.

These applicable percentages apply to the Federal agricultural research and extension formula funds only. Federal formula funds that are used by the institution for a fiscal year for integrated activities also may be counted to satisfy the multistate extension activities requirement.

The multistate and integrated research and extension requirements do not apply to formula funds received by American Samoa, Guam, Micronesia, Northern Marianas, Puerto Rico, and the Virgin Islands. Since the Smith-Lever Act is not directly applicable, the multistate extension and integrated requirements do not apply to extension

funds received by the District of Columbia, except to the extent it voluntarily complies.

The amendments made by sections 105 and 204 of AREERA also provide that the Secretary of Agriculture may reduce the minimum percentage required to be expended by the institution for multistate and integrated activities in the case of hardship, infeasibility, or other similar circumstance beyond the control of the institution. In April 2000, CSREES issued separate guidance on the establishment of the FY 1997 baseline percentages for multistate extension activities and integrated research and extension activities, on requests for reduction in the required minimum percentage, and on reporting requirements. The Administrative Guidance for Multistate Extension Activities and Integrated Research and Extension Activities provides guidance on the establishment of target percentages for multistate extension activities and integrated research and extension activities as well as associated reporting requirements and waiver criteria and procedures.

Also included in these guidelines are instructions on how to report on the annual accomplishments and results of the planned programs contained in the 5-Year POW, information on the evaluation of accomplishments and results, and information on when and how to update the 5-Year POW if necessary.

II. Submission of the 5-Year Plan of Work

A. General

1. Planning Option

This document provides guidance for preparing the POW with preservation of institutional autonomy and programmatic flexibility within the Federal-State Partnership. The POW is a 5-year prospective plan that covers the initial period of FY 2007 through FY 2011, with the submission of annual updates to the 5-Year POW to add an additional year to the plan each year. The 5-Year POWs may be prepared for an institution's individual functions (i.e., research or extension activities), for an individual institution (including the planning of research and extension activities), or for state-wide activities (i.e., a 5-year research and/or extension POW for all the eligible institutions in a State). Each 5-Year POW must reflect the content of the program(s) funded by Federal agricultural research and extension formula funds and the required matching funds. This 5-Year POW must describe how the program(s) address critical short-term, intermediate, and long-term agricultural issues in a State.

2. Period Covered

The initial 5-Year POW should cover the period from October 1, 2006, through September 30, 2011.

3. Projected Resources

The resources that are allocated for various planned programs in the 5-Year POW, in terms of full-time equivalents (FTEs), should be included and projected over the next five years. The baseline for the institution's or State's plan (for five years) should be the Federal agricultural research and extension formula funds for FY 2005 (and used for all five years) and the appropriate matching requirement for each fiscal year.

4. Submission and Due Date

The initial FY 2007–2011 5-Year POW must be submitted by June 1, 2006, to the Planning and Accountability Unit, Office of the Administrator, of the Cooperative State Research, Education, and Extension Service (CSREES); U.S. Department of Agriculture. These will be submitted electronically via a web-based data input system for the POW and Annual Report of Accomplishments and Results provided by CSREES. The web address for submissions will be provided by CSREES when the software goes on-line.

5. Definitions

For the purpose of implementing the Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds, the following definitions are applicable:

Activities means either research projects or extension programs. In the logic model, activities are what a program does with its inputs, the services it provides to fulfill its mission. They include the research processes, workshops, services, conferences, community surveys, facilitation, in-home counseling, etc.

Agricultural issues means all issues for which research and extension are involved, including, but not exclusive of, agriculture, natural resources, nutrition, community development, resource development, and youth development, strengthening families (parenting, communication, financial management), and related topics.

Formula funds for the purposes of the Plan of Work guidelines means funding provided by formula to 1862 land-grant institutions under section 3 of the Hatch Act of 1887, as amended (7 U.S.C. 361a) and sections 3(b)(1) and (c) of the Smith-Lever Act, as amended (7 U.S.C. 343(b)(1) and (c)) and to the 1890 land-grant institutions under sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3221 and 3222).

Formula funds for the purposes of stakeholder input means the funding by formula to the 1862 land-grant institutions and 1890 land-grant institutions covered by these Plan of Work guidelines as well as the formula funds provided under the McIntire-Stennis Cooperative Forestry Research Program (16 U.S.C. 582, *et seq.*), the Animal Health and Disease Research Program (7 U.S.C. 3195), and the education payments made to the 1994 land-grant institutions under section 534(a) of Public Law 103–382 (7 U.S.C. 301 note).

Integrated or joint activities means jointly planned, funded, and interwoven activities between research and extension to solve problems. This includes the generation of knowledge and the transfer of information and technology.

Merit review means an evaluation whereby the quality and relevance to the State program goals are assessed.

Multi-institutional means two or more institutions within the same or different States or territories that will collaborate in the planning and implementation of programs.

Multistate means collaborative efforts that reflect the programs of institutions located in at least two or more States or territories.

Multi-disciplinary means efforts that represent research, education, and/or extension programs in which principal investigators or other collaborators from two or more disciplines or fields of specialization work together to accomplish specified objectives.

Outcome indicator means an assessment of the results of a program activity compared to its intended purpose. The outcome indicator measures the success of the outcome. It is the evidence or information that represents the phenomenon that is being measured. They define the data that will be collected and evaluated.

Output indicator means a tabulation, calculation, or recording of activity of effort expressed in quantitative or qualitative manner which measures the products or services produced by the planned program. The output indicator measures the success of the output. It is the evidence or information that represents the phenomenon being measured. They define the data that will be collected and evaluated.

Planned programs means collections of research projects or activities and/or extension programs or activities. States and State institutions define their own program unit or unit of work.

Program Logic Model means the conceptual tool for planning and evaluation which displays the sequence of actions that describe what the science-based program is and will do—how investments link to results. Included in this depiction of the program action are six core components:

1. *Identification of the state and/or national problem, need, or situation that needs to be addressed by the program:* The conceptual model will delineate the steps that are planned, based on past science and best theory, to achieve outcomes that will best solve the identified state and national problems and meet the identified needs.

2. *Assumptions:* The beliefs we have about the program, the people involved, and the context and the way we think the program will work. These science-based assumptions are based on past evaluation science findings regarding the effects and functioning of the program or similar programs, program theory, stakeholder input, etc.

3. *External Factors:* The environment in which the program exists includes a variety of external factors that interact with and influence the program action. Evaluation plans for the program should account for these factors, which are alternative explanations for the outcomes of the program other than the program itself. Strong causal conclusions about the efficacy of the program must eliminate these environmental factors as viable explanations for the observed outcomes of the program.

4. *Inputs:* Resources, contributions, and investments that are provided for the program. This includes Federal, state, and local spending, private donations, volunteer time, etc.

5. *Outputs:* Activities, services, events, and products that are intended to lead to the program's outcomes in solving national problems by the causal chain of events depicted in the logic model. These activities and products are posited to reach the people who are targeted as participants or the audience or beneficiaries of the program. Activities are what a program does with its inputs, the services it provides to fulfill its mission. They include the research processes, workshops, services, conferences, community surveys, facilitation, in-home counseling, etc.

6. *Outcomes:* Planned results or changes for individuals, groups, communities, organizations, communities, or systems. These include short-term, medium-term, and long-term outcomes in the theorized chain of causal events that will lead to the planned solution of the identified national problems or meet national needs. These can be viewed as the public's return on its investment (i.e., the value-added to society in the benefits it reaps from the program).

Program review means either a merit review or a scientific peer review.

Scientific peer review means an evaluation performed by experts with scientific knowledge and technical skills to conduct the proposed work whereby the technical quality and relevance to program goals are assessed.

Seek stakeholder input means an open, fair, and accessible process by which individuals, groups, and organizations may have a voice, and one that treats all with dignity and respect.

Stakeholder is any person who has the opportunity to use or conduct agricultural research, extension, and education activities in the State.

Under-served means individuals, groups, and/or organizations whose needs have not been fully addressed in past programs.

Under-represented means individuals, groups, and/or organizations especially those who may not have participated fully including, but not limited to, women, racial and ethnic minorities, persons with disabilities, limited resource clients, and small farm owners and operators.

B. Components of the 5-Year Plan of Work

1. Planned Programs

Beginning with the FY 2007–2011 5-Year POW the Planned Programs will no longer be arranged around the five National Goals established for the FY 2000–2004 5-Year POW, nor will they be identified by the previously established Key Themes. Planned programs will be centered around State identified planned program areas and CSREES newly established Knowledge Areas (KAs).

a. *Format.* As mentioned under the Planning Options section, an institution or State may opt to submit independent plans for the various units (e.g., 1862 research) or an integrated plan which includes all units in the institution or State.

b. *Program Logic Model.* Regardless of the option chosen, the 5-Year POW should be reported in the appropriate format, each of which identifies planned programs that the State decides upon. Each Planned Program chosen by the State will be formatted around the Program Logic Model in this web-based POW data entry system. This is a nationally recognized method and used extensively by planning and evaluation specialists to display the sequence of actions that describe what the program is and will do and how investments link to results. It is commonly used by many State Cooperative Extension Services.

c. *Program Descriptions.* Program descriptions presented for a planned program will be formatted around the Program Logic Model and include the following data entry screens:

1. *Name of Program.* The State designated title for a State Research and/or Extension Program. This is in contrast to a project title. A research program may consist of several research projects. Examples of Programs may include, but not exclusive of: 4–H and Youth, Pest Management, Animal Genomics, Natural Resources, Economics and Commerce, etc.

2. *Classification of Program.* Up to ten different classification codes and their respective percentage of effort may be used to classify the KAs covered in each State program.

3. *Situation and Priorities.* This component should discuss the critical agricultural issues within the State that were identified and being targeted by this planned program. This component may also reference the stakeholder input which identified the critical agricultural issue in the State and the need for the targeted research and/or extension program. The situation is the foundation for logic model development. The problem or issue that the program is to address sits within a setting or situation. It is a complex of socio-political, environmental, and economic conditions. The situation statement should discuss (a) the problem/issue; (b) why this is a problem or issue; (c) for whom (individual, household, group, community, society in general) the problem or issue exists; who has a stake in the problem; (d) what is known about the problem/issue/people that are involved; and (e) on what research, experience this is based upon (research base).

From the situation comes priority setting. Once the situation and problem are fully analyzed, priorities must be set to ensure that the most important issues are addressed. Several factors should influence your determination of focus: Your mission, values, resources, expertise, experience, history, what you know about the situation, and what others are doing in relation to the problem. Priorities lead to the identification of desired outcomes.

4. *Expected Duration of the Program.* A data check box will be provided to ask States to express the program

duration as short-term (one year or less), intermediate (one to five years), or long-term (over five years).

5. *Inputs.* The resources, contributions, investments that go into the program. The web-based software will include the estimated FTEs and the type of funds used to support the activity or planned program (i.e., type of Federal funds, State matching, etc.). AREERA requires reporting not only on the Federal agricultural research and/or extension formula funds and matching funds allocated to this planned program, but also the manner in which funds, other than formula funds, will be expended to address the critical issues being targeted by this planned program.

6. *Outputs.* The activities, services, events and products that reach people who participate or who are targeted. These outputs are intended to lead to specific outcomes. The web-based data entry system will include standard performance measures such as number of persons targeted (direct and indirect contacts), number and type of patents awarded, as well as allow for state-generated target performance measures.

7. *Outcomes.* The direct results, benefits, or changes for individuals, groups, communities, organizations, or systems. Examples include changes in knowledge, skill development, changes in behavior, capacities or decision-making, policy development. Outcomes can be short-term, medium-term, or longer-term achievements. Short-term outcomes refer to change in learning. Medium-term outcomes refer to change in action. Long-term outcomes refer to change in conditions. Outcomes may be positive, negative, neutral, intended, or unintended. Impact in this model refers to the ultimate consequence or effects of the program (i.e. increased economic security, improved air quality, etc.). In this model, impact is synonymous with the long-term outcome of your goal. It is at the farthest right on the logic model graphic. Impact refers to the ultimate, longer-term changes in social, economic, civic, or environmental conditions. In common usage impact and outcomes are often used interchangeably.

The web-based software will include standard performance measures such as number of persons adopting a technology or practice, dollars saved or generated, as well as allow for state-generated target performance measures.

8. *Assumptions.* The beliefs we have about the program, the people involved, and the context and the way we think the program will work. The web-based data entry system will require a short discussion on the assumptions that underlie and influence the program decisions made. Assumptions are principles, beliefs, ideas about the problem or situation, the resources and staff, the way the program will operate, what the program expects to achieve, the knowledge base, the external environment, the internal environment, the participants and how they learn, their behavior, motivations, etc.

9. *External Factors.* The environment in which the program exists includes a variety of external factors that interact with and influence the program action. External factors include the cultural milieu, the climate, economic structure, housing patterns, demographic patterns, political environment, background and experiences of program participants, media influence, changing policies and priorities. These external factors may have a major influence on the achievement of outcomes. They may affect a variety of things including program implementation, participants and recipients, and the speed and degree to which change affects staffing patterns and resources available. A program is affected by and affects these external factors.

2. Stakeholder Input Process

Section 102(c) of AREERA requires the 1862 land-grant institutions, 1890 land-grant institutions, and 1994 land-grant institutions receiving agricultural research, extension, and education formula funds from CSREES to establish a process for stakeholder input on the uses of such funds. CSREES has promulgated separately regulations to implement this stakeholder input requirement. This was published on February 8, 2000 in the **Federal Register** (7 CFR Part 3418).

As a component of the 5-Year POW, each institution must report on the: (a) Actions taken to seek stakeholder input that encourages their participation; (b) A brief statement of the process used by the recipient institution to identify individuals and groups who are stakeholders and to collect input from them; and (c) A statement of how collected input was considered and actions taken to seek stakeholder input that encourages their participation. This report will be required annually and may be submitted with the Annual Report of Accomplishments and Results. This component will satisfy the reporting requirements imposed by the separately promulgated regulations on stakeholder input.

In the web-based software, CSREES will provide check lists with the commonly reported actions taken to seek stakeholder input, as well as a narrative text box to capture the process that is used to identify stakeholders and collect input from them and how the input was considered. This allows for additional information in each section in the form of a brief narrative if needed.

3. Program Review Process

a. *Merit Review.* Effective October 1, 1999, each 1862 land-grant institution and 1890 land-grant institution must have established a process for merit review in order to obtain agricultural research or extension formula funds. This was established in the FY 2000–2004 5-Year POW by all institutions.

b. *Scientific Peer Review.* A scientific peer review is required for all research funded under the Hatch Act of 1887, including Multistate Research Fund. For such research, this scientific peer review will satisfy the merit review requirement specified above.

c. *Reporting Requirement.* As a component of the 5-Year POW, each institution depending on the type of program review required will provide a description of the merit review process or scientific peer review process established at their institution. This description should include the process used in the selection of reviewers with expertise relevant to the effort and appropriate scientific and technical standards. In the web-based software, CSREES will provide a check list with the commonly reported types of reviews, as well as a narrative text box to allow for additional information in the form of a brief narrative if needed.

4. Multistate Research and Extension Activities

a. *Hatch Multistate Research.* Effective October 1, 1998, the Hatch Multistate Research Fund replaced the Hatch Regional Research Program. The Hatch Multistate Research Fund must be used for research employing multidisciplinary approaches to solve research problems that concern more than one State. For such research, SAESs must partner with another SAES, the Agricultural Research Service, or another college or university.

b. *Smith-Lever Multistate Extension.* Effective October 1, 1999, the cooperative extension programs at the 1862 land-grant institutions must have expended two times their FY 1997 baseline percentage or 25 percent, whichever is less, of their formula funds provided under sections 3(b)(1) and (c) of the Smith-Lever Act for activities in which two or more State extension services cooperate to solve problems that concern more than one State. The Administrative Guidance for Multistate Extension Activities and Integrated Research and Extension Activities provides guidance on the establishment

of target percentages, criteria and procedures for waiver requests, and reporting requirements. These requirements only apply to the cooperative extension services (CESs) at the 1862 land-grant institutions in the 50 States. Institutions, through the web-based reporting system, must describe all multistate extension activities for which the institution will be reporting expenditures to satisfy their multistate extension requirement under AREERA section 105. Institutions do not have to have formal written agreements of letters of memorandum to support a qualified multistate extension activity for the purposes of AREERA section 105. The requirements of this section apply only to the Federal funds.

c. *Reporting Requirements.* The 5-Year POW should include a description of the Multistate Research, where applicable, and Multistate Extension programs as specified above. These descriptions should be reported in the Planned Programs section of the 5-Year POW. A table will be provided by the web-based software for reporting planned expenditures (i.e., the amount of Federal formula funds) each year on these activities. This table will only apply to the CESs at the 1862 land-grant institutions in the 50 States. In addition, this item is the first of two plan-of-work reporting requirements that require a dollar amount to be identified in the Plan.

5. Integrated Research and Extension Activities

a. Effective October 1, 1999, two times the FY 1997 baseline percentage or 25 percent, whichever is less, of all funds provided under section 3 of the Hatch Act and under section 3(b)(1) and (c) of the Smith-Lever Act must have been spent on activities that integrate cooperative research and extension. Integration may occur within the State or between units within two or more States. The Administrative Guidance for Multistate Extension Activities and Integrated Research and Extension Activities provided guidance for the establishment of target percentages, criteria and procedures for waiver requests, and associated reporting requirements. This requirement only applies to the 1862 land-grant institutions in the 50 States and the state agricultural experiment stations in Connecticut and New York. Institutions, through the web-based reporting system, must describe all the integrated research and extension activities for which the institutions will be reporting expenditures to satisfy their integrated requirements under AREERA section 204. Federal formula funds used by a State for integrated activities may also be counted to satisfy the multistate extension activity requirements. The requirements of this section apply only to the Federal funds.

b. Reporting Requirements. The 5-Year POW should include a description of the Integrated Research and Extension programs as specified above. These descriptions should be reported in the Planned Programs section of the 5-Year POW. A table will be provided by the web-based software for reporting planned expenditures (i.e., the amount of Federal formula funds) each year for these activities. This table will only apply to the 1862 land-grant institutions and the SAESs in Connecticut and New York. In addition, this is the second of two plan-of-work reporting requirements that requires a dollar amount to be identified in the Plan.

C. Five-Year Plan of Work Evaluation by CSREES

1. Schedule

CSREES will evaluate all 5-Year POWs. The 5-Year POWs will either be accepted by CSREES without change or returned to the institution, with clear and detailed recommendations for its modification. The submitting institution(s) will be notified by CSREES of its determination within 90 days (i.e., review to be completed in 60 days; communications to the institutions allowing a 30-day response) of receipt of the document. Adherence to the POW schedule by the recipient institution is critical to assuring the timely distribution of funds by CSREES. Five-Year POWs accepted by CSREES will be publicly available in a CSREES database.

2. Review Criteria

CSREES will evaluate the 5-Year POWs to determine if they address agricultural issues of critical importance to the State; identify the alignment and realignment of programs to address those critical issues; identify the involvement of stakeholders in the planning process; give attention to under-served and under-represented populations; indicate the level of Federal formula funds in proportion to all other funds (i.e., in terms of FTEs) at the Director or Administrator level; provide evidence of multistate, multi-institutional, and multidisciplinary and integrated activities; and identify the expected outcomes and impacts from the 5-Year POW.

3. Evaluation of Multistate and Integrated Research and Extension Activities

CSREES will be using the Annual Reports of Accomplishments and Results to evaluate the success of multistate, multi-institutional, and multidisciplinary activities and joint research and extension activities, in addressing critical agricultural issues identified in the 5-Year POWs. CSREES will be using the following evaluation criteria: (1) Did the planned program address the critical issues of strategic importance, including those identified by the stakeholders? (2) Did the planned program address the needs of under-served and under-represented populations of the State(s)? (3) Did the planned program describe the expected outcomes and impacts? and (4) Did the planned program result in improved program effectiveness and/or efficiency?

III. Annual Update of the 5-Year Plan of Work

A. Applicability

An annual update to the 5-Year POW is required to add an additional year to the Plan. It also will allow for updating all future years' data in the updated Plan. The updated Plan will form a "new" 5-Year POW that is effective in the "new" 5-year period.

B. Reporting Requirement

The Annual Update to the 5-Year POW should be submitted on April 1 prior to the beginning of the next POW fiscal year (which begins on October 1 of each year). The first Update is due on April 1, 2007, for the five year period starting with FY 2008 which begins October 1, 2007.

IV. Annual Report of Accomplishments and Results

A. Reporting Requirement

The 5-Year POW for a reporting unit, institution, or State should form the basis for annually reporting its accomplishments and results. This report will be due on or before April 1 each year with the first report being due on April 1, 2008, for FY 2007. This report should be submitted using the same web-based data entry system used for the submission of the 5-Year POW. The web-based data entry system will mirror and include data entered by the institution in the 5-Year POW. However, institutions will be required to provide some fiscal data in the Annual Report.

B. Format

This annual report should include the relevant information related to each component of the program of the 5-Year

POW. Accomplishments and results reporting should involve two parts. First, institutions should submit an annual set of impact statements linked to sources of funding. Strict attention to just the preceding year is not expected in all situations. Some impact statements may need to cover ten or more years of activity. Focus should be given to the benefits received by targeted end-users. Second, institutions should submit annual results statements based on the indicators of the outputs and outcomes for the activities undertaken the preceding year in the Program Logic Model for each program. These should be identified as short-term, intermediate, or long-term critical issues in the 5-Year POW. Attention should be given to highlighting multistate, multi-institutional, and multidisciplinary and integrated activities, as appropriate to the 5-Year POW.

Done at Washington, DC, this 18th day of January, 2006.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 06–680 Filed 1–24–06; 8:45 am]

BILLING CODE 3410–22–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a conference call of the Vermont state advisory committee will convene at 11 a.m. and adjourn at 12 p.m. on February 6, 2006. The purpose of the conference call is to plan future committee activities.

This conference call is available to the public through the following call-in number: 1–800–597–0720, access code: 47113153. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Barbara de La Viez of the Eastern Regional Office at 202–376–8125, by 4 p.m. on Thursday, February 2, 2006.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 19, 2006.

Ivy L. Davis,

Acting Chief Regional Programs Coordination Unit.

[FR Doc. E6–882 Filed 1–24–06; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1433]

Grant of Authority for Subzone Status; Revlon Consumer Products Corporation (Cosmetic and Personal Care Products) Oxford, NC

Pursuant to its authority under the Foreign-Trade Zones Act, of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Triangle J Council of Governments, grantee of Foreign-Trade Zone 93, has made application to the Board for authority to establish a special-purpose subzone at the cosmetic and personal care products manufacturing and warehousing facility of Revlon Consumer Products Corporation, located in Oxford, North Carolina (FTZ Docket 35–2005, filed 7/26/05);

Whereas, notice inviting public comment was given in the **Federal Register** (70 FR 44558–44559, 8/3/05); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status for activity related to consumer and personal care products manufacturing at the facility of Revlon Consumer Products Corporation, located in Oxford, North Carolina (Subzone 93G), as described in the application and **Federal Register** notice, and subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 13th day of January 2006.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Policy and Negotiations, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 06–674 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–PS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Final Results of the Twelfth New Shipper Review

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

SUMMARY: On September 28, 2005, the Department of Commerce (the "Department") published in the **Federal Register** the preliminary results of the new shipper review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC"). *See Brake Rotors From the People's Republic of China: Preliminary Results of the Twelfth New Shipper Review*, 70 FR 56634 (September 28, 2005) ("*Preliminary Results*"). We gave interested parties an opportunity to comment on the *Preliminary Results*. We made one change to the dumping margin calculations for the final results. *See Analysis for the Final Results of Brake Rotors from the People's Republic of China: Dixion Brake System (Longkou) Ltd.*, dated January 18, 2006, ("*Dixion Final Analysis Memo*"); *see also Analysis for the Final Results of Brake Rotors from the People's Republic of China: Laizhou Wally Automobile Co., Ltd.*, dated January 18, 2006, ("Wally Final Analysis Memo")

EFFECTIVE DATE: January 25, 2006.

FOR FURTHER INFORMATION CONTACT: Nicole Bankhead (for Respondent Dixion) or Kit Rudd (for Respondent Wally) 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) 482–9068 or (202) 482–1385, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The *Preliminary Results* for this new shipper review were published on September 28, 2005. Since the *Preliminary Results*, the following events have occurred:

On October 28, 2005, both the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers ("Petitioner") and Laizhou Wally Automobile Co., Ltd. ("Wally") and Dixion Brake System (Longkou) Ltd. ("Dixion"), collectively "Respondents," submitted publicly available information to be used in valuing surrogate values for the final results. On November 1, 2005, Respondents submitted additional surrogate value information to rebut the information provided by Petitioner.

On November 8, 2005, we received case briefs from both Petitioner and Respondents. On November 14, 2005, Petitioner and Respondents submitted their rebuttal briefs. On December 13, 2005, the Department extended the final results by 30 days. *See Brake Rotors From the People's Republic of China: Extension of Time Limit for Final Results of the Twelfth New Shipper Review*, 70 FR 75449 (December 20, 2005).

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans and recreational vehicles under "one ton and a half," and light trucks designated as "one ton and a half."

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer ("OEM") which produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this new shipper review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit ("CRU"), room B–099 of the main Department building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on our Web site at http://ia.ita.doc.gov. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record since the *Preliminary Results*, the surrogate values for brokerage and handling and labor changed slightly. *See Decision Memorandum* at 2; *see also Memorandum from Nicole Bankhead, Case Analyst, through Alex Villanueva, Program Manager, Office 9 and James C. Doyle, Office Director, Office 9, to The File, 12th New Shipper Review of Brake Rotors from the People's Republic of China ("PRC"): Surrogate Values for the Final Results*, dated January 18, 2006 ("*Final Factors Memo*").

Partial Adverse Facts Available

In the *Preliminary Results*, the Department determined that the use of partial facts available was warranted for the selection of certain surrogate values pursuant to sections 776(a) and 776(b) of the Tariff Act of 1930, as amended (the "Act"). *See Preliminary Results*. However, for the final results, the Department is applying an adverse inference, as provided under section 776(b) of the Act, to value certain factors of production used by both Respondents. Specifically, Respondents were unable to provide period of review ("POR") documentation to support their claims regarding the chemical content and material specificity of the inputs pig iron, ferrosilicon, and ferromanganese. Therefore, the Department finds that Respondents did not act to the best of their ability to comply with the Department's request for information, and for the final results, will apply partial adverse facts available to value these inputs. However, the values used to value pig iron, ferrosilicon, and ferromanganese have not changed since the *Preliminary Results* and therefore the application of partial adverse facts available did not cause a change in the margin. *See Decision Memorandum* at Comment 1.

Final Results of Review

The weighted–average dumping margins for the POR are as follows:

BRAKE ROTORS FROM THE PRC

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Laizhou Wally Automobile Co., Ltd. ("Wally")	0.00
Dixion Brake System (Longkou) Ltd. ("Dixion")	8.15

Assessment

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). We have calculated importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for each importer. In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate, without regard to antidumping duties, all entries of subject merchandise during the POR for which the importer–specific assessment rate is zero or de minimis (*i.e.*, less than 0.50 percent). To determine whether the per–unit duty assessment rates are *de minimis* (*i.e.*, less than 0.50 percent), in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer or customer–specific ad valorem ratios

based on export prices. We will direct CBP to apply the resulting assessment rates to the entered customs values for the subject merchandise on each of the importer's entries during the review period. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of these final results of review.

Cash Deposit Requirements

Bonding will no longer be permitted to fulfill security requirements for shipments of brake rotors from the PRC that are manufactured and exported by Wally and Dixion, and entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review.

The following cash deposit rates shall be required for merchandise subject to the order, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and (a)(2)(C) of the Act: (1) The cash deposit rate for Wally (*i.e.*, for subject merchandise manufactured and exported by Wally), will be zero; (2) the cash deposit rate for Dixion (*i.e.*, for subject merchandise manufactured and exported by (Dixion) will be the rate indicated above; (3) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (4) the cash deposit rate for the PRC NME entity and for subject merchandise exported by Wally and Dixion but not manufactured by themselves will continue to be the PRC–wide rate (*i.e.*, 43.32 percent); and (5) the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied the exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this new shipper review and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: January 18, 2006.

David Spooner,

Assistant Secretary for Import Administration.

Appendix I Decision Memorandum

General Issues:

Comment 1: Valuation of Material Factors of Production

Comment 2: Valuation of Brokerage and Handling

Comment 3: Scrap Offset in Surrogate Financial Ratios

Wally–Specific Issues:

Comment 4: Wally's *Bona Fide* Sales

[FR Doc. E6–928 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Honey From the People's Republic of China

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

EFFECTIVE DATE: January 25, 2006.

FOR FURTHER INFORMATION CONTACT: Anya Naschak or Kristina Boughton, 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) 482–6375 and (202) 482–8173, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published the preliminary results of the antidumping duty administrative review on honey from the People's Republic of China on December 16, 2005. *Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 74764 (December 16, 2005).

Extension of Time Limits for Final Results

Pursuant to Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and section 351.213(h)(1) of the Department's regulations, the Department shall issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides that the Department shall issue the final results of review within 120 days after the date on which the notice of the preliminary results was published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days and the 120-day period to 180 days.

On January 3, 2006, at the request of respondents, the Department granted all parties additional time to submit surrogate value information. The Department also extended the deadline for parties to submit briefs. As a result of these extensions and the complex issues raised in this review segment, including honey valuation and intermediate input methodology, the Department has determined that it is not practicable to complete this administrative review within the current time limit.

Section 751(a)(3)(A) of the Act and section 351.213(h) of the Department's regulations allow the Department to extend the deadline for the final results of a review to a maximum of 180 days from the date on which the notice of the preliminary results was published. For the reasons noted above, the Department is extending the time limit for the completion of these final results until no later than Friday, June 9, 2006, which is 175 days from the date on which the notice of the preliminary results was published.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: January 19, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–927 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–837]

Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Extension of Final Results of Changed Circumstances Review

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

EFFECTIVE DATE: January 25, 2006.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4136 and (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2005, the Department published the preliminary results of its changed circumstances review. We self–initiated the review to consider information contained in a recent Federal court proceeding, *Goss International Corp. v. Tokyo Kikai Seisakusho, Ltd.*, 321 F.Supp.2d 1039 (N.D. Iowa 2004) (*Goss Int'l*), that Tokyo Kikai Seisakusho, Ltd. provided inaccurate and incomplete information to the Department during the 1997–1998 administrative review. *See Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Preliminary Results of Changed Circumstances Review*, 70 FR 54019 (September 13, 2005) and *Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Japan: Notice of Initiation of Changed Circumstances Review*, 70 FR 25414 (May 10, 2005). Because the issues involved in this case are novel and complex, we are extending the time for completion of the final results by 30 days, until March 1, 2006, in order to further consider the comments submitted by interested parties. *See* 19 CFR 351.302(b).

Dated: January 19, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–926 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–839]

Certain Softwood Lumber Products from Canada: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

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

EFFECTIVE DATE: January 25, 2006.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Eric B. Greynolds at (202) 482–3692 or (202) 482–6071, respectively, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2005, the Department initiated an administrative review of the countervailing duty order on certain softwood lumber products from Canada. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 37749. The preliminary results are currently due no later than January 31, 2006.

Extension of Time Limit for Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days and for the final results to 180 days (or 300 days if the Department does not extend the time limit for the preliminary results) from the date of the publication of the preliminary results.

The subsidy programs covered by this review are extraordinarily complicated. In addition, because this administrative review is being conducted on an aggregate level, the Department must analyze large amounts of data from each of the Canadian Provinces as well as data from the Canadian Federal Government. Therefore, the Department is fully extending the time limit for completion of the preliminary results to May 31, 2006. The final results continue to be due 120 days after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: January 17, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–929 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

FIDAE International Air Show 2006

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice to FIDAE International Air Show 2006 to Santiago, Chile, March 27–April 2, 2006.

SUMMARY: The U.S. Commercial Service (CS) of the U.S. Department of Commerce, International Trade Administration (ITA), will organize an Aerospace Executive Service (AES) matchmaking mission for the FIDAE International Air Show 2006 in Santiago, Chile. Mission organizers will include the Commercial Service office in Santiago, Chile (CS Chile), the ITA Aerospace and Defense Technology Team, and the CS Office of Global Trade Programs.

FOR FURTHER INFORMATION CONTACT: Office of Global Trade Programs; Room 2012; Department of Commerce; Washington, DC 20230; Tel: (202) 482–4457; Fax: (202) 482–0178.

SUPPLEMENTARY INFORMATION:

FIDAE International Air Show 2006

Santiago, Chile.
March 27–April 2, 2006.

Mission Statement

I. Description of the Mission

The U.S. Commercial Service (CS) of the U.S. Department of Commerce, International Trade Administration (ITA), will organize an Aerospace Executive Service (AES) matchmaking mission for the FIDAE International Air

Show 2006 in Santiago, Chile. Mission organizers will include the Commercial Service office in Santiago, Chile (CS Chile), the ITA Aerospace and Defense Technology Team, and the CS Office of Global Trade Programs.

The AES matchmaking mission will include representatives from a variety of U.S. aerospace and defense industry manufacturers and service providers. These mission participants will be introduced to international agents, distributors, and end-users whose capabilities and services are targeted to each U.S. participants' needs in their particular market.

II. Commercial Setting for the Mission

The FIDAE Air Show is Latin America's premier aerospace and defense technology event. A biennial air show in Santiago, it is the only event of its kind in the region to showcase aerospace-related products and services. At the FIDEA 2004 Show, 258 companies exhibited from 31 countries with 41,282 visitors attending the event. There were a total of 128 aircraft on display during the six-day air show. In 2006, it is expected that 350 exhibitors from more than 45 countries will participate in the show. Attendees and visitors to the FIDEA Air Show include government officials, senior company managers, and high-level executives involved in the aerospace and defense markets in Latin America and the Caribbean.

While there has been a slight decline in defense spending in Chile and the rest of South America, the commercial aerospace sector is again on the march. CS Chile reports that Chile saw an unprecedented growth in its airline sector in 2004, surpassing the previous record of 6.4 million passengers set in 2000. International flights showed the largest growth, rising 5 percent from 2003 to 2004 reach 3.63 million passengers flying in and out of Chile. This presents enormous trade opportunities for the airport, ground handling, air traffic control, general aviation, aircraft maintenance, and security sub-sectors.

III. Goals for the Mission

The goal of the Aerospace Executive Service at the FIDAE International Air Show is to facilitate an effective presence for small- and medium-sized companies without their incurring the major expenses associated with purchasing and staffing exhibit space.

The AES Program enables U.S. aerospace and defense companies to familiarize themselves with this important trade fair, to conduct market research while attending the show, and to explore export opportunities through pre-arranged meetings with potential partners. The Aerospace Executive Service also allows U.S. companies to have a presence at the show in the form of an AES Information Booth, providing participants with an enhanced image and level of engagement in which to interact with the show's visitors. Participants will also benefit from the support of knowledgeable ITA and Commercial Service staff focused on furthering their company's objectives.

IV. Scenario for the Mission

CS trade specialists will promote the FIDAE AES in collaboration with CS Chile, the Aerospace & Defense Technologies Team, and in cooperation with the Office of Global Trade Programs. This promotion will take place nationwide and will largely be handled by the Aerospace & Defense Technologies Team. Companies interested in the AES will apply to the program, and once accepted (*see* 'Criteria for Participant Selection') will work with the AES coordinator to develop their business goals at the FIDAE International Air Show.

U.S. Export Assistance Center trade specialists, the Aerospace & Defense Technologies Team, and Global Trade Programs officers will recruit and counsel prospective participants for the FIDAE International Air Show AES. The companies will forward company information and literature to CS Chile in advance whereupon CS Chile will begin the partner search, management, and logistical coordination of the program.

Company literature and promotional material will either be shipped to CS Chile or brought by the participant for display in the U.S. Pavilion.

Effective communication between the AES coordinator and all U.S. participants will be essential to the success of the AES program. E-mail and periodic conference calls will be used to guarantee that this is accomplished. CS staff will be available for information and assistance throughout the duration of the AES at the 2006 FIDAE Air Show.

Prior to the end of the AES program, CS staff will advise and counsel participants on appropriate follow-up procedures.

In summary, participation in the AES Program includes:

- Pre-show counseling by CS industry and trade experts.
- Pre-show outreach and press release by CS Chile.
- Pre-show briefing by CS Chile staff.
- Two days of pre-scheduled meetings with potential partners, distributors, and/or end-users.
- Individual company promotions (includes space for catalogs and marketing by CS Chile).
- One show entry pass per company representative.
- One invitation to the show organizer's welcome reception per participant.
- Access to Official U.S. Pavilion amenities, including business center, lounge and shared office suite when not in use for one-on-one FIDAE International Air Show appointments.
- Shared 18sqm booth to use for meetings and to display company literature.
- Copy of the official FIDAE International Air Show Exhibitor's Directory.
- On-site AES program coordinator assistance to AES companies.
- Transportation to and from the show each day.

Timetable

The proposed program is below:

- Friday, March 24—AES Participants Arrive.
- Monday, March 27—Pre-show Briefing and Show Organizer's Welcome Reception.
- Tuesday, March 28—Show Opens (AES meetings—p.m. only).
- Wednesday, March 29—Business Day (AES meetings—full day).
- Thursday, March 30—Business Day (AES meetings—a.m. only).
- Friday, March 31—Business Day.
- April 1–2—Public Days.

AES participants are welcome to attend the remainder of the FIDAE Air Show on their own, from March 30 and 31, including the two public days (April 1–2). The show ends on Sunday, April 2.

V. Criteria for Participant Selection

Target recruitment for the AES Program is 12 companies. Each applicant to the program will be screened for the following:

- Relevance of the company's business line to the mission's goals;
- Acceptability of product area/sector for exhibition in the FIDAE International Air Show in the U.S. Pavilion according to the trade fair rules, which can be found at *http://www.FIDAE.cl;*
- Timeliness of company's signed application and participation agreement including fee of $3,000 for the AES. $750.00 for each additional representative;
- Provision of adequate information on company's products and/or services, and company's primary market objectives, in order to facilitate appropriate matching with potential business partners;

• Certification that the company meets Departmental guidelines for participation:

A company's products or services must be either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Any partisan political activities (including political contributions) of an applicant are entirely irrelevant to the selection process.

Mission recruitment will be conducted in an open and public manner, including posting on the Commerce Department trade missions calendar at *http://www.ita.doc.gov/doctm/ tmcal.html*—and other Internet Web sites, publication in domestic trade publications and association newsletters, mailings from internal mailing lists, faxes to internal database aerospace clients, email to aerospace distribution lists, posting in the **Federal Register**, and announcements at industry meetings, symposia, conferences, and trade shows. Aerospace and Defense Technologies Team members, U.S. Export Assistance Centers and the Office of Global Trade Programs will also promote the AES Program.

Recruitment for the mission will begin in January 2006 and conclude in March, 2006.

Contact

ITA Aerospace & Defense Technology Team:

Mark Weaver, Director and Senior International Trade Specialist, Aerospace and Defense Team, U.S. Export Assistance Center—USCS, 808 Throckmorton Street, Fort Worth, TX 76102–6315. Tel: (817) 392–2673. Fax: (817) 392–2668. E-mail: *mark.weaver@mail.doc.gov*.

Matthew Hilgendorf, International Trade Specialist, Aerospace and Defense Team, U.S. Export Assistance Center—Santa Fe, C/O New Mexico Economic Development Department, 1100 St. Francis Drive, Santa Fe, New Mexico 87505. Tel: (505) 670–7809. Fax: (505) 827–0211. E-mail: *matthew.hilgendorf@mail.doc.gov*.

Mara Yachnin, Acting Manager, Office of Aerospace, Global Trade Programs, U.S. Commercial Service, Washington, DC 20230. Tel: 202–482–6238. E-mail: *mara.yachnin@mail.doc.gov*.

U.S. Commercial Service in Santiago: Patricia Jaramillo, American Embassy, U.S. Commercial Service, Av. Andres Bello 2800, Las Condes, Santiago, Chile 755–0006. Tel. 011–(56) 2–330–3402. Fax 011–(56) 2–330–3172. E-mail: *Patricia.Jaramillo@mail.doc.gov*.

Dated: January 19, 2006.

John Klingelhut,

Senior Advisor, Global Trade Programs.

[FR Doc. E6–899 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724217–6008–11]

Amendment of Performance Incentives for Minority Business Enterprise Centers To Allow for a Third Bonus Year of Funding

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) publishes this notice to announce that it will allow for a third year of bonus funding, on a non-competitive basis, to the Houston Minority Business Enterprise Center (MBEC) (formally known as the Houston Minority Business Development Center (MBDC)), as originally funded under the **Federal Register** notice of August 28, 2000 (65 FR 52069). In its August 28, 2000 notice, MBDA solicited competitive applications from organizations to operate MBECs. The MBEC Program provides funding for general business assistance to minority business enterprises (MBEs) in various markets throughout the United States and stipulated that no award to operate a MBEC may be longer than five funding periods. MBDA changes this policy to allow for a third year of bonus funding for a total of six funding periods. This action is taken in light of the fact that the Houston MBEC (Grijalva and Allen) has had an "excellent" performance rating for five consecutive years. Furthermore, this action supports the Agency's efforts in rebuilding minority firms impacted by Hurricanes Rita and Katrina. The Houston MBEC non-competitively received additional funding in the amount of $300,000, specifically to assist the minority firms impacted by Hurricane Katrina, as it was the closest proximity to the Gulf Coast and able to immediately respond to the need for additional services. This is in addition to the amount of $400,375 for the continuation of general business assistance to MBEs in program year 2006.

DATES: The third bonus funding period, if approved by the Grants Officer, will commence January 1, 2006 and continue through December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Efrain Gonzalez at (202) 482–1940.

SUPPLEMENTARY INFORMATION: Under Executive order 11625, the MBEC Program requires MBEC staff to provide general business assistance to minority-owned companies in various markets throughout the United States, and standardized business assistance services to "rapid growth potential" minority businesses (*e.g.*, those generating $500,000 or more in annual revenues or capable of generating significant employment and long-term economic growth); to develop a network of strategic partnerships; to possibly charge client fees; and to provide strategic business consulting. These requirements are used to generate increased results with respect to financing and contracts awarded to minority-owned firms and thus, are a key component of this program.

MBDA is announcing the amendment of a prior **Federal Register** notice (65 FR 52069, August 28, 2000) published by MBDA which established that no award to operate a Minority Business Enterprise Center (MBEC) (formally known as Minority Business Development Centers (MBDC)) may be longer than five funding periods without competition, no matter what an MBEC's performance happens to be. Under the prior notice, performance incentives allowed MBECs to earn two bonus funding periods, in addition to the normal three funding periods, without competition based on an "excellent" performance rating, for a total of five funding periods. MBDA hereby amends the prior notice to allow for a third year of bonus funding on a non-competitive basis to eligible MBECs originally funded under the **Federal Register** notice of August 28, 2000, for a total of six funding periods.

This action is taken in light of the fact that the Houston MBEC (Grijalva and Allen) has maintained an "excellent" performance rating over the five year funding period. This MBEC is the only MBEC to have achieved an "excellent" performance rating in five consecutive program years and thus is the only recipient of the third bonus funding period. In addition, this award will allow the Houston MBEC to maintain continuity in level of services in light of the adverse economic impact and devastation caused by Hurricanes Rita and Katrina.

Such additional funding will be at the total discretion of MBDA. The Houston

MBEC (Grijalva and Allen) will be eligible for a third bonus funding period (January 1, 2006–December 31, 2006) on a non-competitive basis.

The Houston MBEC will continue to concentrate on serving firms located in the Houston, Texas Metropolitan Statistical Area. This includes delivering relevant services to minority-owned firms impacted by Hurricanes Rita and Katrina and to displaced MBEs currently residing in the greater Houston, Texas area. The Houston MBEC program shall continue to leverage telecommunications technology, including the Internet, and a variety of online computer-based resources to dramatically increase the level of service that the MBEC can provide to minority-owned firms, including micro-enterprises.

Entrepreneurs eligible for assistance under the MBEC Program are African Americans, Puerto Ricans, Spanish-speaking Americans, Aleuts, Asian Pacific Americans, Asian Indians, Native Americans, Eskimos and Hasidic Jews.

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389), are applicable to this notice.

Executive Order 12866

This notice has been determined to be not significant for purposes of E.O. 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.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Authority: 15 U.S.C. 1512 and Executive Order 11625.

Dated: January 20, 2006.

Ronald N. Langston,

National Director, Minority Business Development Agency.

[FR Doc. E6–892 Filed 1–24–06; 8:45 am]

BILLING CODE 3510–21–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Extension of Approval of Collection; Comment Request—Collection of Information for Children's Sleepwear

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC) requests comments on a proposed extension of approval, for a period of three years from the date of approval by the Office of Management and Budget (OMB), of a collection of information from manufacturers and importers of children's sleepwear. This collection of information is in the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X and the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 and regulations implementing those standards. See 16 CFR Parts 1615 and 1616. The children's sleepwear standards and implementing regulations establish requirements for testing and recordkeeping by manufacturers and importers of children's sleepwear.

The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: The Office of the Secretary must receive written comments not later than March 27, 2006.

ADDRESSES: Written comments should be captioned "Children's Sleepwear, Collection of Information" and sent by e-mail to *cpsc-os@cpsc.gov*. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of approval of the collection of information, or to obtain a copy of 16 CFR Parts 1615 and 1616, call or write Linda L. Glatz, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7671.

SUPPLEMENTARY INFORMATION:

A. The Standards

Children's sleepwear in sizes 0 through 6X manufactured for sale in or imported into the United States is subject to the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (16 CFR part 1615). Children's sleepwear in sizes 7 through 14 is subject to the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR part 1616). The children's sleepwear flammability standards require that fabrics, seams, and trim used in children's sleepwear in sizes 0 through 14 must self-extinguish when exposed to a small open-flame ignition source. The children's sleepwear standards and implementing regulations also require manufacturers and importers of children's sleepwear in sizes 0 through 14 to perform testing of products and to maintain records of the results of that testing. 16 CFR part 1615, subpart B; 16 CFR part 1616; subpart B. The Commission uses the information compiled and maintained by manufacturers and importers of children's sleepwear to help protect the public from risks of death or burn injuries associated with children's sleepwear. More specifically, the Commission reviews this information to determine whether the products produced and imported by the firms comply with the applicable standard. Additionally, the Commission uses this information to arrange corrective actions if items of children's sleepwear fail to comply with the applicable standard in a manner that creates a substantial risk of injury to the public.

OMB approved the collection of information in the children's sleepwear standards and implementing regulations under control number 3041–0027. OMB's most recent extension of approval will expire on January 31, 2006. The Commission proposes to request an extension of approval for the collection of information in the children's sleepwear standards and implementing regulations.

B. Estimated Burden

The Commission staff estimates that about 53 firms manufacture or import products subject to the two children's sleepwear flammability standards. These firms may perform an estimated 2000 tests each that take up to three hours per test. The Commission staff estimates that these standards and implementing regulations will impose

an average annual burden of about 6,000 hours on each of those firms. That burden will result from conducting the testing required by the standards and maintaining records of the results of that testing required by the implementing regulations. The total annual burden imposed by the standards and regulations on all manufacturers and importers of children's sleepwear will be about 318,000 hours. The hourly wage for the testing and recordkeeping required by the standards and regulations is about $28.75 (Bureau of Labor Statistics, June 2005), for an annual cost to the industry of about $9,142,500.

The Commission will expend approximately three months of professional staff time annually for examination of information in the records maintained by manufacturers and importers of children's sleepwear subject to the standards. The annual cost to the Federal government of the collection of information in the sleepwear standards and implementing

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: January 18, 2006.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E6–848 Filed 1–24–06; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0010]

Federal Acquisition Regulation;Submission for OMB Review; Progress Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning progress payments. A request for public comments was published in the **Federal Register** at 70 FR 59727, October 13, 2005. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before February 24, 2006.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson, Contract Policy Division, GSA, (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Certain Federal contracts provide for progress payments to be made to the contractor during performance of the contract. The requirement for certification and supporting information are necessary for the administration of statutory and regulatory limitation on the amount of progress payments under a contract. The submission of supporting cost schedules is an optional procedure that, when the contractor elects to have a group of individual orders treated as a single contract for progress payments purposes, is necessary for the administration of statutory and regulatory requirements concerning progress payments.

B. Annual Reporting Burden

Respondents: *27,000.*
Responses Per Respondent: *32.*
Annual Responses: *864,000.*
Hours Per Response: *.55.*
Total Burden Hours: *475,000.*

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0010, Progress Payments, in all correspondence.

Dated: January 13, 2006.

Gerald Zaffos,

Director, Contract Policy Division.

[FR Doc. 06–687 Filed 1–24–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0154]

Federal Acquisition Regulation; Submission for OMB Review; Davis-Bacon Act—Price Adjustment (Actual Method)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office

of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning davis-bacon act price adjustment (actual method). A request for public comments was published in the **Federal Register** at 70 FR 66368, November 2, 2005. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before February 24, 2006.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT Ms. Kimberly Marshall, Contract Policy Division, GSA, (202) 219–0986.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Acquisition Regulation (FAR) clause at 52.222–32, Davis-Bacon Act—Price Adjustment (Actual Method), requires that a contractor must submit at the exercise of each option to extend the term of the contract, a statement of the amount claimed for incorporation of the most current wage determination by the Department of Labor, and any relevant supporting data, including payroll records, that the contracting officer may reasonably require. The contracting officer may include this clause in fixed-price solicitations and contracts, subject to the Davis-Bacon Act, that will contain option provisions to extend the term of the contract. Generally, this clause is only appropriate if contract requirements are predominantly services subject to the Service Contract Act and the construction requirements are substantial and segregable.

B. Annual Reporting Burden

Respondents: 900.
Responses Per Respondent: 1.
Annual Responses: 900.
Hours Per Response: 90.
Total Burden Hours: 81,000.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0154, Davis-Bacon Act—Price Adjustment (Actual Method), in all correspondence.

Dated: January 18, 2006.

Gerald Zaffos,

Director, Contract Policy Division.

[FR Doc. 06–695 Filed 1–24–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 27, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 19, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.
Title: Annual Client Assistance Program (CAP) Report.
Frequency: Annually.
Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 56.
Burden Hours: 896.
Abstract: Form RSA–227 is used to analyze and evaluate the Client Assistance Program (CAP) administered by designated CAP agencies. These agencies provide services to individuals seeking or receiving services from programs authorized by the Rehabilitation Act of 1973, as amended. Data also are reported on information and referral services provided to any individual with a disability.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 2944. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to IC *DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements

should be electronically mailed to the e-mail address IC *DocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–919 Filed 1–24–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 27, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 19, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Section 704 Annual Performance Report (Parts I and II).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 392.

Burden Hours: 13,720.

Abstract: Section 706(d), 721(b)(3), and 725(c) of the Rehabilitation Act of 1973, as amended (Act) and corresponding program regulations in 34 CFR parts 364, 365, and 366 require centers for independent living, Statewide Independent Living Councils (SILCs) and Designated State Units (DSUs) supported under Parts B and C of Chapter 1 of Title VII of the Act to submit to the Secretary of Education (Secretary) annual performance information and identify training and technical assistance needs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 2974. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to IC *DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address IC *DocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–920 Filed 1–24–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 27, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 19, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Extension.

Title: Federal Family Education Loan, Direct Loan and Perkins Loan Total Permanent Disability Discharge Form.

Frequency: On Occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 15,000.

Burden Hours: 7,500.

Abstract: This form will serve as the means of collecting the information to determine whether a Federal Family Education Loan (FFEL), Direct Loan, or Perkins Loan borrower qualifies for a discharge of his or her loan(s) due to total and permanent disability.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 2972. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to IC *DocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to the e-mail address IC *DocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–921 Filed 1–24–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice is being issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed "subsequent arrangement" under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the United States and Norway.

This subsequent arrangement concerns the retransfer of five irradiated fuel rods containing a total of 7,448 grams of U.S.-origin uranium, 76 grams of which is U–235, and 85 grams of U.S.-origin plutonium, from the Euratom Supply Agency to the Government of Norway for neutron radiography examination. The specified material is currently located at Studsvik Nuclear AB, Nykoping, Sweden and will, upon approval, be transferred to the Institut for Energiteknikk (IFE), Halden, Norway. IFE Halden is a research institute within the fields of nuclear technology, man-machine communication, and energy technology. After neutron radiography examination in Norway, IFE Halden will return the material to Studsvik Nuclear for final disposal. Studsvik originally obtained the material from Exelon Generation Company under the U.S. export license XSNM03408.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Richard S. Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. E6–913 Filed 1–24–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, February 16, 2006, 10 a.m. to 5 p.m. Friday, February 17, 2006, 8:30 a.m. to 12 p.m.

ADDRESSES: Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

FOR FURTHER INFORMATION CONTACT: Karen Talamini; Office of Basic Energy Sciences; U.S. Department of Energy; Germantown Building, Independence Avenue, Washington, DC 20585; Telephone: (301) 903–4563.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* The purpose of this meeting is to provide advice and guidance on the basic energy sciences research program.

Tentative Agenda: Agenda will include discussions of the following:

- Tribute to Rick Smalley
- News from the Office of Science
- News from the Office of Basic Energy Sciences
- Report of Activities from the DOE Laboratory Working Group
- Planned BES "Basic Research Needs" Workshops and Grand Challenges Workshop

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Karen Talamini at 301–903–6594 (fax) or *karen.talamini@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC 20585; between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on January 19, 2006.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. E6–934 Filed 1–24–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Wednesday, February 8, 2006, from 7 p.m.–9 p.m.

ADDRESSES: Bob Ruud Community Center, 150 North Highway 160, Pahrump, Nevada.

FOR FURTHER INFORMATION CONTACT: Kay Planamento, Navarro Research and Engineering, Inc., 2721 Losee Road, Suite D, North Las Vegas, Nevada 89030, phone: 702–657–9088, fax: 702–649–3384, e-mail: *NTSCAB@aol.com.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Update on radioactive waste management accomplishments at the Nevada Test Site
- 2006 Work Plans
- Recruitment campaign activities

Note: From 6:30 p.m.–7 p.m., the Chairperson of the Citizens' Advisory Board (CAB) will provide a briefing entitled "CAB Roadshow," designed to familiarize stakeholders with the overall scope and mission of the Board.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Kelly Snyder at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Kay Planamento at the address listed above.

Issued at Washington, DC on January 20, 2006.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–935 Filed 1–24–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–146–000 and ER06–146–001]

Alliance Energy Marketing, LLC; Notice of Issuance of Order

January 18, 2006.

Alliance Energy Marketing, LLC (Alliance) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sales of energy, capacity and ancillary at market-based rates. Alliance also requested waiver of various Commission regulations. In particular, Alliance requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Alliance.

On January 18, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Alliance should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 17, 2006.

Absent a request to be heard in opposition by the deadline above, Alliance is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Alliance, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Alliance's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–835 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–226–000]

Choctaw Gas Generation, LLC; Notice of Issuance of Order

January 18, 2006.

Choctaw Gas Generation, LLC filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of energy, capacity and ancillary at market-based rates. Choctaw also requested waiver of various Commission regulations. In particular, Choctaw requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Choctaw.

On January 10, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part

34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Choctaw should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 9, 2006.

Absent a request to be heard in opposition by the deadline above, Choctaw is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Choctaw, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Choctaw's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–836 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–172–000]

Enbridge Pipelines (AlaTenn) LLC; Notice of Proposed Changes in FERC Gas Tariff

January 18, 2006.

Take notice that on January 10, 2006, Enbridge Pipelines (AlaTenn) LLC (AlaTenn) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Substitute Third Revised Sheet No. 104, to become effective on September 1, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–842 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–298–000]

The Energy Group of America, Inc.; Notice of Issuance of Order

January 18, 2006.

The Energy Group of America, Inc. (the Energy Group) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sales of capacity, energy and ancillary at market-based rates. The Energy Group also requested waiver of various Commission regulations. In particular, the Energy Group requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by the Energy Group.

On January 13, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by the Energy Group should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 13, 2006.

Absent a request to be heard in opposition by the deadline above, the Energy Group is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the Energy Group, compatible with the public interest, and

is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of the Energy Group's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–838 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–173–000]

Gas Transmission Northwest Corporation; Notice of Refund Report

January 18, 2006.

Take notice that on January 10, 2006, Gas Transmission Northwest Corporation (GTN) tendered for filing a refund report detailing GTN's refund of interruptible transportation revenues on its Coyote Springs Lateral, in compliance with section 35A of the general terms & conditions of GTN's FERC Gas Tariff, Third Revised Volume No. 1–A.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the 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 January 25, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–831 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1444–004]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

January 18, 2006.

Take notice that on January 13, 2006, the Midwest Independent Transmission System Operator, Inc. submitted a revised Original Sheet No. 44 of the amended Interconnection Agreement to its November 23, 2005 filing.

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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 27, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–834 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1181–003]

PJM Interconnection, LLC; Notice of Compliance Filing

January 18, 2006.

Take notice that on January 11, 2006, PJM Interconnection, LLC (PJM) in accordance with Commission Order issued December 1, 2005, hereby extends the proposed effective date for the rates submitted in this proceeding from February 1, 2006 to March 1, 2006. PJM states that minor corrections have also been made to Statement AA.

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 email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 1, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–833 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No.CP96–339–002]

Total Peaking Services, LLC; Notice of Application To Amend Certificate

January 18, 2006.

Take notice that Total Peaking Services, LLC (TPS) filed in DocketNo. CP96–399–002 on January 6, 2006, pursuant to sections 7 (c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, an application to amend its certificate of public convenience and necessity issued by the Commission on November 25, 1997.[1] TPS has increased the efficiency of its operations at the liquefied natural gas peak-shaving facility located in Milford, Connecticut and requests the Commission's authorization to increase the sendout capacity from 72 MMcf/d to 90 MMcf/d, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Tim D. Kelly, Vice President, Energy Services & Regulatory Affairs, c/o Connecticut Natural Gas and The Southern Connecticut Gas Company, P.O. Box 1500, Hartford, CT 06144–1500, at (860) 727–3344 or fax (860) 727–3387.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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: February 8, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–843 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

[1] 81 FERC ¶ 61,246 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–230–000]

Wolverine Creek Energy LLC; Notice of Issuance of Order

January 18, 2006.

Wolverine Creek Energy LLC filed an application for market-based rate authority, with an accompanying rate tariff. The proposed market-based rate schedule provides for the sales of capacity, energy and ancillary at market-based rates. Wolverine also requested waiver of various Commission regulations. In particular, Wolverine requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Wolverine.

On January 13, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Wolverine should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214

of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 13, 2006.

Absent a request to be heard in opposition by the deadline above, Wolverine is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Wolverine, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Wolverine's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order 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 filed to access the document. 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–837 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–47–000]

Devon Power LLC, Complainant v. ISO New England, Inc., Respondent; Notice of Complaint

January 18, 2006.

Take notice that on January 12, 2006, Devon Power LLC filed a formal complaint against ISO New England, Inc. pursuant to 18 CFR 385.206 , and Rule 206 of the Commission's Rule of Practice and Procedures, seeking appeal, pursuant to section 6.3.6 of the ISO New England Billing Policy, of ISO–NE England Inc.'s denial of Devon Power LLC's Requested Billing Adjustment submitted on November 9, 2005.

Devon Power LLC certifies that copies of the complaint were served on the contacts for ISO New England, Inc.

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 Complainants.

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 February 1, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–832 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 18, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: *ER01–48–004.*

Applicants: Powerex Corporation.

Description: *Powerex Corp submits an errata to Exhibits A and B of its 4/20/05 change in status filing.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0089.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER02–73–007.*

Applicants: Llano Estacado Wind, LP.

Description: *Llano Estacado Wind, LP submits revised tariffs designated as Original Sheet Nos. 1–4, FERC Electric Tariff, First revised Volume No. 1.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0143.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER02–580–005.*

Applicants: Pawtucket Power Associates Limited Partnership.

Description: *Pawtucket Power Associates L.P. submits an errata to its 6/16/05 filing of FERC Electric Tariff, Second Revised Volume No. 1.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0137.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–15–001.*

Applicants: Southwest Power Pool, Inc.

Description: *Southwest Power Pool, Inc and Midwest ISO submit a compliance filing in response to FERC's 12/05/05 deficiency letter.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0144.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–39–001.*

Applicants: California Independent System Operator Corporation.

Description: *The California Independent System Operator Corp submits its filing in compliance with FERC's 12/9/05 Order.*

Filed Date: 01/09/2006.

Accession Number: *20060112–0354.*

Comment Date: 5 p.m. eastern time on Monday, January 30, 2006.

Docket Numbers: *ER06–140–001.*

Applicants: American Electric Power Service Corporation.

Description: *American Electric Power Service Corp as agent for Indiana Michigan Power Co's response to FERC's 12/22/05 letter re Cost-Based Formula Rate Agreement.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0141.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–147–000;* ER06–462–000.

Applicants: Kentucky Utilities Company.

Description: *Letter Requesting that the Commission Delay the Effective Date of*

the Notice of Cancellation Filing of Kentucky Utilities Co.

Filed Date: 01/05/2006.

Accession Number: *20060105–5031.*

Comment Date: 5 p.m. eastern time on Monday, January 30, 2006.

Docket Numbers: *ER06–268–001.*

Applicants: Los Esteros Critical Energy Facility LLC.

Description: *Los Esteros Critical Energy Facility, LLC submits Attachment A—corrections to Rate Schedule No.130 of its Reliability Must-Run Agreement with the California Independent System Operator Corp.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0142.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–332–001.*

Applicants: ISO New England Inc.

Description: *ISO New England Inc submits a page providing the missing text from its informational filing submitted on 12/15/05.*

Filed Date: 01/10/2006.

Accession Number: *20060117–0220.*

Comment Date: 5 p.m. eastern time on Tuesday, January 31, 2006.

Docket Numbers: *ER06–472–000.*

Applicants: LG&E Energy Marketing Inc.

Description: *LG&E Energy Marketing , Inc submits an Agreement for Electric Service with Kenergy Corp.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0135.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–473–000.*

Applicants: Central Vermont Public Service Corporation.

Description: *Central Vermont Public Service Corp submits a non-conforming point-to-point service agreement under ISO New England Inc Tariff Schedule 20A.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0134.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–475–000.*

Applicants: Colorado Power Partners.

Description: *Colorado Power Partners submits revised sheets to its market based rate tariff, FERC Electric Tariff Volume No. 1.*

Filed Date: 01/11/2006.

Accession Number: *20060117–0213.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER06–476–000.*

Applicants: Westar Energy, Inc.

Description: *Westar Energy, Inc submits a Notice of Cancellation of Supplement No.15, Service Schedule M under their First Revised Rate Schedule Federal Power Commission No. 93.*

Filed Date: 01/11/2006.

Accession Number: *20060117–0214.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 2006.

Docket Numbers: *ER88–478–001; ER91–576–002.*

Applicants: Ocean State Power; Ocean State Power II.

Description: *Ocean State Power and Ocean State Power II report a change in status to reflect certain departures from the facts the Commission relied upon in granting market-based rate authority.*

Filed Date: 01/11/2006.

Accession Number: *20060113–0138.*

Comment Date: 5 p.m. eastern time on Wednesday, February 1, 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 and 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. E6–826 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 659–013]

Crisp County Power Commission; Notice of Availability of Environmental Assessment

January 18, 2006.

In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR Part 380), Commission staff have prepared an environmental assessment (EA) that analyzes the environmental impacts of allowing Crisp Country Power Commission, licensee for the Lake Blackshear Hydroelectric Project (FERC No. 659), to amend the existing project boundary. The licensee proposes to amend the Lake Blackshear Project's boundary to include a 3.2 acre increase in the lake surface area in association with a proposed subdivision on Lincolmpinch Cove. The proposed subdivision would include 16 lots and would extend the inlet to provide lake frontage to the proposed lots. The extension would be created by excavating wetland areas bordering the cove to a depth of approximately 4 feet below the normal water surface elevation of Lake Blackshear. The licensee proposes to maintain the project boundary at the 237-foot msl contour, and extend the boundary along this contour to encompass the additional area that would be excavated and inundated in association with the construction of the subdivision. In addition to excavating the cove area, the developer would dredge a 4-foot-deep by 40-foot-wide channel from Lake Blackshear to the cove to allow water from the lake to fill the cove.

A copy of the EA is attached to a Commission order titled "Order Approving Change in Project Boundary," which was issued on January 13, 2006, and is available for review and reproduction at the Commission's Public Reference Room,

located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "elibrary" link. Enter the docket number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–841 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of License and Soliciting Comments, Motions To Intervene, and Protests

January 18, 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 License (5 MW or Less).

b. *Project No.:* 11392–008.

c. *Date Filed:* August 17, 2005.

d. *Applicant:* J&T Hydro Company.

e. *Name of Project:* Ramseur Project.

f. *Location:* Located on the Deep River, Randolph County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Joann Hill, J&T Hydro Company, 7540 Burgess Kivett Road, Ramseur, NC 27316.

i. *FERC Contact:* Christopher Yeakel, (202) 502–8132.

j. *Deadline for filing responsive documents:* February 21, 2006.

k. *Description of Proposed Action:* The existing project consists of: (1) An 11-foot-high, 434-foot-long stone masonry dam; (2) a reservoir with a surface area of about 33 acres; (3) a 1,300 foot-long power canal; (4) an existing two-story brick masonry powerhouse that previously contained two generators rated at 150 kW each for a total installed capacity of 300 kW; (5) a 226 foot-long tailrace; (6) a 112-foot-long, 2.4-kilovolt overhead transmission line; and (7) appurtenant equipment. The licensee would like to surrender its license. The generating equipment has been removed and sold.

l. *Locations of Application:* A copy of the information is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, here P–11392, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

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. E6–839 Filed 1–24–06; 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

January 18, 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:* 2413–073.

c. *Date Filed:* November 22, 2005.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Wallace Dam Project.

f. *Location:* The proposed development is located on Lake Oconee in Putnam County, Georgia. This project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Lee B. Glenn, Georgia Power Company, 125 Wallace Dam Road NE., Eatonton, GA 31024, (706) 485–8704.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at (202) 502–8764.

j. *Deadline for filing comments and or motions:* February 21, 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–2413–073) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The

Commission strongly encourages e-filings.

k. *Description of Request:* Georgia Power Company is seeking Commission approval to permit the construction of five group use docks with a total of 36 slips on approximately 2.5 acres of project lands. The docks will be adjacent to a 36-unit condominium development to be built on private property which does not utilize any project lands.

l. *Location of the Application:* This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–840 Filed 1–24–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8024–5]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq*). 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or email at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1362.06; National Emission Standards for Coke Oven Batteries (Renewal); in 40 CFR part 63, subpart L; was approved December 16, 2005; OMB Number 2060–0253; expires December 31, 2008.

EPA ICR No. 2159.02; Background Checks for Contractor Employees (Renewal); was approved December 11, 2005; OMB Number 2030–0043; expires December 31, 2008.

EPA ICR No. 2183.02; Drug Testing for Contractor Employees (Renewal); was approved December 11, 2005; OMB Number 2030–0044; expires December 31, 2008.

EPA ICR No. 1432.25; Recordkeeping and Periodic Reporting of the Production, Import, Export, Recycling, Destruction, Transshipment, and Feedstock Use of Ozone-Depleting Substances (Renewal); in 40 CFR part 82, subpart E and 40 CFR part 82, subpart A, § 83.13; was approved December 13, 2005; OMB Number 2060–0170; expires December 31, 2008.

EPA ICR No. 2212.01; MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements; was approved December 22, 2005; OMB Number 2090–0025; expires June 30, 2006.

EPA ICR No. 1617.05; Servicing of Motor Vehicle Air Conditioners; in 40 CFR part 82; was approved December 30, 2005; OMB Number 2060–0247; expires December 31, 2008.

EPA ICR No. 1292.07; Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters (Renewal); was approved December 30, 2005; OMB Number 2060–0135; expires December 31, 2008.

EPA ICR No. 1081.08; NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (Renewal); in 40 CFR part 61, subpart N; was approved January 5, 2006; OMB Number 2060–0043; expires January 31, 2009.

EPA ICR No. 1100.12; NESHAP for Radionuclides (Renewal); in 40 CFR part 61, subparts B, K, R, and W; was approved January 5, 2006; OMB Number 2060–0191; expires January 31, 2009.

EPA ICR No. 2056.02 NESHAP for Miscellaneous Metal Parts and Products (Renewal); in 40 CFR part 63, subpart MMMM; was approved January 6, 2006; OMB Number 2060–0486; expires January 31, 2009.

Dated: January 10, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–922 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–2006–0035; FRL–7759–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review human health and environmental issues associated with the Event MIR604 Modified Cry3A Protein Bt Corn—Plant Incorporated Protectant. This product is intended to provide protection from western, northern, and Mexican corn rootworm larvae.

DATES: The meeting will be held on March 14–15, 2006, from 8:30 a.m. to approximately 5 p.m., eastern time.

Comments: For the deadlines for the submission of requests to present oral comments and submission of written comments, see Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

Nominations: Nominations of scientific experts to serve as ad hoc members of the FIFRA SAP for this meeting should be provided on or before February 6, 2006.

Special accommodations: For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** at least 10 business days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Holiday Inn—National Airport, 2650 Jefferson Davis Hwy., Arlington,VA 22202. The telephone number for the Holiday Inn—National Airport is (703) 684–7200.

Comments: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0035, by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *E-mail*: *opp-docket@epa.gov*.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2006–0035. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0035. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be captured automatically 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at*http://www.epa.gov/epahome/docket.htm/*.

Docket: All documents in the docket are listed in the regulation.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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov/* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

Nominations, requests to present oral comments, and special accommodations: See Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Joseph E. Bailey, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–2045; fax number: (202) 564–8382; e-mail addresses: *bailey.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

When preparing and submitting comments, remember to use these tips:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

C. How May I Participate in this Meeting?

You may participate in this meeting by following the instructions in this unit. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–HQ–OPP–2006–0035 in the subject line on the first page of your request.

1. *Oral comments*. Oral comments presented at the meetings should not be repetitive of previously submitted oral or written comments. Although requests to present oral comments are accepted until the date of the meeting (unless otherwise stated), to the extent that time

permits, interested persons may be permitted by the Chair of FIFRA SAP to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to FIFRA SAP is strongly advised to submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern time, March 7, 2006, in order to be included on the meeting agenda. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). Oral comments before FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides for distribution to FIFRA SAP at the meeting.

2. *Written comments.* Although, written comments will be accepted until the date of the meeting (unless otherwise stated), the Agency encourages that written comments be submitted, using the instructions under **ADDRESSES** no later than noon, eastern time, February 28, 2006, to provide FIFRA SAP the time necessary to consider and review the written comments. It is requested that persons submitting comments directly to the docket also notify the DFO listed under **FOR FURTHER INFORMATION CONTACT**. Persons wishing to submit written comments at the meeting should bring 30 copies. There is no limit on the extent of written comments for consideration by FIFRA SAP.

3. *Seating at the meeting.* Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access and assistance for the hearing impaired, should contact the DFO at least 10 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT** so that appropriate arrangements can be made.

4. *Request for nominations of prospective candidates for service as ad hoc members of FIFRA SAP for this meeting.* As part of a broader process for developing a pool of candidates for each meeting, the FIFRA SAP staff routinely solicit the stakeholder community for nominations of prospective candidates for service as ad hoc members of FIFRA SAP. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates for a specific meeting. Individuals nominated for this meeting should have expertise in one or more of the following areas: Corn ecosystem entomology, protein chemistry, and allergenicity. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the scientific issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** on or before February 6, 2006. The Agency will consider all nominations of prospective candidates for this meeting that are received on or before this date. However, final selection of ad hoc members for this meeting is a discretionary function of the Agency.

The selection of scientists to serve on FIFRA SAP is based on the function of the panel and the expertise needed to address the Agency's charge to the panel. No interested scientists shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except the EPA). Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias. Though financial conflicts of interest, the appearance of lack of impartiality, lack of independence, and bias may result in disqualification, the absence of such concerns does not assure that a candidate will be selected to serve on FIFRA SAP. Numerous qualified candidates are identified for each panel. Therefore, selection decisions involve carefully weighing a number of factors including the candidates' areas of expertise and professional qualifications and achieving an overall balance of different scientific perspectives on the panel. In order to have the collective breadth of experience needed to address the Agency's charge for this meeting, the Agency anticipates selecting approximately 12 ad hoc scientists.

If a prospective candidate for service on FIFRA SAP is considered for participation in a particular session, the candidate is subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by EPA in 5 CFR part 6401. As such, the FIFRA SAP candidate is required to submit a Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency (EPA Form 3110–48 5–02) which shall fully disclose, among other financial interests, the candidate's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the candidate's financial disclosure form to assess that there are no financial conflicts of interest, no appearance of lack of impartiality, and no prior involvement with the development of the documents under consideration (including previous scientific peer review) before the candidate is considered further for service on FIFRA SAP.

Those who are selected from the pool of prospective candidates will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. In addition, they will be asked to review and to help finalize the meeting minutes. The list of FIFRA SAP members participating at this meeting will be posted on the FIFRA SAP website or may be obtained by contacting PIRIB at the address or telephone number listed under **ADDRESSES**.

II. Background

A. Purpose of FIFRA SAP

Amendments to FIFRA, enacted November 28, 1975 (7 U.S.C. 136w(d)), include a requirement under section 25(d) of FIFRA that notices of intent to cancel or reclassify pesticide registrations pursuant to section 6(b)(2) of FIFRA, as well as proposed and final forms of regulations pursuant to section 25(a) of FIFRA, be submitted to a SAP prior to being made public or issued to a registrant. In accordance with section 25(d) of FIFRA, FIFRA SAP is to have an opportunity to comment on the health and environmental impact of such actions. The FIFRA SAP also shall make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists. Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. The Deputy Administrator appoints seven individuals to serve on FIFRA SAP for staggered terms of 4 years, based on recommendations from the National Institutes of Health and the National Science Foundation.

Section 104 of FQPA (Public Law 104–170) established the FQPA Science Review Board (SRB). These scientists shall be available to FIFRA SAP on an ad hoc basis to assist in reviews conducted by FIFRA SAP.

B. Public Meeting

The FIFRA SAP will meet to consider and review human health and environmental issues associated with the Modified Cry3A protein in corn. Syngenta Seeds has submitted applications for FIFRA section 3 registrations of the plant-incorporated protectant (PIP) Modified Cry3A (mCry3A) protein and the genetic material necessary for its production (via elements of pZM26) in Event MIR604 corn SYN–IR604–8. This product is intended to provide protection from western, northern, and Mexican corn rootworm larvae.

The data submitted and cited regarding potential health effects for the mCry3A protein include the characterization of the expressed mCry3A protein in corn, acute oral toxicity, *in vitro* digestibility, and amino acid homology determinations with known toxins and allergens.

The data submitted and cited regarding potential environmental effects for the mCry3A protein include non-target insects (honey bee, lady beetle, Carabid, Rove beetle, and Orius), earthworm, Bobwhite quail, chicken, and trout studies; as well as soil degradation studies.

C. FIFRA SAP Documents and Meeting Minutes

EPA's position paper, charge/questions to FIFRA SAP, FIFRA SAP composition (i.e., members and consultants for this meeting), and the meeting agenda will be available by mid-February 2006. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the regulations.gov website and the FIFRA SAP homepage at *http://www.epa.gov/scipoly/sap.*

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency in approximately 90 days after the meeting. The meeting minutes will be posted on the FIFRA SAP website or may be obtained by contacting the PIRIB at the address or telephone number listed under **ADDRESSES.**

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 19, 2006.

Clifford J. Gabriel,

Director, Office of Science Coordination and Policy.

[FR Doc. E6–930 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP–2005–0558; FRL–7758–5]

Coppers Risk Assessments; Notice of Availability and Risk Reduction Options

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's risk assessments and related documents for copper-containing pesticides, hereon referred to as coppers, and opens a public comment period on these documents. The public is encouraged to suggest risk management ideas or proposals to address the risks identified. EPA is developing a Reregistration Eligibility Decision (RED) for coppers through a modified, 4–Phase public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before March 27, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0558, by one of the following methods:

- *http://www.regulations.gov/.* Follow the on-line instructions for submitting comments.
- *E-mail*: *opp-docket@epa.gov.*
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

Hand Delivery: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2005–0558. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA –HQ–OPP–2005–0558. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be captured automatically 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. Those who intend to submit electronic files should avoid the use of special characters, any form of encryption, and ensure the files are free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/.*

Docket: All documents in the docket are listed in the regulation.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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov/* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is

open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rosanna Louie, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, D.C. 20460–0001; telephone number: (703) 308–0037; fax number: (703) 308–8005; e-mail address: *louie.rosanna@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

EPA is releasing for public comment its human health and environmental fate and effects risk assessments and related documents for copper pesticides, and soliciting public comment including additional use information and risk management ideas or proposals. Copper pesticides are extensively used on a wide range of agricultural crops, and for other conventional and antimicrobial uses. EPA developed the risk assessments and risk characterization for coppers through a modified version of its public process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

Coppers are used on a variety of agricultural sites, including food (fruits, vegetables and nuts) and ornamental crops to manage fungal diseases, and on aquatic sites as an herbicide, algaecide and molluscicide. These chemicals are also used in antimicrobial applications as an anti-foulant, wood preservative, and bactericide. Both conventional and antimicrobial uses of copper are addressed in the human health risk assessment. However, the ecological risk assessment only addresses conventional uses; the Agency will address antimicrobial applications of coppers in a separate document at a later date. The Agency's ecological risk assessment identified risks of concern due to high estimates of copper exposure to the environment and other information. Because limited information is available on actual use and usage of copper pesticides, many conservative assumptions were made in the ecological exposure assessment. The ecological assessment presents current maximum labeled application and use rates; however, it is expected that actual usage may be less and the Agency is interested in receiving actual use pattern information to help refine the risk assessment.

Through this notice, EPA is providing an opportunity for interested parties to provide risk management proposals or otherwise comment on risk management for coppers. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific pesticide. EPA is seeking public comment for data refinement or mitigation proposals for risk estimates of concern identified in EPA's risk assessments. In particular, the Agency is seeking refined use information for all conventional uses of copper that may help to refine ecological exposure estimates, such as: current use rates on its respective crops; timing and locations of applications; and equipment used. Mitigation proposals for current use patterns will be helpful if new information does not refine risk estimates.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to coppers, compared to the general population.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004 (69 FR 26819)(FRL–7357–9), explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of the issues, and degree of public concern associated with each pesticide. For coppers, a modified, 4–Phase process with 1 comment period and ample opportunity for public

consultation seems appropriate in view of the risk issues. However, if as a result of comments received during this comment period EPA finds that additional issues warranting further discussion are raised, the Agency may consider an additional comment period, as needed.

All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for coppers. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product-specific data on individual end-use products and either reregistering products or taking other "appropriate regulatory action."

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 17, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–915 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP–2005–0320; FRL–7750–4]

Notice of Filing of a Pesticide Petition for the Establishment of an Exemption from the Requirement of a Tolerance for Residues of C9 Rich Aromatic Hydrocarbon Fluid (Aromatic 100 Fluid) in or on Food Commodities When Used as an Inert Ingredient in Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of an exemption from the requirement of a tolerance for residues of C9 rich aromatic hydrocarbon fluid (Aromatic 100 Fluid) in or on food commodities when used as an inert ingredient in pesticide products.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: Comments, identified by docket identification (ID) number EPA-HQ-OPP–2005–0320 and pesticide petition (PP) number 4E6935, may be submitted electronically, by mail, or through hand delivery or courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: (703) 308–8380; e-mail address: *gandhi.bipin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number EPA-HQ-OPP–2005–0320. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced Federal-wide electronic docket management and comment system located at *http://www.regulations.gov/.* Follow the on-line instructions.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in

EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number EPA-HQ-OPP–2005–0320. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number EPA-HQ-OPP–2005–0320. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number EPA-HQ-OPP–2005–0320.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number EPA-HQ-OPP–2005–0320. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number

assigned to this action and the pesticide petition number of the summary of interest in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. What Action is the Agency Taking?

EPA is printing the summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment of an exemption from the requirement of regulations in 40 CFR part 180 for residues of C9 rich aromatic hydrocarbon fluid (Aromatic 100 Fluid) in or on food commodities when used as an inert ingredient in pesticide products. EPA has determined that the pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on the pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.epa.gov/edocket/*. To locate this information, on the home page of EPA's Electronic Docket select "Quick Search" and type the OPP docket ID number for the pesticide petition (as specified in Unit I.B.1.) in the search field. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Exemption from the Requirement of a Tolerance

PP 5E6935. ExxonMobil Chemical Company (ExxonMobil), Division of Exxon Mobil Corporation, 13501 Katy Freeway, Houston, TX 77079, proposes to establish an exemption from the requirement of a tolerance for residues of C9 rich aromatic hydrocarbon fluid (Aromatic 100 Fluid) in or on food commodities when used as an inert ingredient in pesticide products. Because this petition is a request for a tolerance exemption without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 5, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 06–625 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP–2005–0304; FRL–7749–9]

Notice of Filing of a Pesticide Petition for the Establishment of an Exemption from the Requirement of a Regulation for the Residues of a Pesticide Chemical in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of an exemption from the requirement of a regulation for residues of 2–propenoic, 2–methyl-, polymers with ethyl acrylate and polyethylene glycol methylacrylate C18–22 alkyl ethers in or on food commodities when used as an inert ingredient in pesticide products.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP–2005–0304 and pesticide petition number (PP) 5E6990, by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *E-mail*: *opp.docket@epa.gov*.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA-HQ-OPP–2005–0304. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP–2005–0304. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 www.regulations.gov or e-mail. The www.regulations.gov website 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 www.regulations.gov, your e-mail address will be captured automatically 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/*.

Docket: All documents in the docket are listed in the www.regulation.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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Bipin Gandhi, Registration Division, (7505C), Office of Pesticide Programs, U.

S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; (703) 308–8380; e-mail: *gandhi.bipin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/.* To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Exemption from Tolerance

PP 5E6990. The Lubrizol Corporation, 29400 Lakeland Blvd., Wickliffe, OH 44092, proposes to establish an exemption from the requirement of a tolerance for residues of 2–propenoic, 2–methyl-, polymers with ethyl acrylate and polyethylene glycol methylacrylate C18–22 alkyl ethers in or on food commodities when used as an inert ingredient. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 5, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 06–580 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0286; FRL–7744–4]

Notice of Filing of a Pesticide Petition for the Establishment of an Exemption from the Requirement of a Regulation of a Pesticide Chemical in or on Food Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of an exemption from the requirement of a regulation for residues of polybutylene (CAS Reg. No. 9003–28–5) in or on food commodities when used as an inert ingredient in pesticide products.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0286 and pesticide petition number (PP) 5E6958, by one of the following methods:

- *http://www.regulations.gov/.* Follow the on-line instructions for submitting comments.
- *E-mail*: *opp.docket@epa.gov.*
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2005–0286. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through

Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP–2005–0286. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 www.regulations.gov or e-mail. The www.regulations.gov website 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 www.regulations.gov, your e-mail address will be captured automatically 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/*.

Docket: All documents in the docket are listed in the www.regulation.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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Bipin Gandhi, Registration Division, (7505C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; (703) 308–8380; e-mail: *gandhi.bipin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Exemption from Tolerance

PP 5E6958. Miller Chemical and Fertilizer Corporation, P.O. Box 333,

Radio Road, Hanover, PA 17331, proposes to establish an exemption from the requirement of a tolerance for residues of polybutylene (CAS Reg. No. 9003–28–5) in or on food commodities when used as an inert ingredient. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 5, 2006.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 06–579 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0006; FRL–7757–6]

Notice of Filing of a Pesticide Petition for the Extension of an Exemption from the Requirement of a Tolerance for the Residues of the Plant-Incorporated Protectant Modified Cry3A Protein and the Genetic Material for Its Production in Corn

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the extension of an exemption from the requirement of a tolerance for the residues of the plant-incorporated protectant modified Cry3A protein (mCry3A) and the genetic material necessary for its production in corn.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP–2006–0006, and pesticide petition number (PP) 4G6808 by one of the following methods:

- *http://www.regulations.gov/.* Follow the on-line instructions for submitting comments.
- *E-mail*: *opp.docket@epa.gov.*
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA-HQ-OPP–2006–0006. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP–2006–0006. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 www.regulations.gov or e-mail. The www.regulations.gov website 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 www.regulations.gov, your e-mail address will be captured automatically 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/.*

Docket: All documents in the docket are listed in the www.regulation.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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division, (7511C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; (703) 308–8715; e-mail: *mendelsohn.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI

must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Exemption from Tolerance

PP 4G6808. Syngenta Seeds, Inc., P.O. Box 12257, 3054 East Cornwallis Road, Research Triangle Park, NC 27709–2257, proposes to extend an exemption from the requirement of a tolerance for residues of the plant-incorporated protectant, modified Cry3A protein (mCry3A) and the genetic material necessary for its production in corn, 40 CFR 174.456. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 17, 2006.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E6–916 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0007; FRL–7757–7]

Experimental Use Permit; Receipt of a Request to Amend and Extend the Application for 67979–EUP–4

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of a request to amend the application for 67979–EUP–4 from Syngenta Seeds, Inc. requesting an amendment to this experimental use permit (EUP) for the plant-incorporated protectant Event MIR604 modified Cry3A corn and a breeding stack of Event Bt11 Cry1Ab corn x Event MIR604 modified Cry3A corn. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0007, must be received on or before February 24, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0007, pesticide petition number (PP) 4G6808 and experimental use permit 67979–EUP–4 by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *E-mail*: *opp.docket@epa.gov*.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2006–0007. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line 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 www.regulations.gov or e-mail. The www.regulations.gov website 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 www.regulations.gov, your e-mail address will be captured automatically 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/docket.htm/.*

Docket: All documents in the docket are listed in the www.regulation.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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: *mendelsohn.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

Following the review of the Syngenta Seed, Inc.'s application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

III. Background

The 67979–EUP–4 extension amendment is for 4,955 acres of Event MIR604 modified Cry3A corn, Event Bt11 Cry1Ab corn, and a breeding stack of Event Bt11 Cry1Ab corn x Event MIR604 modified Cry3A corn. Proposed shipment/use dates are February 28, 2006 thru October 15, 2007. Five trial protocols will be conducted, including:

1. Breeding and observation,
2. Efficacy evaluation,
3. Agronomic observation,
4. Inbred and hybrid production, and
5. Regulatory studies.

States and Commonwealth involved include: Arizona, California, Colorado, Florida, Hawaii, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Carolina, New Mexico, Nebraska, North Dakota, New York, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, Virginia, and Wisconsin.

List of Subjects

Environmental protection, Experimental use permits.

Dated: January 17, 2006.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E6–914 Filed 1–24–06; 8: 45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8024–8]

Adequacy of Illinois Municipal Solid Waste Landfill Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Determination of Adequacy.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 5 is approving a modification to Illinois' approved municipal solid waste landfill (MSWLF) permit program. The modification allows the State to issue research, development and demonstration (RD&D) permits to owners and operators of MSWLF units in accordance with its state law and regulations.

DATES: This final determination is effective January 25, 2006.

FOR FURTHER INFORMATION CONTACT: Donna Twickler, Waste Management Branch (Mail code DW–8J), U.S. EPA Region 5, 77 West Jackson Boulevard,

Chicago, Illinois 60604, telephone (312) 886–6184, *twickler.donna@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On March 22, 2004, U.S. EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for research, development and demonstration (RD&D) permits (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through state-issued RD&D permits. RD&D permits are only available in states with approved MSWLF permit programs which have been modified to incorporate RD&D permit authority. While States are not required to seek approval for this new provision, those States that are interested in providing RD&D permits to owners and operators of MSWLFs must seek approval from U.S. EPA before issuing such permits. Approval procedures for new provisions of 40 CFR Part 258 are outlined in 40 CFR 239.12.

Illinois MSWLF permit program was approved on January 3, 1994 (59 FR 86). On September 21, 2005, Illinois applied for approval of its RD&D permit provisions. Illinois submitted its rules under R05–1 for review. On November 23, 2005, EPA published a Notice of proposed determination of adequacy of Illinois RD&D permit requirements (70 FR 70841). The notice provided a public comment period that ended on December 23, 2005. No comments were received during the comment period. Today's final action determines that Illinois RD&D permit provisions as defined under Illinois rule R05–1 are adequate to ensure compliance with the Federal criteria as defined at 40 CFR 258.4.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: January 13, 2006.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E6–925 Filed 1–24–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 17, 2006.

Summary: The Federal Communications Commission, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, and as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Dates: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 24, 2006. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Addresses: Direct all Paperwork Reduction Act (PRA) comments to Leslie F. Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., DC 20554 or via the Internet to *Leslie.Smith@fcc.gov* or Kristy L. LaLonde. Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–3087 or via the Internet at *Kristy_L._LaLonde@omb.eop.gov.*

If you would like to obtain or view a copy of this revised information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

For Further Information Contact: For additional information or copies of the information collection(s), contact Leslie F. Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

Supplementary Information:

OMB Control Number: 3060–0636.

Title: Equipment Authorization—Declaration of Compliance, Section 2.1075.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,000.

Estimated Time per Response: 18 hours (avg.).

Frequency of Response: Recordkeeping; One-time reporting requirement; Third party disclosure.

Total Annual Burden: 76,000 hours.

Total Annual Cost: $12,000,000.

Privacy Impact Assessment: No.

Needs and Uses: The equipment authorization procedure requires that equipment manufacturers or equipment suppliers test a product to ensure compliance with technical standards for limiting radio frequency emissions and include a declaration of compliance (DoC) with the standards in the literature furnished with the equipment. This statement of conformity and supporting technical data would be made available to the FCC by the responsible party, at the request of the FCC. Further, the FCC will permit personal computers to be authorized based on tests and approval of their individual components, without further testing of the completed assembly. Testing and documentation of compliance aids in controlling potential interference to radio communications. The data may be used for investigating complaints of harmful interference; to determine that the equipment marketed complies with the applicable FCC Rules; and to insure that the operation of the equipment is consistent with the initially documented test results.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–910 Filed 1–24–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary,

Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011932.

Title: HSDG/CCNI Vessel Sharing Agreement.

Parties: Hamburg-Sud; Compania Chilena de Navegacion Interoceanica S.A.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to share vessel space between the U.S. East Coast and Caribbean and the West Coast of South America.

Agreement No.: 011933.

Title: Eastern Car Liners, Ltd./ Industrial Maritime Carriers, LLC Space Charter Agreement.

Parties: Eastern Car Liners, Ltd. and Industrial Maritime Carriers, LLC.

Filing Party: Stephen M. Uthoff, Esq.; Coniglio & Uthoff; 60 Elm Avenue; Long Beach, CA 90802–4910.

Synopsis: The agreement permits ECL to charter space on IMC's vessels operating between the U.S. Gulf coast and Central and South America.

Agreement No.: 011934.

Title: Transpacific Space Charter (North China) Agreement.

Parties: CMA CGM, S.A. and COSCO Container Lines Company, Ltd.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway, Suite 3000; New York, NY 10006–2802.

Synopsis: The agreement permits CMA to charter space on COSCO's vessels operating between ports in China and the Port of Long Beach, CA.

Dated: January 20, 2006.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–917 Filed 1–24–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel—Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel—Operating Common Carrier Ocean Transportation Intermediary Applicant

Dynamo Xpress, Inc., 10 East Merrick Road, Valley Stream, NY 11580. Officers: Shlomo Greenberg, Vice President (Qualifying Individual), Guy Usi, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant

MAC Shipping, Inc., 1375 NW. 97th Avenue Bay #7, Miami, FL 33172. Officers: Katia Ninoska Mendez, Vice President (Qualifying Individual), Marco A. Carranza, President.

Dated: January 20, 2006.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–918 Filed 1–24–06; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: National Implementation of Head Start, National Reporting System on Child Outcomes.

OMB No.: 0970–0249.

Description: The Administration on Children, Youth and Families (ACYF), within Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS), is requesting comments on plans to implement the Head Start National Reporting System on Child Outcomes. This implementation has been conducted to collect child-outcomes information that will be used to enhance Head Start program quality and accountability.

The Head Start National Reporting System (HSNRS) was designed to meet Presidentially mandated reforms and Congressionally mandated requirements for information on specific child outcomes and to provide Head Start program managers and teachers with useful information to support program-improvement strategies.

HSNRS has three major goals. First, HSNRS is intended to provide local Head Start programs with additional information regarding the progress of groups of children by capturing baseline information on how children are doing at the beginning and at the end of the program, in a limited number of areas. Second, HSNRS is intended to capture the same set of information across the nation in a consistent manner. This information can be used to plan for targeted training and technical assistance. Third, the child-outcomes information captured in HSNRS is intended to be used within the current program monitoring effort, which involves an onsite, systematic review of programs. HSNRS can create and compile information that the Head Start Bureau can utilize as part of the process for ensuring the effectiveness of services. These results also will be used to provide for program improvement and accountability of Head Start.

The first three rounds of the HSNRS national implementation (2003–04, 2004–05, and 2005–06 program years) have been successful. In each round of the data collection, over 400,000 assessments were completed, making this the largest assessment of preschool children ever conducted. Also, over 99 percent cooperation was obtained from local Head Start programs and Head Start parents and children. HSNRS data show good internal reliability, both in terms of I___R___T___ (IRT) reliability and Cronbach's Coefficient Alpha, at the individual child-level, for both English-language and Spanish-language assessments. IRT estimates of the internal reliability of the program-level, English-language assessment scores were excellent, with most IRT-reliability coefficients greater than .90.

Participating local Head Start programs have received HSNRS Program Reports at the aggregated program-level for the fall assessment (baseline) and the spring assessment (fall-spring growth), in each program year. These reports provided local Head Start programs with the progress of their children in all assessed domains, and showed how the reports compared to all other Head Start children (national-level reference tables) as well as children in similar programs (sub-group reference tables).

HSNRS will continue to collect child-outcomes information from children who are 4 years-old or older and who will enter Kindergarten next year. As in the previous three years, all eligible Head Start children will be assessed twice a year using a standardized direct child-assessment battery. The assessment battery will include a

limited set of early literacy, language, and numeracy skills.

Social-emotional development of Head Start children reported by classroom teachers will be collected in HSNRS twice a year using a standardized rating scale developed for HSNRS. The social-emotional development scales will be field-tested in spring 2006 prior to national implementation in fall 2006. Head Start teachers will rate children in their classrooms on the aspects of cooperative classroom behaviors, preschool learning behaviors, and problem behaviors.

HSNRS will also collect health and safety information on children and programs, including children's height and weight, immunization status, receipt of dental care, and occurrences of injuries requiring medical attention.

Respondents: Head Start children and Head Start staff.

ANNUAL BURDEN ESTIMATES

Respondents and activities	* Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Fall Implementation				
Head Start Children: Participate in Child Assessments	425,000	1	¼	106,250
Head Start Staff (Assessors): Participate in Training-on-Child Assessments	25,000	1	4	100,000
Head Start Staff (Local NRS Trainers): Participate in Training-on-Child Assessments	1,800	1	4	7,200
Head Start Staff (Assessors): Administer Child Assessments	25,000	17	¼	106,250
Head Start Teachers: Participate in Training on Social-Emotional Development Ratings	38,500	1	1	38,500
Head Start Teachers: Complete Social-Emotional Development Ratings	38,500	11	⅙	70,583
Head Start Teachers: Complete Child Health Questions	38,500	11	1/12	35,292
Head Start Staff: Complete Health and Safety of Program Questions	1,800	1	1/12	150
Head Start Staff: Enter Information on CBRS	1,800	1	3	5,400
Spring Implementation				
Head Start Children: Participate in Child Assessments	425,000	1	¼	106,250
Head Start Staff (Assessors): Participate in Refresher Training-on-Child Assessments	25,000	1	4	100,000
Head Start Staff (Local NRS Trainers): Participate in Training-on-Child Assessments	1,800	1	4	7,200
Head Start Staff (Assessors): Administer Child Assessments	25,000	17	¼	106,250
Head Start Teachers: Participate in Refresher Training on Social-Emotional Development Ratings	38,500	1	¼	19,250
Head Start Teachers: Complete Social-Emotional Development Ratings	38,500	11	⅙	70,583
Head Start Teachers: Complete Child Health Questions	38,500	11	1/12	35,292
Head Start Staff: Complete Health and Safety of Program Questions	1,800	1	1/12	150
Head Start Staff: Enter Information on CBRS	1,800	1	½	2,700
Total Annual Burden Estimates				917,300

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection: E-mail: *infocollection@acf.hhs.gov.*

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 18, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–675 Filed 1–24–06; 8:45am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0327]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Blood Establishment Registration and Product Listing, Form FDA 2830

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by February 24, 2006.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Blood Establishment Registration and Product Listing, Form FDA 2830—(OMB Control Number 0910–0052)—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), any person owning or operating an establishment that manufactures, prepares, propagates, compounds, or processes a drug or device must register with the Secretary of Health and Human Services, on or before December 31 of each year, his or her name, place of business, and all such establishments submit, among other information, a listing of all drug or device products manufactured, prepared, propagated, compounded, or processed by him or her for commercial distribution. In part 607 (21 CFR part 607), FDA has issued regulations implementing these requirements for manufacturers of human blood and blood products.

Section 607.20(a) requires certain establishments that engage in the manufacture of blood products to register and to submit a list of blood products in commercial distribution. Section 607.21 requires the establishments entering into the manufacturing of blood products to register within 5 days after beginning such operation and to submit a blood product listing at that time. In addition, establishments are required to register annually between November 15 and December 31 and update their blood product listing every June and December of each year. Section 607.22 requires the use of Form FDA 2830, Blood Establishment Registration and Product Listing, for initial registration, for annual registration, and for blood product listing. Section 607.25 indicates the information required for establishment registration and blood product listing. Section 607.26 requires certain changes to be submitted as amendments to the establishment registration within 5 days of such changes. Section 607.30 requires establishments to update their blood product listing information every June and December, or at the discretion of the registrant at the time the change occurs. Section 607.31 requires that additional blood product listing information be provided upon FDA request. Section 607.40 requires foreign blood product establishments to register and submit the blood product listing information, the name and address of the establishment, and the name of the individual responsible for submitting blood product listing information as well as the name, address, and phone number of its U.S. agent.

Among other uses, this information assists FDA in its inspections of facilities, and its collection is essential to the overall regulatory scheme designed to ensure the safety of the Nation's blood supply. Form FDA 2830 is used to collect this information.

Respondents to this collection of information are human blood and plasma donor centers, blood banks, certain transfusion services, other blood product manufacturers, and independent laboratories that engage in quality control and testing for registered blood product establishments.

In the **Federal Register** of August 24, 2005 (70 FR 49655), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form FDA 2830	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
607.20(a), 607.21, 607.22, 607.25, and 607.40	Initial registration	100	1	100	1	100
607.21, 607.22, 607.25, 607.26, 607.31, and 607.40	Reregistration	2,775	1	2,775	0.5	1,388
607.21, 607.25, 607.30, 607.31, and 607.40	Product listing update	180	1	180	0.25	45
Total						1,533

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 13, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–844 Filed 1–24–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0190]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Export Certificates for FDA Regulated Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by February 24, 2006.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Export of FDA Regulated Products—Export Certificates—(OMB Control Number 0910–0498)—Extension

In April 1996, a law entitled "The FDA Export Reform and Enhancement Act of 1996" amended sections 801(e) and 802 of the act (21 U.S.C. 381(e) and 382). It was designed to ease restrictions on exportation of unapproved pharmaceuticals, biologics, and devices regulated by FDA. Section 801(e)(4) of the act provides that persons exporting certain FDA-regulated products may request that FDA certify that the products meet the requirements of sections 801(e) or 802 or other requirements of the act. This section of the law requires that FDA issue certification within 20 days of receipt of the request and charge firms up to $175 for the certifications.

This section of the act authorizes FDA to issue export certificates for regulated pharmaceuticals, biologics, and devices that are legally marketed in the United States, as well as for pharmaceuticals, biologics, and devices that are not legally marketed, but are acceptable to the importing country as specified in sections 801(e) and 802 of the act. Section 801(e)(4) of the act provides that FDA shall, upon request, issue certificates for human drugs and biologics, animal drugs, and devices that either meet the applicable requirements of the act and may be legally marketed in the United States or may be legally exported under the act although they may not be legally marketed in the United States. The act does not require FDA to issue certificates for food, including animal feeds, food and feed additives, and dietary supplements, or cosmetics. However, because foreign governments may require certificates for these types of products, the agency intends to continue to provide this service as resources permit. FDA issues six types of certificates: (1) Certificate to Foreign Government (FDA 3613), (2) Certificate of Exportability (FDA 3613a), (3) Certificate of a Pharmaceutical Product (FDA 3613b), (4) Non-clinical Research Use Only Certificate (FDA 3613c), Office of Cosmetics and Colors "Certificate" (Exports) Application (FDA 3613d), and Food Export Certificate Application (FDA 3613e). Table 1 of this document lists the different certificates and details their uses:

TABLE 1. LIST OF FDA EXPORT CERTIFICATES

Certificate Name	Form FDA	Use	Issuing FDA Center
Certificate to Foreign Government	3613	For the export of products that can be legally marketed in the United States.	Center for Biologic Evaluation and Research (CBER); Center for Devices and Radiological Health (CDRH); Center for Veterinary Medicine (CVM)
Certificate of Exportability	3613a	For the export of products that cannot be legally marketed in the United States but meet the requirements of sections 801(e) or 802 of the act and may be legally exported.	CBER; CDRH; CVM
Certificate of a Pharmaceutical Product	3613b	For use by the importing country when considering whether to license the product in question for sale in that country. Conforms to the format established by the World Health Organization.	CBER; Center for Drug Evaluation and Research; CVM
Non-Clinical Research Use Only Certificate	3613c	For the export of non-clinical research use only product, material, component that is not intended for human use which may be marketed in, and legally exported from the United States under the act.	CBER; CDRH
Office of Cosmetics and Colors "Certificate" (Exports) Application	3613d	For the export of products that are identified by the requester as cosmetics.	Center for Food Safety and Applied Nutrition (CFSAN)

TABLE 1. LIST OF FDA EXPORT CERTIFICATES—Continued

Certificate Name	Form FDA	Use	Issuing FDA Center
Food Export Certificate Application	3613e	For food products and dietary supplements that may be legally marketed in the United States.	CFSAN

In the **Federal Register** of June 21, 2005 (70 FR 35678), FDA published a 60-day notice requesting public comment on the information collection provisions involving export certificates. FDA received three comments; however, only one was related to the information collection.

The commenter suggested that extending the "Certificate to Foreign Government" 2-year expiration date to 3, 4 or 5 years would reduce their financial burden. The export certificate expiration date is based on the agency inspection schedule. At this time FDA is not considering reevaluating the inspection schedule.

FDA will continue to rely on self-certification by manufacturers for the first three types of certificates listed in Table 1 of this notice. Manufacturers are requested to self-certify that they are in compliance with all applicable requirements of the act, not only at the time that they submit their request to the appropriate center, but also at the time that they submit the certification to the foreign government.

The appropriate FDA centers will review product information submitted by firms in support of their certificate and any suspected case of fraud will be referred to FDA's Office of Criminal Investigations for follow-up. Firms making or submitting to FDA false statements on any documents may constitute violations of 18 U.S.C. 1001, with penalties including up to $250,000 in fines and up to 5 years imprisonment.

FDA estimates the burden of this collection of information as follows:

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Center	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
CBER	1,501	1	1,501	1	1,501
CDER	4,803	1	4,803	1	4,803
CDRH	5,674	1	5,674	2[2]	11,348
CFSAN, Office of Cosmetics and Colors	730	1	730	1	730
CFSAN, Office of Plant and Dairy Foods	181	1	181	1.5	271.5
CFSAN, Office of Nutritional Products, Labeling and Dietary Supplements	660	1	660	1.5	990
CFSAN, Office of Seafood	575	1	575	1.5	862.5
CVM	664	1	664	1	664
Total					21,170

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Based on center policy that allows multiple devices to appear on one certificate.

Dated: January 13, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–845 Filed 1–24–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0011]

Global Harmonization Task Force, Study Groups 1, 2, 3, and 4; New Proposed and Final Documents; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of several proposed and final documents that have been prepared by Study Groups 1, 2, 3, and 4 of the Global Harmonization Task Force (GHTF). These documents are intended to provide information only and represent a harmonized proposal and recommendation from the GHTF Study Groups that may be used by governments developing and updating their regulatory requirements for medical devices. These documents are intended to provide information only and do not describe current regulatory requirements; elements of these documents may not be consistent with current U.S. regulatory requirements.

FDA is requesting comments on these documents.

DATES: Submit written or electronic comments on any of the proposed documents by April 25, 2006. After the close of the comment period, written comments or electronic comments may be submitted at any time to the contact persons listed in this document.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the guidance documents to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For Study Group 1: Ginette Y. Michaud, Chairperson, GHTF, Study Group 1, Office of Device Evaluation, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913, ext.143.

For Study Group 2: Mary Brady, GHTF, Study Group 2, Office of Surveillance and Biometrics, Center for Devices and Radiological Health (HFZ–530), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–2102.

For Study Group 3: Kimberly Trautman, GHTF, Study Group 3, Office of Compliance, Center for Devices and Radiological Health (HFZ–340), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 240–276–0296.

For Study Group 4: Jacqueline Welch, GHTF, Study Group 4, Office of Compliance, Center for Devices and Radiological Health (HFZ–320), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 240–276–0115.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements. In September 1992, a meeting was held in Nice, France by senior regulatory officials to evaluate international harmonization. At this time it was decided to form a GHTF to facilitate harmonization. Subsequent meetings have been held on a yearly basis in various locations throughout the world.

The GHTF is a voluntary group of representatives from national medical device regulatory authorities and the regulated industry. Since its inception, the GHTF has been comprised of representatives from five founding members grouped into three geographical areas: Europe, Asia-Pacific, and North America, each of which actively regulates medical devices using their own unique regulatory framework.

The objective of the GHTF is to encourage convergence at the global level of regulatory systems of medical devices in order to facilitate trade while preserving the right of participating members to address the protection of public health by regulatory means considered most suitable. One of the ways this objective is achieved is by identifying and developing areas of international cooperation in order to facilitate progressive reduction of technical and regulatory differences in systems established to regulate medical devices. In an effort to accomplish these objectives, the GHTF formed five study groups to draft documents and carry on other activities designed to facilitate global harmonization. This notice is a result of documents that have been developed by four of the study groups (1, 2, 3, and 4).

Study Group 1 was initially tasked with the responsibility of identifying differences between various regulatory systems. In 1995, the group was asked to propose areas of potential harmonization for premarket device regulations and possible guidance that could help lead to harmonization. As a result of its efforts, this group has developed proposed documents SG1/(PD)N015:2005 and SG1(PD)/N040:2005 and final documents SG1/N29R16:2005, SG1/N41R9:2005, and SG1/N43:2005.

SG1(PD)N015:2005 (proposed document) entitled "Principles of Medical Devices Classification" assists a manufacturer to assign its medical device to an appropriate risk class using a set of harmonized principles. This document applies to products that have a medical purpose, as described in GHTF document SG1/N29:2005 entitled "Information Document Concerning the Definition of the Term 'Medical Device,'" except for those devices used for the in vitro examination of specimens derived from the human body. SG1/(PD)/N040:2005 (proposed document) entitled "Principles of Conformity Assessment for Medical Devices" describes the evidence and procedures that may be used by the manufacturer to demonstrate that a medical device is safe and performs as intended by the manufacturer, and the process by which a Regulatory Authority, or Conformity Assessment Body, may confirm that the procedures are properly applied by the manufacturer. This document applies to all products that fall within the definition of a medical device, as described in GHTF document SG1/N29:2005 entitled "Information Document Concerning the Definition of the Term 'Medical Device,'" except for those devices used for the in vitro examination of specimens derived from the human body.

SG1/N29R16:2005 (final document) entitled "Information Document Concerning the Definition of the Term 'Medical Device'" describes a harmonized definition of a medical device and provides information on products that may be considered to be medical devices in some jurisdictions. This document applies to products that have a medical purpose, including those used for the in vitro examination of specimens derived from the human body.

SG1/N41R9:2005 (final document) entitled "Essential Principles of Safety and Performance of Medical Devices" is a revised version of previously published guidance on the subject and describes the six general requirements of safety and performance that apply to all medical devices and provides a comprehensive list of design and manufacturing requirements of safety and performance, some of which are relevant to each medical device. This document applies to all products that fall within the definition of a medical device that appears within the GHTF document entitled "Information Document Concerning the Definition of the Term 'Medical Device,'" including those used for the in vitro examination of specimens derived from the human body. The new guidance is intended to supersede the previous version of the guidance. SG1/N43:2005 (final document) entitled "Labelling for Medical Devices" describes harmonized principles for the labelling of medical devices and recommends harmonized content of labeling such as the device identity and intended purpose; how to

use, maintain and store a device; residual risks; warnings and contraindications. This document applies to all products that fall within the definition of a medical device that appears within the GHTF document SG1/N29:2005 entitled "Information Document Concerning the Definition of the Term 'Medical Device,'" including those used for the in vitro examination of specimens derived from the human body. The new guidance is intended to supersede the previous version of the guidance.

Study Group 2 was initially tasked with the responsibility of developing guidance documents that will be used for the exchange of adverse event reports. As a result of its efforts, this group has developed proposed documents SG2(PD)/N54R6:2005, SG2(PD)/N57R6:2005, and SG2(PD)/N79R5:2005 and final document SG2/N38R14:2005.

SG2/(PD)/N54R6:2005 (proposed document) entitled "Post Market Surveillance: Global Guidance for Adverse Event Reporting for Medical Devices" provides guidance on the type of adverse events associated with medical devices that should be reported by manufacturers to a National Competent Authority (NCA). SG2(PD)/N57R6:2005 (proposed document) entitled "Medical Devices: Post Market Surveillance: Content of Field Safety Notices" identifies elements that should be included in safety related notifications issued by the medical device manufacturer. SG2/(PD)/N79R5:2005 (proposed document) entitled "Medical Devices: Post Market Surveillance: National Competent Authority Report Exchange Criteria and Report Form" provides guidance, procedures, and forms for the exchange of reports concerning the safety of medical devices between NCA and other participants of the GHTF National Competent Authority Report (NCAR) exchange program.

SG2/N38R15:2005 (final document) entitled "Application Requirements for Participation in the GHTF National Competent Authority Report Exchange Program" describes the prerequisites and commitments required from an organization before it can participate in the NCAR exchange program founded by GHTF SG2.

Study Group 3 was initially tasked with the responsibility of developing guidance documents on quality systems. As a result of its efforts, this group has developed final document SG3/N15R8:2005. SG3/N15R8:2005 (final document) entitled "Implementation of Risk Management Principles and Activities within a Quality Management System" is intended to assist medical device manufacturers with the integration of a risk management system or risk management principles and activities into their existing quality management system by providing practical explanations and examples. This document assumes a basic understanding of quality management system requirements and a basic knowledge of quality management system terminology.

Study Group 4 was initially tasked with the responsibility of developing guidance documents on quality systems auditing practices. As a result of its efforts, this group has developed document SG4(PD)/N30R16:2005. SG4(PD)/N30R16:2005 (proposed document) entitled "Guidelines for Regulatory Auditing of Quality Management Systems of Medical Device Manufacturers—Part 2: Regulatory Auditing Strategy" is intended to assist medical device regulators and auditing organizations conducting quality management system audits of medical device manufacturers based on the process approach to quality management system requirements (e.g., ISO 13485:2003 and 21 CFR Part 820).

II. Significance of Guidance

These documents represent recommendations from the GHTF study groups and do not describe regulatory requirements. FDA is making these documents available so that industry and other members of the public may express their views and opinions.

III. Electronic Access

Persons interested in obtaining a copy of the guidances may also do so by using the Internet. The Center for Devices and Radiological Health (CDRH) maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. Information on the GHTF may be accessed at *http://www.ghtf.org*. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding these documents. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–846 Filed 1–24–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Maternal and Child Health Bureau Performance Measures for Discretionary Grants (OMB No. 0915–0272)

The Maternal and Child Health Bureau (MCHB) intends to continue to collect performance data for Special Projects of Regional and National Significance (SPRANS), Community Integrated Service Systems (CISS), and other grant programs administered by MCHB.

The Health Resources and Services Administration (HRSA) proposes to continue using reporting requirements for SPRANS projects, CISS projects, and other grant programs administered by MCHB, including national performance measures, previously approved by OMB, and in accordance with the "Government Performance and Results Act (GPRA) of 1993" (Pub. L. 103–62). This Act requires the establishment of

measurable goals for Federal Programs that can be reported as part of the budgetary process, thus linking funding decisions with performance. Performance measures for MCHB discretionary grants were initially approved in January 2003. Approval from OMB is being sought to continue the use of these measures. The number of measures has been reduced with the transfer of a program to the Administration for Children and Families. The remaining performance measures are unchanged from those approved in 2003. Some of these measures are specific to certain types of programs, and will not apply to all grantees. Furthermore, these measures are based primarily on existing data, thereby minimizing the response burden consistent with program administration and management needs.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Burden per response	Total burden hours
Grant Report	631	1	631	6	3,786

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 19, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–893 Filed 1–24–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) Programs: Forms (OMB No. 0915–0044): Extension

The HPSL Program Provides long-term, low-interest loans to students attending schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, and pharmacy. The NSL Program provides long-term, low-interest loans to students who attend eligible schools of nursing in programs leading to a diploma in nursing, and an associate degree, a baccalaureate degree, or a graduate degree in nursing. Participating HPSL and NSL schools are responsible for determining eligibility of applicants, making loans, and collecting monies owed by borrowers on their outstanding loans. The deferment form (HRSA form 519) provides the schools with documentation of a borrower's eligibility for deferment. The Annual Operating Report (AORHRSA form 501) provides the Federal Government with information from participating and non-participating schools (schools that are no longer granting loans but are required to report and maintain program records, student records, and repayment records until all student loans are repaid in full and all monies due the Federal Government are returned) relating to HPSL and NSL program operations and financial activities.

The estimate of burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per responses	Total burden hours
Deferment HRSA–519	3,000	1	3,000	[1] 10	500
AOR–HRSA–501	977	1	977	[2] 4	3,908
Total Burden	3,977		3,977		4,408

[1] Minutes.
[2] Hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 19, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–894 Filed 1–24–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request

A Survey of Estimated Glomerular Filtration Rate (GFR) Reporting Practices of Clinical Laboratories.

Summary: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995,

for the opportunity for public comment on proposed data collection projects, the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) of the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: A Survey of Estimated GFR Reporting Practices of Clinical Laboratories: *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This study will assess the level of U.S. clinical laboratory reporting of estimated GFR as a measure of kidney function. This will be accomplished through baseline and follow-up surveys of a representative sample of clinical laboratories in the U.S. Information will be used to establish baseline data necessary to measure an anticipated increased in use of estimated GFR, following the implementation of the NKDEP's communications and Lab Working Group (LWG) activities promoting use of estimated GFR for patients at risk for kidney disease. The LWG, whose members are experts in their field, strongly believes that routine reporting of estimated GFR will result in a significant increase in early detection of chronic kidney disease, therefore enabling treatment that can slow or prevent patients' progression to kidney failure. *Frequency of Response:* Baseline survey only. *Affected Public:* Clinical laboratory community. *Type of Respondents:* Laboratory directors. The annual reporting burden is as follow: *Estimated Number of Respondents:* Anticipate 4,126 completed surveys; *Estimated Number of Responses per Respondent:* Respondents will complete one paper-and-pencil or online survey; *Average Burden Hours Per Response:* .083 hours [5 minutes]; and *Estimated Total Annual Burden Hours Requested:* 342.46 hours. The annualized total cost to respondents is estimated at $11,759.10. (Note: Completing this survey is similar to other data reporting carried out by lab directors. Since lab directors will be able to responded to the survey within their usual workday, this collection of information will not cost labs.employers additional time and money.) There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Annual total burden hours requested
Clinical Laboratory Directors	4,126	1.0	.083	342.46
Total	4,126	1.0	.083	342.46

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to responded, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Further Information Contact: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Elisa Gladstone, MPH, Project Officer, Associate Director, National Kidney Disease Education Program, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Center Dr., Room 9A06, Bethesda, MD 20892, or call non-toll free number (301) 435–8116 or e-mail your request, including your address to, *gladstonee@niddk.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: January 17, 2006.

Elisa H. Gladstone,

MPH, Project Officer, Associate Director, National Kidney Disease Education Program, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 06–704 Filed 1–24–06; 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.

Intraperitoneal Injection of Pseudovirions Carrying a Toxin Leads to Significantly Reduced Tumor Size

Michael M. Gottesman et al. (NCI)
U.S. Provisional Application filed 01 Dec 2005 (HHS Reference No. E–163–2005/0–US–01)
Licensing Contact: Michelle A. Booden; 301/451–7337; *boodenm@mail.nih.gov*

SV40-based pseudovirions show great promise in the cancer gene therapy field. SV40 vectors very efficiently deliver genes such as anti-viral agents, DNA vaccine, genes for chemoprotection, suicide genes, and antiangiogenic genes. The immediate application for this technology is to target plasmid DNA to cancerous cells as a gene therapy treatment for various human carcinomas. In previous studies, NCI investigators Chava Kimchi-Sarfaty and Michael Gottesman have

demonstrated that SV40 infectious particles delivering DNA encoding a toxin to tumors can be used as a novel cancer treatment.

This invention discloses a method for delivering a toxin such as Pseudomonas extotoxin (PE38) to tumor cells. Administration of the SV40 infectious particle can be by parenteral administration, which includes intraperitoneal, intravenous, intramuscular, subcutaneous, intraorbital, intracapsular, intraspinal, or intrasternal. This disclosure also provides a combined method of use of SV40 infectious particle/PE38 with a chemotherapeutic agent, such as doxorubicin. Interestingly, this combination is very effective at reducing tumor size while eliminating many of the side effects of conventional chemotherapy. This delivery system has a commercial advantage as a new method to increase efficacy and reduce side effects of standard chemotherapies.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Transcytosis of Adeno-Associated Viruses

John A. Chiorini and Giovanni Di Pasquale (NIDCR)

PCT Application No. PCT/US2005/03183 filed 08 Sep 2005 (HHS Reference No. E–298–2004/0–PCT–02)

Licensing Contact: Jesse Kindra; 301/435–5559; *kindraj@mail.nih.gov.*

The invention relates to a method for delivering nucleic acids to a variety of cells including those of the gut, kidney, lung and central nervous system. The underlying cells of such organs are covered by a barrier of endothelial or epithelial cells which can limit the transfer of nucleic acids, or other potentially therapeutic agents, to the underlying target cells. To overcome this limitation, the method employs certain members of the parvovirus family to transcytose the barrier cells. During transcytosis, the virus passes through these barrier cells and can infect cells of the underlying layer. Therefore, this method could facilitate the transfer of nucleic acids to cells that currently available viral vectors are unable to reach.

The method could be applied to the treatment of neurodegenerative diseases such as Parkinson's, Alzheimer's, Huntington's, lysosomal storage diseases, the dominant spinal cerebellar ataxias, and Krabbe's disease without the need for stereotactic injection. The method could potentially also be used in the treatment of genetic muscle disorders such as muscular dystrophy. Several of the viruses described in the invention are serologically distinct and could be used in patients who have developed an immune response to other vectors. This work is part of an ongoing effort to development AAV vectors for gene transfer. Other key technology related to this invention, such as several vector platforms, production, purification methods, and target cell tropism is available for licensing.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Treatment of Hyperproliferative Epithelial Skin Diseases by Topical Application of Hydroxylated Aromatic Protein Cross-Linking Compounds

Caroline Stanwell et al. (NCI)

U.S. Patent No. 5,610,185 issued 11 Mar 1997 (HHS Reference No. E–067–1995/0–US–01)

Licensing Contact: George Pipia; 301/435–5560; *pipiag@mail.nih.gov*

In recent years there has been a dramatic increase in the incidence of skin disease. Increase in exposure to UV light has contributed to the increase in premalignant skin lesions such as actinic keratoses. In the U.S. over 700,000 individuals suffer from superficial squamous and basal cell carcinoma. In addition, other skin diseases such as plantar and genital warts are extremely common. Currently, the treatment for these types of skin diseases include surgical resection or freezing the tissue to destroy the desired cells. Topical treatments, for example acidic compounds or cytotoxic agents, are also employed. However, none of the above treatments are without drawbacks. Surgical methods may be painful and the current topical treatments are not selective for hyperproliferative cells, not always curative, and may be toxic. This invention embodies a series of compounds, hydroxylated aromatic protein cross-linking agents, that can be applied topically and are useful for premalignant and malignant superficial neoplasias of the skin and for the treatment of basal and squamous cell carcinomas.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Pharmaceutical Compositions and Methods for Preventing Skin Tumor Formation and Causing Regression of Existing Tumors

Stuart R. Yuspa et al. (NCI)

U.S. Patent Application No. 10/445,251 filed 27 May 2003, claiming priority to 29 Mar 1991 (HHS Reference No. E–014–1991/0–US–08)

Licensing Contact: George Pipia; 301/435–5560; *pipiag@mail.nih.gov.*

Toxic drugs used to treat epithelial cancers often kill both normal and tumorous cells whereas retinoids used to prevent tumor formation appear to have a suppressive rather than a curative effect. The compositions and methods of administration described in this invention are based on indole carbazole, which causes terminal differentiation of tumor cells by exploiting a normal physiologic pathway. They can be used to regress as well as prevent skin tumors.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: January 17, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–877 Filed 1–24–06; 8:45 am]

BILLING CODE 4167–01–P

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.

Active MRI Compatible and Visible iMRI Catheter

Ozgur Kocaturk (NHLBI).
U.S. Provisional Application No. 60/716,503 filed 14 Sep 2005 (HHS Reference No. E–298–2005/0–US–01).
Licensing Contact: Chekesha Clingman; 301/435–5018; *clingmac@mail.nih.gov*.

Interventional magnetic resonance imaging (iMRI) has gained important popularity in many fields such as interventional cardiology and radiology, owing to the development of minimally invasive techniques and visible catheters under MRI for conducting MRI-guided procedures and therapies. This invention relates to a novel MRI compatible and active visible catheter for conducting interventional and intraoperative procedures under the guidance of MRI. The catheter features a non conductive transmission line and the use of ultrasonic transducers that transform RF signals to ultrasonic signals for transmitting RF signal to the MRI scanner. The unique design of this catheter overcomes the concern of patient/sample heating (due to the coupling between RF transmission energy and long conductors within catheter) associated with the design of conventional active MRI catheters.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Bioreactor Device and Method and System for Fabricating Tissue

Juan M. Taboas (NIAMS), *Rocky S. Tuan* (NIAMS), *et al.*
U.S. Patent Application No. 60/701,186 filed 20 Jul 2005 (HHS Reference No. E–042–2005/0–US–01).
Licensing Contact: Michael Shmilovich; 301/435–5019; *shmilovm@mail.nih.gov*.

Available for licensing and commercial development is a millifluidic bioreactor system for culturing, testing, and fabricating natural or engineered cells and tissues. The system consists of a millifluidic bioreactor device and methods for sample culture. Biologic samples that can be utilized include cells, scaffolds, tissue explants, and organoids. The system is microchip controlled and can be operated in closed-loop, providing controlled delivery of medium and biofactors in a sterile temperature regulated environment under tabletop or incubator use. Sample perfusion can be applied periodically or continuously, in a bidirectional or unidirectional manner, and medium re-circulated.

An advantage of the millifluidic bioreactor: The device is small in size, and of conventional culture plate format. A second advantage: The millifluidic bioreactor provides the ability to grow larger biologic samples than microfluidic systems, while utilizing smaller medium volumes than conventional bioreactors. The bioreactor culture chamber is adapted to contain sample volumes on a milliliter scale (10 μL to 1 mL, with a preferred size of 100 μL), significantly larger than chamber volumes in microfluidic systems (on the order of 1 μL). Typical microfluidic systems are designed to culture cells and not larger tissue samples. A third advantage: the integrated medium reservoirs and bioreactor chamber design provide for, (1) concentration of biofactors produced by the biologic sample, and (2) the use of smaller amounts of exogenous biofactor supplements in the culture medium. The local medium volume (within the vicinity of the sample) is less than twice the sample volume. The total medium volume utilized is small, preferably 2 ml, significantly smaller than conventional bioreactors (typically using 500–1000 mL). A fourth advantage: the bioreactor device provides for real-time monitoring of sample growth and function in response to stimuli via an optical port and embedded sensors. The optical port provides for microscopy and spectroscopy measurements using transmitted, reflected, or emitted (*e.g.* fluorescent, chemiluminescent) light. The embedded sensors provide for measurement of culture fluid pressure and sample pH, oxygen tension, and temperature. A fifth advantage: The bioreactor is capable of providing external stimulation to the biologic sample, including mechanical forces (*e.g.* fluid shear, hydrostatic pressure, matrix compression, microgravity via clinorotation), electrical fields (*e.g.* AC currents), and biofactors (*e.g.* growth factors, cytokines) while monitoring their effect in real-time via the embedded sensors, optical port, and medium sampling port. A sixth advantage: monitoring of biologic sample response to external stimulation can be performed non-invasively and non-destructively through the embedded sensors, optical port, and medium sampling port. Testing of tissue mechanical and electrical properties (*e.g.* stiffness, permeability, loss modulus via stress or creep test, electrical impedance) can be performed over time without removing the sample from the bioreactor device. A seventh advantage: the bioreactor sample chamber can be constructed with multiple levels fed via separate perfusion circuits, facilitating the growth and production of multiphasic tissues.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Universally Applicable Technology for Inactivation of Enveloped Viruses and Other Pathogenic Microorganisms for Vaccine Development

Yossef Raviv *et al.* (NCI).
U.S. Provisional Application filed 22 Mar 2004 (HHS Reference No. E–303–2003/0–US–01);
PCT Application filed 22 Mar 2005 (HHS Reference No. E–303–2003/0–PCT–02).
Licensing Contact: Susan Ano; 301/435–5515; *anos@mail.nih.gov*.

The current technology describes the inactivation of viruses, parasites, and tumor cells by the hydrophobic photoactivatable compound, 1,5-iodoanpthylazide (INA). This non-toxic compound will diffuse into the lipid bilayer of biological membranes and upon irradiation with light will bind to proteins and lipids in this domain thereby inactivating fusion of enveloped viruses with their corresponding target cells. Furthermore, the selective binding of INA to protein domains in the lipid bilayer preserves the structural integrity and therefore immunogenicity of proteins on the exterior of the inactivated virus. This technology is universally applicable to other microorganisms that are surrounded by biological membranes like parasites and tumor cells. The broad utility of the subject technology has been demonstrated using influenza virus, HIV, SIV and Ebola virus as representative examples. The inactivation approach for vaccine development presented in this technology provides for a safe, non-infectious formulation for vaccination against the corresponding agent. Vaccination studies demonstrated that mice immunized with INA inactivated influenza virus mounted a heterologous protective immune response against lethal doses of influenza virus. This technology and its application to HIV are further described in the Journal of

Virology 2005, volume 29, pp 12394–12400.

In addition to licensing, the technology is available for further studies in application to vaccine development in animal models through collaborative research opportunities with the inventors. Please contact Dr. Yossef Raviv at *yraviv@ncifcrf.gov.*

Dated: January 18, 2006.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–909 Filed 1–24–06; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Human Genome Research Institute Initial Review Group; Genome Research Review Committee.

Date: March 8–10, 2006.

Time: March 8, 2006, 7 p.m to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Time: March 9, 2006, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Time: March 10, 2006, 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Rudy O. Pozzatti, PhD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892. 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: January 17, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–691 Filed 1–24–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of 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 a meeting of the National Advisory Council for Human Genome Research.

The meeting 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 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 Advisory Council for Human Genome Research.

Date: February 13–14, 2006.

Open: February 13, 2006, 8:30 a.m. to 2 p.m.

Agenda: To discuss matters of program relevance.

Place: National Institutes of Health, 5635 Fisher Lane, Terrace Level Conference Room, Rockville, MD 20892.

Closed: February 13, 2006, 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 5635 Fisher Lane, Terrace Level Conference Room, Rockville, MD 20892.

Closed: February 14, 2006, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 5635 Fisher Lane, Terrace Level Conference Room, Rockville, MD 20892.

Contact Person: Mark S. Guyer, PhD, Director for Extramural Research, National Human Genome Research Institute, 5635 Fisher Lane, Suite 4076, MSC 9305, Bethesda, MD 20892, 301–496–7531, *guyerm@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.

Information is also available on the Institute's/Center's home page: *http://www.genome.gov/11509849,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: January 17, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–692 Filed 1–24–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; ITV Related Child Disorders.

Date: February 8–9, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202. 703–386–1111.

Contact Person: Christopher S. Sarampote, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9608, Bethesda, MD 20892–9608. 301–443–1959. *csarampo@mail.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 Mental Health Special Emphasis Panel; ITV—Schizophrenia and Aging.

Date: February 15, 2006.

Time: 8:30 to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tracy Waldeck, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6132, MSC 9608, Bethesda, MD 20852–9609. 301/435–0322. *waldeckt@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 17, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–690 Filed 1–24–06; 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 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 commerical 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, Integrated Preclinical/Clinical AIDS Vaccine Development (IPCAVD).

Date: February 15, 2006.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Room 3129, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eleazar Cohen, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3129, 6700 B Rockledge Drive, Bethesda, MD 20892, (301) 435–3564, *ec17w@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Units for HIV/AIDS Clinical Trials Network (2).

Date: February 15, 2006.

Time: 12 p.m. to 6 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Room 1202, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Kenneth E. Santora, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–2550, *ks216i@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Units for HIV/AIDS Clinical Trials Network (8).

Date: February 16, 2006.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 2217, 6700–B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, (301) 496–2550, *bgustafson@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Unit for HIV/AIDS Clinical Trials Network (14)–ZAL1–TP–A–M3.

Date: February 17, 2006.

Time: 10 a.m. to 4 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, 6700 B, Rockledge Drive, 3143, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thames E. Pickett, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *pickettte@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Units for HIV/AIDS Clinical Trials Network (Sep 10).

Date: February 21, 2006.

Time: 12 p.m. to 6 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Darren D Sledjeski, PhD, Scientific Review Administrator, NIAID, DEA, Scientific Review Program, Room 3253, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892–7616, 301–451–2638.

(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: January 18, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–693 Filed 1–24–06; 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 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 would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. Units for HIV/AIDS Clinical Trials Network (3)—ZAI1–SR–A–M2.

Date: February 13, 2006.

Time: 11 a.m. to 6 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: Stefani T. Rudnick, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301–496–2500. *srudnick@niaid/nih/gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. Partnerships to Develop Tools to Evaluate Women's Health.

Date: February 17, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Lucy A. Ward, DVM, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892. (301) 594–6635. *lward@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. Units for HIV/AIDS Clinical Trials Network; ZAI1–AR–M–M1.

Date: February 17, 2006.

Time: 1 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Alex Ritchie, Ph.D., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616. 301–435–1614. *aritchie@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: January 18, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–694 Filed 1–24–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2006–0003]

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: Monday, February 13, 2006, from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The National Press Club Ballroom, 529 14th Street, NW., Washington, DC 20045. You may submit comments, identified by DHS–2006–0003, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: gail.kaufman@associates.dhs.gov.* When submitting comments electronically, please include by DHS–2006–0003, 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–2006–0003, 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–2006–0003, 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), Public Law 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.

Dated: January 9, 2006.

Jenny Menna,

Designated Federal Officer for the NIAC.

Draft Agenda of February 13, 2006 Meeting

I. Opening of Meeting
  Jenny Menna, Department of Homeland Security (DHS) / Designated Federal Officer, NIAC
II. Roll Call 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 (Invited)
  George W. Foresman, Under Secretary, Preparedness Directorate
  Frances Fragos Townsend, Assistant to the President for Homeland Security and Counterterrorism (Invited)
  Kirstjen Nielsen, Special Assistant to the President and Senior Director of Prevention, Preparedness and Response, Homeland Security Council (Invited)
IV. National Infrastructure Protection Plan Status Update
  Robert B. Stephan, Assistant Secretary, Office of Infrastructure Protection
V. Approval of October Minutes
  NIAC Chairman Erle A. Nye
VI. Final Reports and Deliberations
  NIAC Chairman Erle A. Nye Presiding
  A. Intelligence Coordination
  NIAC Vice Chairman John T. Chambers, Chairman & 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
VII. Status Reports on Current Working Group Initiatives
  NIAC Chairman Erle A. Nye Presiding
  A. Workforce Preparation, Education and Research
  Alfred R. Berkeley III, Chairman & CEO, Pipeline Trading, LLC., NIAC Member Dr. Linwood Rose, President, James Madison University, NIAC Member
  B. Biological, Chemical and Radiological Terror and the Critical Infrastructure Workforce
  Chief Rebecca K. 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.
  C. Convergence of Physical and Cyber Technologies and Related Security 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.
VIII. New Business
  NIAC Chairman Erle A. Nye, NIAC Members TBD
  A. Status Report on Implementation of Recommendations
  Nancy J. Wong, Department of Homeland Security (DHS) / Designated Federal Officer, NIAC
IX. Adjournment
  NIAC Chairman Erle A. Nye 2

[FR Doc. E6–851 Filed 1–24–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22878]

Collection of Information Under Review by Office of Management and Budget (OMB): 1625–0022, 1625–0079, and 1625–0088, 1625–0093, and 1625–0094

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded five Information Collection Requests (ICRs), abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. The ICRs are as follows: (1) 1625–0022, Application for Tonnage Measurement of Vessels; (2) 1625–0079, Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995 and 1997 Amendments to the International Convention; (3) 1625–0088, Voyage Planning for Tank Barge Transits in the Northeast United States; (4) 1625–0093, Facilities Transferring Oil or Hazardous Materials in Bulk—Letter of Intent and Operations Manual; and (5) 1625–0094, Ships Carrying Bulk Hazardous Liquids. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before February 24, 2006.

ADDRESSES: To make sure that your comments and related material do not reach the docket [USCG–2005–22878] or OIRA more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at (202) 493–2298 and (b) OIRA at (202) 395–6566, or e-mail to OIRA at *oira-docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System (DMS) at *http://dms.dot.gov.* (b) OIRA does not have a Web site on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at 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. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 1236 (Attn: Mr. Arthur Requina), 1900 Half Street SW., Washington, DC 20593–0001. The telephone number is (202) 475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone (202) 475–3523 or fax (202) 475–3929, for questions on these documents; or Ms. Renee V. Wright, Program Manager, Docket Operations, (202) 493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to DMS or OIRA must contain the OMB Control Number of the ICRs addressed. Comments to DMS must contain the docket number of this request, [USCG 2005–22878]. For your comments to OIRA to be considered, it is best if OIRA receives them on or before the February 24, 2006.

Public participation and request for comments: We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov,* and they will include any personal information you have provided. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's "Privacy Act Policy" below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2005–22878], indicate the specific section of this document or the ICR to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**, but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard and OIRA will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in 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.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Previous Request for Comments.

This request provides a 30-day comment period required by OIRA. The Coast Guard has already published the 60-day notice (70 FR 69346, November 15, 2005) required by 44 U.S.C.

3506(c)(2). That notice elicited no comment.

Information Collection Request

1. *Title:* Application for Tonnage Measurement of Vessels.
OMB Control Number: 1625–0022.
Type Of Request: Extension of a currently approved collection.
Affected Public: Owners of vessels.
Forms: CG–5397.
Abstract: The information from this collection helps the Coast Guard to determine a vessel's tonnage. Tonnage in turn helps to determine licensing, inspection, safety requirements, and operating fees.
Burden Estimate: The estimated burden has increased from 33,000 hours to 38,000 hours a year.

2. *Title:* Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995 and 1997 Amendments to the International Convention.
OMB Control Number: 1625–0079.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners and operators of vessels, training institutions, and mariners.
Forms: None.
Abstract: This information is necessary to ensure compliance with the international requirements of the STCW Convention, and to maintain an acceptable level of quality in activities associated with training and assessment of merchant mariners.
Burden Estimate: The estimated burden has increased from 18,693 hours to 23,767 hours a year.

3. *Title:* Voyage Planning for Tank Barge Transits in the Northeast United States.
OMB Control Number: 1625–0088.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners and operators of towing vessels.
Forms: None.
Abstract: The information collection requirement for a voyage plan serves as a preventive measure and assists in ensuring the successful execution and completion of a voyage in the First Coast Guard District. This rule (33 CFR 165.100) applies to primary towing vessels engaged in towing certain tank barges carrying petroleum oil in bulk as cargo.
Burden Estimate: The estimated burden has increased from 420 hours to 31,651 hours a year.

4. *Title:* Facilities Transferring Oil or Hazardous Materials in Bulk—Letter of Intent and Operations Manual.
OMB Control Number: 1625–0093.
Type of Request: Extension of a currently approved collection.
Affected Public: Operators of facilities that transfer oil or hazardous materials in bulk.
Forms: None.
Abstract: A Letter of Intent is a notice to the Coast Guard Captain of the Port that an operator intends to operate a facility that will transfer bulk oil or hazardous materials to or from vessels. An Operations Manual (OM) is also required for this type of facility. The OM establishes procedures to follow when conducting transfers and in the event of a spill.
Burden Estimate: The estimated burden has increased from 27,819 hours to 47,200 hours a year.

5. *Title:* Ships Carrying Bulk Hazardous Liquids.
OMB Control Number: 1625–0094.
Type of Request: Extension of a currently approved collection.
Affected Public: Owners and operators of chemical tank vessels.
Forms: CG–4602B, CG–5148, CG–5148A, CG–5148B and CG–5461.
Abstract: This information is needed to ensure the safe transport of bulk hazardous liquids on chemical tank vessels and to protect the environment from pollution.
Burden Estimate: The estimated burden has increased from 738 hours to 1,959 hours a year.

Dated: January 19, 2006.

R.T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology

[FR Doc. E6–854 Filed 1–24–06; 8:45 am]
BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[516 DM 11]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed revision to the Bureau of Land Management's (BLM) procedures for Chapter 11 of the Department of the Interior's Manual 516 DM—Managing the NEPA Process.

SUMMARY: This notice announces the intent to revise the BLM policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, Executive Order 11514, as amended, Executive Order 12114, and the Council on Environmental Quality's Regulations. When adopted, these procedures will be published in Part 516, Chapter 11, of the Departmental Manual (DM) and will be added to the Department of the Interior's (DOI) Electronic Library of Interior Policies (ELIPS). ELIPS is located at: *http://elips.doi.gov*. The public can review the proposed Categorical Exclusion (CX) Analysis Reports on the Department of the Interior's Web site at *http://www.doi.gov/oepcc* or at the Bureau of Land Management's Web site at *http://www.blm.gov/planning*.

The BLM procedures were last updated May 19, 1992. The proposed revisions are necessary to update these procedures. BLM's current procedures can be found at: *http://elips.doi.gov/app_DM/act_getfiles.cfm?nelnum=3621*. The public is asked to review and comment on the proposed changes in Chapter 11 of the manual, including the newly proposed categorical exclusions (CXs).

DATES: Comments must be postmarked no later than 30 days following publication of this notice in the **Federal Register**.

ADDRESSES: Comments should be mailed to: Content Analysis Team, BLM Categorical Exclusions, Post Office Box 22777, Salt Lake City, Utah, 84122–0777, or fax (801) 517–1014 or e-mail to *BLMCX@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: Deb Rawhouser, Group Manager, Planning and Science Support at (202) 452–0354.

SUPPLEMENTARY INFORMATION: These procedures, which were formerly listed as 516 DM 6 Apppendix 5 (Currently 516 DM 11) address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA. The proposed procedures update BLM's general NEPA process to incorporate changes in responsibilities, clarify requirements for public participation, identify the appropriate level of NEPA compliance for various types of actions, and incorporate new Departmental requirements. Following the supplementary information is the draft text of Chapter 11, which contains the revised procedures. Analysis Reports associated with the proposed CXs will be posted at: *http://www.doi.gov/oepc* and *www.blm.gov/planning*.

The following is an overview of the all the proposed changes to Chapter 11.

- Section 11.1—Purpose is a new section that defines the reason for this Chapter and also mentions BLM's NEPA handbook for additional guidance;
- Section 11.2—NEPA Responsibility has no major changes;

• Section 11.3 B—Guidance to Applicants has a minor addition of one new regulation (Wilderness Management 43 CFR 6300) to provide guidance to applicants to better understand wilderness policy;

• Section 11.4—General Requirements is a new section and addresses general requirements for quality of NEPA documents;

• Section 11.5—Plan Performance is a new section that provides guidance to ensure plan conformance;

• Section 11.6—Use of Existing Documentation (Determination of NEPA Adequacy) is a new section that is used to determine if an existing NEPA document can be properly relied on and to document that BLM took the "hard look" at whether new circumstances, new information, or environmental impacts not previously anticipated or analyzed warrant new analysis or supplementation of existing NEPA documents;

• Section 11.7—Actions Typically Requiring an Environmental Assessment (EA) is a new section and provides guidance to responsible officials who are uncertain of the potential for significant impact of the proposed action and to determine if further analysis is needed to make the determination;

• Section 11.8—Major Actions Normally Requiring an Environmental Impact Statement (EIS) brings together in one document the BLM's guidance to responsible officials who must evaluate and analyze proposals and make decisions on resources; and

• Section 11.9—Categorical Exclusions are needed to add certain routine BLM actions to the list of categories of actions that do not individually or cumulatively have a significant impact on the environment.

The following are summaries of changes being made by category to CXs listed in the 1992 Manual. These changes include proposed new, modified or renumbered CXs (Section 11.9):

A. *Fish and Wildlife*—No proposed changes to this category. The public is not asked to comment.

B. *Oil, Gas, and Geothermal Energy (formerly Fluid Minerals)*—The title of this section is changed from Fluid Minerals to accurately encompass geothermal energy in addition to oil and gas. The public is asked to comment on the proposed CXs numbered B (6)–(8). The three new CXs are proposed to be added to the existing five CXs. One of the three CXs is for geophysical exploration. Two of the three proposed CXs are for geothermal energy actions and are applicable to Nevada only.

The geophysical CX is proposed after reviewing numerous EA analyses that resulted in Findings of No Significant Impact for these types of action over time and over different geographic areas. The two geothermal CXs are being proposed after reviewing several EA analyses. The data set for the geothermal CXs is limited because geothermal activities became dormant during the 1990's when oil and gas production was prevalent and supplies were abundant. For both geophysical exploration and geothermal activities, the actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis.

C. *Forestry*. Four new CXs are proposed to be added to the existing five CXs. The public is asked to comment on the proposed CXs numbered C (6)–(9). Proposed CX number (6) is proposed after conducting numerous EA analyses that resulted in Findings of No Significant Impact for these types of action over time and over different geographic areas. These actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis. Proposed CXs (7)–(9) are identical to existing USDA Forest Service CXs. After discussions with USDA Forest Service, and review and analysis of the data used to substantiate their CXs, it has been determined that it is appropriate for BLM to propose the same CXs. This is due to the similarity in locale, cover type, scope, and intensity of BLM's Forestry actions.

D. *Rangeland Management*. The public is asked to comment on three proposed CXs numbered D (10)–(12). The CXs are proposed after reviewing numerous EA analyses that resulted in Findings of No Significant Impact for these types of routine actions over time and over different geographic areas. These actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis. One of the CXs pertains to vegetation management and cover actions, and is limited in scope and duration. The other two CXs cover renewal of grazing permits and issuance of temporary non-renewable grazing permits. The proposed CXs specify that where a land health assessment and evaluation determines that grazing is a contributing factor to the failure of land health standards, the proposed CXs would not be used.

E. *Realty*. There are no proposed CXs for this category. However, the CX numbered E (16) was slightly modified to clarify purposes for acquiring temporary access easements. The public is asked to comment on the modification of this CX.

F. *Solid Minerals*. No proposed changes to this category. The public is not asked to comment.

G. *Transportation*. The title of this category is changed from Transportation Signs to Transportation. There are no proposed CXs for this category. However, three existing CXs numbered G (1)–(3) were modified by adding the words "and trails" after "existing roads". This is because the environmental impact of these actions on or along trails is not any greater than on or along "existing roads". The public is asked to comment on the modification of these CXs.

H. *Recreation Management*. This is a new category added to allow for the incorporation of recreation CXs. The existing Recreation CX found under category "J—Other (5)" is being moved to the new category. The CX is proposed to be modified and the public is asked to comment on this modified CX numbered H (1).

I. *Emergency Stabilization*. This is a new category covering stabilization activities following natural disasters, not to exceed 4,200 acres, (such as seeding or planting, fence construction, culvert repair, installation of erosion control devices, repair of roads and trails, stabilization of cultural heritage sites, and repair or replacement of minor facilities damaged that are essential to public health and safety) which are necessary to prevent degradation of land or resources. The CX is proposed after conducting numerous EA analyses that resulted in Findings of No Significant Impact for these types of action over time and over different geographic areas. These actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis. The public is asked to comment on the CX numbered I (1).

J. *Other*. There are no new CXs for this category. One CX from this category, J (5), was moved to the Recreation Management category. The number (5) CX slot is now reserved. The public is not asked to comment.

The remaining sections of **SUPPLEMENTARY INFORMATION** provides an overview of the proposed changes, and background and procedural requirements.

Background: The final revised procedures for the Department were published in the **Federal Register** on March 8, 2004 (Volume 69, Number 45). These procedures address policy as well

as procedure in order to assure compliance with the spirit and intent of NEPA. The procedures for the Department's bureaus are published as chapters to this DM part. Chapter 11 of the Department's Manual covers the BLM's procedures.

Procedural Requirements: The following list of procedural requirements has been assembled and addressed to contribute to this open review process. Today's publication is a notice of draft, internal Departmental action and not a rulemaking. However, we have addressed the various procedural requirements that are generally applicable to proposed and final rulemaking to show how they would affect this notice if it were a rulemaking.

Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993) it has been determined that this action is the implementation of policy and procedures applicable only to the Department of the Interior and not a significant regulatory action. These policies and procedures would not impose a compliance burden on the general economy.

Administrative Procedures Act

This document is not subject to prior notice and opportunity to comment because it is a general statement of policy and procedure [(5 U.S.C. 553(b)(A)]. However, notice and opportunity to comment is required by the CEQ Regulations [40 CFR 1507.3(a)].

Regulatory Flexibility Act

This document is not subject to notice and comment under the Administrative Procedures Act, and, therefore, is not subject to the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document provides the Department with policy and procedures under NEPA and does not compel any other party to conduct any action.

Small Business Regulatory Enforcement Fairness Act

These policies and procedures do not comprise a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The document will not have an annual effect on the economy of $100 million or more and is expected to have no significant economic impacts. Further, it will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions and will [[Page 52596]] impose no additional regulatory restraints in addition to those already in operation. Finally, the document does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this document will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. The document does not require any additional management responsibilities. Further, this document will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a significant regulatory action under the Unfunded Mandates Reform Act. These policies and procedures are not expected to have significant economic impacts nor will they impose any unfunded mandates on other Federal, State, or local government agencies to carry out specific activities.

Federalism

In accordance with Executive Order 13132, this document does not have significant Federalism effects; and, therefore, a Federalism assessment is not required. The policies and procedures will not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments will not change, and fiscal capacity will not be substantially, directly affected. Therefore, the document does not have significant effects or implications on Federalism.

Paperwork Reduction Act

This document does not require information collection as defined under the Paperwork Reduction Act. Therefore, this document does not constitute a new information collection system requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. III. 1999), aff'd 230 F.3d 947. 954–55 (7th Cir. 2000).

Essential Fish Habitat

We have analyzed this document in accordance with section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and determined that issuance of this document will not affect the essential fish habitat of federally managed species; and, therefore, an essential fish habitat consultation on this document is not required.

Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175 of November 6, 2000, and 512 DM 2, we have assessed this document's impact on Tribal trust resources and have determined that it does not directly affect Tribal resources since it describes the Department's procedures for its compliance with NEPA.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 of May 18, 2001, requires a Statement of Energy Effects for significant energy actions. Significant energy actions are actions normally published in the **Federal Register** that lead to the promulgation of a final rule or regulation and may have any adverse effects on energy supply, distribution, or use. We have explained above that this document is an internal Departmental Manual part which only affects how the Department conducts its business under the National Environmental Policy Act. Revising this manual part does not constitute rulemaking and, therefore, not subject to Executive Order 13211.

Actions To Expedite Energy-Related Projects

Executive Order 13212 of May 18, 2001, requires agencies to expedite energy-related projects by streamlining internal processes while maintaining safety, public health, and environmental

protections. Today's publication is in conformance with this requirement as it promotes existing process streamlining requirements and revises the text to emphasize this concept (see Chapter 4, subpart 4.16).

Government Actions and Interference With Constitutionally Protected Property Rights

In accordance with Executive Order 12630 (March 15, 1988) and Part 318 of the Departmental Manual, the Department has reviewed today's notice to determine whether it would interfere with constitutionally protected property rights. Again, we believe that as internal instructions to bureaus on the implementation of the National Environmental Policy Act, this publication would not cause such interference.

Authority: NEPA, the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ Regulations 40 CFR 1507.3.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

Department of the Interior

Departmental Manual

Effective Date: May 3, 2005.
Series: Environmental Quality.
Part 516: National Environmental Policy Act of 1969.
Chapter 11: Managing the NEPA Process—Bureau of Land Management.
Originating Office: Office of Environmental Policy and Compliance.

516 DM 11

11.1. Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 for the Department of the Interior's Bureau of Land Management (BLM). The BLM's National Environmental Policy Act (NEPA) Handbook (H–1790–1) will provide additional guidance.

11.2. NEPA Responsibility

A. The Director and Deputy Director(s) are responsible for National Environmental Policy Act (NEPA) compliance for BLM activities.

B. The Assistant Director, Renewable Resources and Planning, is responsible for policy interpretation, program direction, leadership, and line management for BLM environmental policy, coordination and procedures. The Planning, Assessment and Community Support Group, which reports to the Assistant Director, Renewable Resources and Planning, has bureau-wide environmental compliance responsibilities. These responsibilities include program direction for environmental compliance and ensuring the incorporation and integration of the NEPA compliance process into BLM environmental documents.

C. The Director, National Landscape Conservation System; other Assistant Directors for Minerals, Realty, and Resource Protection; Information Resources Management; Communications; are responsible for cooperating with the Assistant Director, Renewable Resources and Planning to ensure that the environmental compliance process operates as prescribed within their areas of responsibility.

D. The Center Directors for the Office of Fire and Aviation and for the National Science and Technology are also responsible for cooperating with the Assistant Director, Renewable Resources and Planning to ensure that the environmental compliance process operates as prescribed within their areas of responsibility.

E. The State Directors are responsible to the Director/Deputy Director(s) for overall direction and integration of the NEPA process into their activities and for NEPA compliance in their States. This includes managing and ensuring the quality of public notification and participation, environmental analyses, assigned environmental documents, and decision documents. Deputy State Directors in each State office (the title varies from state to state) provides the major staff support and are the key focal points for NEPA matters at the State level.

(1) The Field Office Managers are responsible for implementing the NEPA process at the local level.

11.3. Guidance to Applicants

A. General

(1) For all external proposals, applicants should make initial contact with the line manager (District Manager, Field Manager, or State Director) of the office where the affected public lands are located.

(2) If the application will affect responsibilities of more then one State Director, an applicant may contact any State Director whose jurisdiction is involved. In such cases, the Director may assign responsibility to the Headquarters Office or to one of the State offices. From that point the applicant will deal with the designated lead office.

(3) Potential applicants may secure from State Directors a list of program regulations or other directives/guidance providing advice or requirements for submission of environmental information. The purpose of making these regulations known to potential applicants, in advance, is to assist them in presenting a detailed, adequate and accurate description of the proposal and alternatives when they file their application and to minimize the need to request additional information. This is a minimum list and additional requirements may be identified after detailed review of the formal submission and during scoping.

(4) Since much of an applicant's planning may take place outside of BLM's planning system, it is important for potential applicants to advise BLM of their planning at the earliest possible stage. Early communication is necessary to properly conduct our stewardship role on the public lands and to seek solutions to situations where private development decisions may conflict with public land use decisions. Early contact will also allow the determination of basic data needs concerning environmental amenities and values, potential data gaps that could be filled by the application, and a modification of the list or requirements to fit local situations. Scheduling of the environmental analysis process can also be discussed, as well as various ways of preparing any environmental documents.

B. Regulations

The following partial list provides guidance to applicants on program regulations which may apply to a particular application. Many other regulations deal with proposals affecting public lands, some of which are specific to BLM while others are applicable across a broad range of Federal programs (e.g., Protection of Historic and Cultural Programs—36 CFR Part 800).

(1) Resource Management Planning—43 CFR 1610;
(2) Withdrawals—43 CFR 2300;
(3) Land Classification—43 CFR 2400;
(4) Disposition: Occupancy and Use—43 CFR 2500;
(5) Disposition: Grants—43 CFR 2600;
(6) Disposition: Sales—43 CFR 2700;
(7) Use: Rights-of-Way—43 CFR 2800;
(8) Use: Leases and Permits—43 CFR 2900;
(9) Oil and Gas Leasing—43 CFR 3100;
(10) Geothermal Resources Leasing—43 CFR 3200;
(11) Coal Management—43 CFR 3400;
(12) Leasing of Solid Minerals Other than Coal/Oil Shale—43 CFR 3500;
(13) Mineral Materials Disposal—43 CFR 3600;

(14) Mining Claims under the General Mining Laws—43 CFR 3800;
(15) Grazing Administration—43 CFR 4100;
(16) Wild Free-Roaming Horse and Burro Management—43 CFR 4700;
(17) Forest Management—43 CFR 5000;
(18) Wildlife Management—43 CFR 6000;
(19) Recreation Management—43 CFR 8300; and
(20) Wilderness Management— 43 CFR 6300.

11.4. General Requirements

The Council on Environmental Quality (CEQ) regulations direct that Federal agencies shall reduce paperwork and delay (40 CFR 1500.4 & 1500.5) to the fullest extent possible. The information used in any NEPA analysis must be of high quality. Accurate scientific analysis, expert agency comments and public scrutiny are essential to implementing NEPA (40 CFR 1500.1 (b)). Environmental documents should be written in plain language so they can be understood and should concentrate on the issues that are truly significant to the action in question rather than amassing needless detail (40 CFR 1502.8 and 1500.1(b)).

A. To meet the objectives of reducing paperwork and delays:

The responsible official should use incorporation by reference (40 CFR 1502.21); tiering (40 CFR 1502.20); adoption (40 CFR 1506.3); and supplementing (40 CFR1502.9). The responsible official will avoid unnecessary duplication of effort and promote cooperation with other federal agencies that have permitting, funding, approval or other consultation or coordination requirements associated with the action in question by using, to the fullest extent possible, adoption of NEPA analyses and documents and incorporation by reference of relevant studies and analyses. Cooperation will include, to the fullest extent possible, the following: common databases, joint planning processes; joint environmental research and studies; joint public meetings and hearings; and joint Environmental Assessment (EA) level and joint Environmental Impact Statement (EIS) level analyses using joint lead or cooperating agency status.

B. Consultation and Coordination:

During any NEPA process, the responsible official will determine early in the process the type and level of coordination needed or desired with a particular person, organization, agency, or Tribe. After the NEPA process is completed, some level of coordination will often continue throughout project design, implementation, monitoring, and evaluation.

C. Eliminating duplication with Tribal, State and Local governmental procedures (40 CFR 1506.2):

The responsible official will cooperate with Tribal, State and Local governmental agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements in addition to but not in conflict with those in NEPA. To the fullest extent possible, such cooperation will include the following: common databases, joint planning processes; joint environmental research and studies; joint public meetings and hearings; joint EA-level analyses; and joint EIS-level analyses.

D. Integrating NEPA with other environmental review requirements: Wherever feasible, the responsible official will integrate NEPA requirements with other environmental review and consultation requirements to reduce paperwork and delays (40 CFR 1500.4(k) and 1500.5(g)).

E. Public involvement:

(1) The importance of involving the public early at the time, level, and phase of the NEPA analysis process, decision, and implementation stage, cannot be overstated. Therefore, the public shall be involved early and continuously as appropriate throughout the NEPA process. The type and level of public involvement shall be commensurate with the NEPA analysis needed to make the decision at hand. Management training for BLM employees hosting a public meeting is addressed in Section "H" below.

(2) Where feasible, implement consensus based decision making. However, when consensus cannot be reasonably reached, the Bureau has the exclusive responsibility for making the decision and shall exercise that responsibility in a timely manner.

F. Limitations on Actions during the NEPA Analysis Process (40 CFR 1506.1):

Once the responsible official has initiated a NEPA analysis process (EA, EIS, or Categorical Exclusion level) and until a decision document [Decision Record (DR) or Record of Decision (ROD)] has been signed, no action concerning the proposal will be taken that would:

(1) Have an adverse environmental impact, or

(2) Limit the choice of reasonable alternatives.

G. Adaptive Management.

Where feasible, implement adaptive management (AM) procedures into the NEPA, planning and implementation processes. AM is defined in 516 DM 4.16, as "*a system of management practices based on clearly identified outcomes, monitoring to determine if management actions are meeting outcomes, and, if not, facilitating management changes that will best ensure that outcomes are met or to re-evaluate the outcomes*". Adaptive management recognizes that knowledge about natural resource systems is sometimes uncertain and is the preferred method of management in these cases.

H. Management Training (Alternative Dispute Resolution (ADR), Negotiation or Facilitation).

Departmental guidance contained in Environmental Statement Memorandum Number "ESM03–4", dated July 2, 2003, makes it mandatory that within three years of the date of this memorandum, any BLM employee hosting a public meeting for the purpose of addressing NEPA compliance must have participated in some form of training listed in ESM03–4, Section 5 "Management Training". The training can be separate or a combination of course topics as listed above at some stage in their career.

11.5. Plan Conformance

A proposal must be in conformance with an existing BLM land use plan. This means that it must be specifically provided for in the plan, or if not specifically mentioned, the proposal must be clearly consistent with the terms and conditions, decision of the approved plan or amended plan. If not consistent, the proposal will be rejected or the BLM will prepare a land use plan amendment.

11.6. Use of Existing Documentation (Determination of NEPA Adequacy)

If it has been determined that existing NEPA documents can be properly relied on, an administrative record must be established that clearly documents that the agency took a "hard look" at whether new circumstances, new information, or environmental impacts not previously anticipated or analyzed warrant new analysis or supplementation of existing NEPA documents and whether the impact analysis considered impacts of the proposed action. This review must be accomplished through an interdisciplinary process that considers the affected values. The BLM has considerable flexibility in accomplishing the interdisciplinary analysis; it may vary from the assembly of a full interdisciplinary team to consultation by the lead staff specialist or NEPA coordinator with resource specialists assigned to affected resources.

A. The worksheet in Appendix 11.2 (pp. 28 to 33) is to be used to document whether the current proposal conforms to applicable plans and is adequately analyzed in existing NEPA documents. The signed conclusion in the worksheet is an interim step in BLM's internal analysis process and an appealable decision is not made until a ROD is signed.

B. The documentation is concise but must adequately address the criteria in the worksheet. Review the relevant parts of the existing record, including terms, conditions, and mitigation measures, in the context of existing on-the-ground conditions. The age of the documents reviewed may indicate that information or circumstances have changed significantly.

C. Because the land use plan (LUP) must be reviewed first to insure that the current proposed action is in conformance with the plan, the worksheet provides for documentation of the results of the LUP review. If it is determined that the current proposed action does not conform with the plan, the responsible official may (1) reject the proposal, (2) modify the proposal to conform to the LUP, or (3) complete appropriate plan amendments and NEPA compliance before proceeding with the proposed action.

D. If it is determined that the existing NEPA documentation is inadequate, the proposal may be removed from further consideration or the information compiled and worksheet completed to that point will be used to facilitate the preparation of the appropriate level of NEPA analysis.

11.7. Actions Typically Requiring an Environmental Assessment (EA)

A. An EA-level analysis should be completed when the responsible official is uncertain of the potential for significant impact and needs further analysis to make the determination.

B. An EA is a concise public document that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a Finding of No Significant Impact (FONSI).

(2) Aid BLM's compliance with NEPA when no EIS is necessary.

(3) Facilitate preparation of an EIS when one is necessary. (40 CFR 1508.9)

C. The following types of BLM actions will typically, although not exclusively, result in completion of an EA. An EA is completed when these actions are not categorically excluded or having potentially significant impacts.

(1) Implementation decisions—actions taken to implement land use plan decisions: Implementation decisions normally require additional planning and NEPA analysis, tiered to the land use plan's EIS, and must conform to land use plan decisions. Implementation decisions are generally appealable to IBLA under 43 CFR Part 4. Examples of implementation decisions include establishment of:

1. Allotment-specific permitted-use levels.
2. Livestock grazing systems.
3. Vegetation treatment practices, including weed control.
4. Hazardous fuels reduction and restoration projects.
5. Forest stands treatments.
6. Right-of-way grants.
7. Recreation facilities.
8. Appropriate management levels (AMLs) for wild horses and burros.

(2) Implementation plans, such as recreation activity plans, cultural resource management plans, habitat management plans, fire management plans, and coordinated resource project plans, etc.

(3) Approval of resource use permits, such as applications for a permit to drill (APDs), livestock grazing permits, and timber sales.

D. If, for any of these actions, it is anticipated or determined that an EA is not needed because of potential impact significance, an EIS will be prepared and processed in accordance with 40 CFR 1502.

11.8. Major Actions Normally Requiring an EIS

A. An EIS-level analysis should be completed when:

(1) The impacts of an action are potentially significant; or the impact analysis of an action is likely to be highly controversial.

(2) The action taken is directly related to other actions that if taken individually would have insignificant impacts, but cumulatively the actions would cause significant impacts.

B. The following types of bureau actions will normally require the preparation of an EIS:

(1) Approval of Resource Management Plans.

(2) Proposals for Wilderness, Wild and Scenic Rivers, and National Historic Scenic Trails.

(3) Approval of regional coal lease sales in a coal production region.

(4) Decision to issue a coal preference right lease.

(5) Approval of applications to the BLM for major actions in the following categories:

(a) Sites for steam-electric power plants, petroleum refineries, synfuel plants, and industrial facilities.

(b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways and railroads.

(6) Approval of operations that would result in liberation of radioactive tracer materials or nuclear stimulation.

(7) Approval of any mining operation where the area to be mined, including any area of disturbance, over the life of the mining plan, is 640 acres or larger in size.

C. If, for any of these actions it is anticipated that an EIS is not needed based on potential impact significance, an environmental assessment will be prepared and processed in accordance with 40 CFR 1501.4(e)(2) EIS.

11.9. Categorical Exclusions

The Departmental Manual (516 DM 2.3A (3) and App. 2) requires that before any action described in the following list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the exceptions apply, thus requiring either an EA or an EIS. When no exceptions apply, the following types of bureau actions normally do not require the preparation of an EA or EIS.

A. Fish and Wildlife

(1) Modification of existing fences to provide improved wildlife ingress and egress.

(2) Minor modification of water developments to improve or facilitate wildlife use (e.g., modify enclosure fence, install flood value, or reduce ramp access angle).

(3) Construction of perches, nesting platforms, islands and similar structures for wildlife use.

(4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.

(5) Routine augmentations such as fish stocking, providing no new species are introduced.

(6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.

(7) Installation of devices on existing facilities to protect animal life such as raptor electrocution prevention devices.

B. Oil, Gas, and Geothermal Energy

(1) Issuance of future interest leases under the Mineral Leasing Act of Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease adjustments and transfers, including assignments and subleases.

(3) Approval of unitization agreements, communitization

agreements, drainage agreements, underground storage agreements, development contracts, or geothermal Unit or participating area agreements.

(4) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.

(5) Approval of royalty determinations such as royalty rate reductions.

(6) Establishment of terms and conditions and approval of Notices of Intent to conduct geophysical exploration of oil, gas, or geothermal resource pursuant to 43 CFR 3150 or 3250 when no road construction is proposed.

(7) Drilling and subsequent operations of a geothermal well within a developed field for which a currently approved land use plan and/or any environmental document prepared pursuant to NEPA analyzed drilling as a reasonably foreseeable future activity. The application of this categorical exclusion is limited to Nevada.

(8) Issuance of individual operational permits or licenses subsequent to or part of a geothermal utilization plan for which any environmental document prepared pursuant to NEPA analyzed the overall development of geothermal resources and siting of facilities as part of an approved utilization plan in accordance with 43 CFR 3272 or subsequent revisions. The application of this categorical exclusion is limited to Nevada.

C. Forestry

(1) Land cultivation and silvicultural activities (excluding herbicide applications) in forest tree nurseries, seed orchards, and progeny test sites.

(2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.

(3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of non-forest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellant, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.

(4) Precommercial thinning and brush control using small mechanical devices.

(5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.

(6) Falling, bucking, and scaling sample trees (no more than one tree per acre) to ensure accuracy of timber cruises, using only gas-powered chainsaws or hand tools, with no road construction, use of ground-based equipment, or any other manner of timber yarding. The application of this categorical exclusion is limited to the western Oregon districts of Coos Bay, Eugene, Medford, Roseburg, and Salem.

(7) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include but are not limited to:

(a) Removing individual trees for sawlogs, specialty products, or fuelwood; and

(b) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

(8) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include but are not limited to:

(a) Harvesting a portion of a stand damaged by a wind or ice event and constructing a short, temporary road to access the damaged trees; and

(b) Harvesting fire damaged trees.

(9) Commercial and non-commercial sanitation harvesting of trees to control insects or disease not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include but are not limited to:

(a) Felling and harvesting trees infested with southern pine beetles and immediately adjacent uninfested trees to control expanding spot infestations;

(b) Removing or destroying trees infested or infected with a new exotic insect or disease, such as emerald ash borer, Asian longhorned beetle, or sudden oak death pathogen.

D. Rangeland Management

(1) Approval of transfers of grazing preference.

(2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs, providing no new road construction is needed.

(3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.

(4) Removal of wild horses or burros from private lands at the request of the landowner.

(5) Processing (transporting, sorting, providing veterinary care to, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.

(6) Approval of the adoption of healthy, excess wild horses and burros.

(7) Actions required to ensure compliance with the terms of Private Maintenance and Care Agreements.

(8) Issuance of title to adopted wild horses and burros.

(9) Destroying old, sick, and lame wild horses and burros as an act of mercy.

(10) Vegetation management activities such as seeding, planting, invasive plant removal, installation of erosion control devices (*e.g.*, mats/straw/chips), and mechanical treatments such as crushing, piling, thinning, pruning, cutting, chipping, mulching, mowing, and prescribed fire when the activity is necessary for the management of vegetation on public lands. Such activities:

- Shall not exceed 4,500 contiguous acres per prescribed fire project and 1,000 acres for other vegetation management projects; and
- Shall be conducted consistent with Bureau and Departmental procedures;
- and applicable land and resource management plans; and
- Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and
- Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure.

(11) Issuance of livestock grazing permits/leases where:

(a) The grazing allotment(s) has been assessed and evaluated and the authorized officer documents in a determination that the allotment is:

(1) Meeting land health standards; or

(2) Not meeting standards solely due to factors other than existing livestock grazing; or

(b) Issuing the permit is the result of an administrative action, such as, but not limited to, changing permit termination date or permittee/leasee name.

(12) Authorize temporary non-renewable grazing use where the grazing allotment(s) has been assessed and evaluated and the authorized officer documents in a determination that the allotment is:

(a) Meeting land health standards; or

(b) Not meeting standards solely due to factors other than existing livestock grazing. Authorized officer documents that the temporary non-renewable grazing use will not change the status of land health on the allotment(s).

E. Realty

(1) Withdrawal extensions or modifications which only establish a new time period and entail no changes in segregative effect or use.

(2) Withdrawal revocations, terminations, extensions, or modifications and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.

(3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) are in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).

(4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.

(5) Actions taken in conveying mineral interest where there are no known mineral values in the land, under section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).

(6) Resolution of class one color-of-title cases.

(7) Issuance of recordable disclaimers of interest under section 315 of FLPMA.

(8) Corrections of patents and other conveyance documents under section 316 of FLPMA and other applicable statutes.

(9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

(10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).

(11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA section 302(b) leases where no new facilities or other changes are needed.

(12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

(13) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the right-of-way boundary.

(14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(15) Transfer of land or interest in land to or from other Bureaus or Federal agencies where current management will continue and future changes in management will be subject to the NEPA process.

(16) Acquire access (temporary or permanent) on existing roads and trails crossing non-federal lands for purposes of stabilizing hill sides; stabilizing river banks; removing dead, down or dying trees; reduction of hazardous fuels; controlling insect infestations; removing and/or treating noxious or invasive weeds.

(17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

(18) Temporary placement of a pipeline above ground.

(19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

(20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals

(1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease readjustments, renewals and transfers including assignments and subleases.

(3) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.

(4) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.

(5) Determination and designation of logical mining units (LMUs).

(6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.

(7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable and locatable minerals (*e.g.*, the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed).

(8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals (*e.g.*, change in mining sequence or timing).

(9) Digging of exploratory trenches for mineral materials, except in riparian areas.

(10) Disposal of mineral materials such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation

(1) Placing existing roads and trails in any transportation plan when no new construction or upgrading is needed.

(2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to existing roads and trails.

(3) Temporary closure of existing roads and trails.

(4) Placement of recreational, special designation or information signs, visitor registers, kiosks and portable sanitation devices.

H. Recreation Management

(1) Issuance of Special Recreation Permits for day use or overnight use up to 7 consecutive nights that impact no more than 3 contiguous acres; and/or for recreational activities in travel management areas or networks that are designated in an approved land use plan.

I. Emergency Stabilization

Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands

unlikely to recover to a management approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on or along roads, trails, campgrounds, and watercourses.

These activities:

(a) Shall be completed within one year following the event;

(b) Shall not include the use of herbicides or pesticides;

(c) Shall not include the construction of new roads or other new permanent infrastructure;

(d) Shall not exceed 4,200 acres; and (e) shall be conducted consistent with Bureau and Departmental procedures and applicable land and resource management plans.

J. Other

(1) Maintaining plans in accordance with 43 CFR 1610.5–4.

(2) Acquisition of existing water developments (*e.g.*, wells and springs) on public land.

(3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included are siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters and automatic air or water samples.

(4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.

(5) Reserved.

(6) A single trip in a one month period for data collection or observation sites.

(7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.

(8) Installation of minor devices to protect human life (*e.g.*, grates across mines).

(9) Construction of small protective enclosures including those to protect reservoirs and springs and those to protect small study areas.

(10) Removal of structures and materials of nonhistorical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

(11) Actions where BLM has concurrence or coapproval with another DOI agency and the action is categorically excluded for that DOI agency.

Appendix 11.1

Using the Documentation NEPA Adequacy Worksheet and Evaluating the NEPA Adequacy Criteria

This worksheet replaces the worksheet contained in the Instruction Memorandum entitled "Documentation of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy." During preparation of the worksheet, if you determine that one or more of the criteria are not met, you do not need to complete the worksheet. If one or more of these criteria are not met, you may reject the proposal, modify the proposal or complete appropriate NEPA compliance (EA, EIS, Supplemental EIS, or CX if applicable) and plan amendments before proceeding with the proposed action.

Worksheet: Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA)

U.S. Department of the Interior; Bureau of Land Management (BLM)

OFFICE:
TRACKING NUMBER:
CASEFILE/PROJECT NUMBER:
PROPOSED ACTION TITLE/TYPE:
LOCATION/LEGAL DESCRIPTION:
APPLICANT (if any):

A. Description of the Proposed Action

B. Land Use Plan (LUP) Conformance

LUP Name* _____
Date Approved _____
Other document _____
Date Approved _____
Other document _____
Date Approved _____

* List applicable LUPs (*e.g.*, Resource Management Plans and activity, project, management, or program plans, or applicable amendments thereto):

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objectives, terms, and conditions):

C. Identify Applicable National Environmental Policy Act (NEPA) Documents and Other Related Documents That Cover the Proposed Action

List by name and date all applicable NEPA documents that cover the proposed action.

List by name and date other documentation relevant to the proposed action (*e.g.*, biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, the proposed action or the selected alternative analyzed in the existing NEPA document(s)?

Documentation of answer and explanation:

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, public interest, and resource values?

Documentation of answer and explanation:

3. Is the existing analysis adequate in light of any new information or circumstances (i.e. rangeland health standards assessments; recent Endangered Species listings; updated lists of BLM Sensitive Species)?

Documentation of answer and explanation:

4. Can you conclude without additional analysis or information that the direct, indirect, and cumulative impacts that would result from implementation of the current proposed action are similar to those analyzed in the existing NEPA document(s)?

Documentation of answer and explanation:

E. Persons/Agencies /BLM Staff Consulted

Name _____
Title _____
Resource/Agency Represented

Note: Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

Conclusion

☐ Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes the BLM's compliance with the requirements of NEPA.

Note: If you found that one or more of these criteria is not met, you will not be able to check this box.

Signature of Project Lead: _____
Signature of NEPA Coordinator: _____
Signature of the Responsible Official: _____
Date: _____

Note: The signed *Conclusion* on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA, is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.

[FR Doc. E6–775 Filed 1–24–06; 8:45 am]
BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

2006 Migratory Bird Hunting and Conservation Stamp (Federal Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the dates and location of the 2006 Federal Duck Stamp contest, and the species eligible to be subjects for this year's designs. The 2006 contest will be the second

contest to take place outside of Washington, DC. We invite the public to enter and to attend.

DATES:

1. The official date to begin submission of entries to the 2006 contest is June 1, 2006. All entries must be postmarked no later than midnight, Monday, August 15, 2006.

2. The public may view the 2006 Federal Duck Stamp entries at the Memphis location (see **ADDRESSES**) beginning on Monday, September 25, 2006 (9 a.m. to 5 p.m.), and through all the days of judging. Judging will be held on Friday, October 6, 2006, beginning at 6 p.m., and on Saturday, October 7, 2006, beginning at 9 a.m., at the Memphis location.

ADDRESSES: Requests for complete copies of the contest rules, reproduction rights agreement, and display and participation agreement may be requested by calling 1–703–358–2000, or requests may be addressed to: Federal Duck Stamp Contest, U.S. Fish and Wildlife Service, Department of the Interior, 4401 North Fairfax Drive, Mail Stop MBSP–4070, Arlington, VA 22203–1622. You may also download the information from the Federal Duck Stamp Web site at *http://duckstamps.fws.gov.*

The contest will be held at the Memphis College of Art in Overton Park, 1930 Poplar Avenue, Memphis, TN 38104.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan W. Booth, Federal Duck Stamp Office, by phone at (703) 358–2004, or by e-mail to *Ryan_W_Booth@fws.gov,* or by fax at (703) 358–2009.

SUPPLEMENTARY INFORMATION:

Background

On March 16, 1934, Congress passed and President Franklin Roosevelt signed the Migratory Bird Hunting Stamp Act (16 U.S.C. 718–718j, 48 Stat. 452). Popularly known as the Duck Stamp Act, it required all waterfowl hunters 16 years or older to buy a stamp annually. The revenue generated was originally earmarked for the Department of Agriculture, but 5 years later was transferred to the Department of the Interior and the U.S. Fish and Wildlife Service to buy or lease waterfowl sanctuaries. Regulations governing the contest appear at 50 CFR part 91.

In the years since, the Federal Duck Stamp Program has become one of the most popular and successful conservation programs ever initiated. Today, some 1.8 million stamps are sold each year, and as of 2004, Federal Duck Stamps have generated more than $700 million for the preservation of more than 5.2 million acres of waterfowl habitat in the United States. Numerous other birds, mammals, fish, reptiles, and amphibians have similarly prospered because of habitat protection made possible by the program. An estimated one-third of the Nation's endangered and threatened species find food or shelter in wetland habitat. Moreover, the protected wetlands help dissipate storms, purify water supplies, store flood water, and nourish fish hatchlings important for sport and commercial fishermen.

The Contest

The first Federal Duck Stamp was designed at President Franklin Roosevelt's request in 1934 by Jay N. "Ding" Darling, a nationally known political cartoonist for the *Des Moines Register* and a noted hunter and wildlife conservationist. In subsequent years, noted wildlife artists were asked to submit designs. The first contest was opened in 1949 to any U.S. artist who wished to enter, and 65 artists submitted a total of 88 design entries in what remains the only art competition of its kind sponsored by the U.S. Government. The Secretary of the Interior appoints a panel of noted art, waterfowl, and philatelic authorities to select each year's design. Winners receive no compensation for their work, except a pane of their stamps, but winners may sell prints of their designs, which are sought by hunters, conservationists, and art collectors.

The 2006 contest will be the second contest to take place outside of Washington, DC. We plan to hold future duck stamp contests in various U.S. locations corresponding to flyways.

Contest Fee: All entrants must submit a nonrefundable fee of $125.00 by cashier's check, certified check, or money order made payable to: U.S. Fish and Wildlife Service.

Eligible species

The following species are eligible for the 2006 contest: American widgeon, wood duck, gadwall, ring-necked duck, and cinnamon teal. Entries featuring a species other than the above listed species will be disqualified.

Dated: January 20, 2006.

Thomas O. Melius,

Acting Director.

[FR Doc. E6–885 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for renewal.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice announces that the Bureau of Indian Affairs is submitting an information collection to the Office of Management and Budget (OMB) for renewal. The collection concerns the Student Transportation Form. We are requesting a renewal of clearance and requesting comments on this information collection.

DATES: Written comments must be submitted on or before February 24, 2006.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–6566 or you may send an e-mail to *OIRA_DOCKET@omb.eop.gov.*

Please send copies of comments to the Office of Indian Education Programs, 1849 C Street, NW., Mail Stop 3609–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Glenn Allison, (202) 208–3628 or Keith Neves, (202) 208–3601.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Student Transportation regulations in 25 CFR part 39, subpart G, contain the program eligibility and criteria, which govern the allocation of transportation funds. Information collected from the schools will be used to determine the rate per mile. The information collection is needed to provide transportation mileage for Bureau-funded schools, which will receive an allocation of transportation funds.

II. Request for Comments

A 60-day notice requesting comments was published on July 11, 2005 (70 FR 39787). There were no comments received regarding that notice. You are invited to comment on the following items to the Desk Officer at OMB at the citation in **ADDRESSES** section:

(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 the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

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

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

We will not request nor sponsor a collection of information, and you need not respond to such a request, if there is no valid Office of Management and Budget Control Number.

III. Data

Title: Student Transportation Form, 25 CFR Part 39, Subpart G.

OMB Control Number: 1076–0134.

Type of review: Renewal.

Brief Description of collection: This collection provides pertinent data concerning the schools' bus transportation mileage and related long distance travel mileage to determine funding for school transportation.

Respondents: Contract and Grant Schools; Bureau operated schools. About 121 tribal school administrators annually gather the necessary information during student count week.

Number of Respondents: 121.

Estimated Time per Response: At an average of 6 hours each 121 reporting schools = 796 hours.

Frequency of Response: Annually.

Total Annual Burden to Respondents: 726 hours.

Dated: January 18, 2006.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–847 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–06–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

Effective Dates: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: David D. Morlan, Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION: 1. The Supplemental Plats of the following described lands were officially filed at the Nevada State Office, Reno, Nevada, on November 15, 2005: The supplemental plat, showing amended lottings in section 15, Township 19 South, Range 61 East, Mount Diablo Meridian, Nevada, was accepted November 14, 2005. The supplemental plat, showing amended lottings in section 16, Township 19 South, Range 61 East, Mount Diablo Meridian, Nevada, was accepted November 14, 2005. These supplemental plats were prepared to meet certain administrative needs of the Bureau of Land Management.

2. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: January 12, 2006.

David D. Morlan,

Chief Cadastral Surveyor, Nevada.

[FR Doc. E6–849 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before January 7, 2006.

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by February 9, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

COLORADO

Moffat County

Castle Park Archeological District, Address Restricted, Dinosaur, 06000055

MICHIGAN

Muskegon County

Muskegon South Pierhead Light, (Light Stations of the United States MPS) S pier of Muskegon Lake entrance channel at Lake Michigan, 500 ft. from shore, Muskegon, 06000036

MISSOURI

Boone County

Coca-Cola Bottling Company Building, (Downtown Columbia, Missouri MPS) 10 Hitt St., Columbia, 06000043

Cape Girardeau County

Mckendree Chapel (Boundary Increase), S. side Bainbridge Rd., 0.5 mi. W of I–55, Jackson, 06000042

Jackson County

Old Town Historic District (Boundary Increase III), 140 Walnut St., Kansas City, 06000039

St. Louis Independent City

Beaumont Telephone Exchange Building, 2654 Locust St., St. Louis (Independent City), 06000038

Grant School, 3009 Pennsylvania Ave., St. Louis (Independent City), 06000037

MONTANA

Flathead County

Boles, Charles, House, (Kalispell MPS) 40 Appleway Dr., Kalispell, 06000041

Toole County

Shelby Town Hall, 100 Montana Ave., Shelby, 06000040

NEBRASKA

Hall County

Grand Island United States Post Office and Courthouse, 203 W. Second St., Grand Island, 06000044

PENNSYLVANIA

Delaware County

Hood Octagonal School, 3500 West Chester Pike, Newtown Square, Newtown Township, 06000045

SOUTH DAKOTA

Marshall County

Marshall County Courthouse, (County Courthouses of South Dakota MPS) 911 Vander Horck Ave., Britton, 06000047

Minnehaha County

Hayes Historic District, Roughly bounded by W. 22nd St. to W. 26th St. and by South Dakota Ave. to S. Phillips Ave., Sioux Falls, 06000049

Pennington County

Fairmount Creamery Company Building, 201 Main St., Rapid City, 06000048

Yankton County

Roane, James and Maude, House, 101 Broadway, Yankton, 06000046

VIRGINIA

Charlottesville Independent City

Jefferson School and Carver Recreation Center, 233 Fourth St., NW, Charlottesville (Independent City), 06000050

Fairfax County

D.C. Workhouse and Reformatory Historic District, Bet. Silverbrook Rd., Lorton Rd., Ox Rd., and Furnace Rd., Lorton, 06000052

Stafford County

Redoubt #2, Address Restrict, Stafford, 06000051

WISCONSIN

Sheboygan County

Elkhart Lake Road Race Circuits, Cty Hwys, J, P, JP, A, and Lake St., Elkhart Lake, 06000053

Wood County

West Fifth Street–West Sixth Street Historic District, W. Fifth St. and W. Sixth St., generally bounded by Adams Ave. and Oak Ave., Marshfield, 06000054

[FR Doc. E6–906 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before December 31, 2005.

Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW, 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by February 9, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

US Court House and Post Office, 312 N. Spring St., Los Angeles, 06000001

IDAHO

Teton County

Hollingshead Homestead, 107 West 1200 N. Teton Cty Rd., Tetonia, 06000002

ILLINOIS

Cook County

Hanson, Anton, E., House, 7610 S. Ridgeland Ave., Chicago, 06000008

Marywood Academy, 2100 Ridge Ave., Evanston, 06000007

Du Page County

Downtown Hinsdale Historic District, Roughly counded by maple St., Lincoln St., Garfield St. and Second St., Hinsdale, 06000011

Jackson County

Fuller, R. Bunckminster, and Anne Hewlett Dome Home, 407 S. Forest Ave., Carbondale, 06000012

Shelby County

Westervelt Christian Church, 103 W. Main St., Westervelt, 06000009

Wayne County

George, G.J., House, 205 W. Center, Fairfield, 06000006

Will County

Joilet YMCA, 215 N. Ottawa St., Joliet, 06000010

Winnebago County

Garrison School, 1105 N. Court St., Rockford, 06000005

IOWA

Clinton County

Moeszinger—Marquis Hardware Co., (Clinton, Iowa MPS) 721 Second St. S, Clinton, 06000004

Dubuque County

Dubuque Casket Company, 1798 Washington St., Dubuque, 06000003

NEW YORK

Bronx County

Concourse Yard Entry Buildings, (New York City Subway System MPS) W. 205th St., bet. Jerome and Paul Aves., Bronx, 06000014

Concourse Yard Substation, (New York City Subway System MPS) 3119 Jerome Ave., Bronx, 06000013

Kings County

Coney Island Yard Electric Motor Repair Shop, (New York City Subway System MPS) SW corner of Avenue X and Shell Rd., Brooklyn, 06000016

Coney Island Yard Gatehouse, (New York City Subway System MPS) SW corner of Shell Rd. and Avenue X, Brooklyn, 06000017

New York County

207th Street Yard—Signal Service Building and Tower B, (New York City Subway System MPS) W. 215th St. bet. Tenth Ave. and the Harlem R, Manhattan, 06000018

Central IND Substation, (New York City Subway System MPS) 136W. 53rd St., New York, 06000019

Joralemon Street Tunnel, (New York City Subway System MPS) Subteranean tunnel ext. from Bowling Green (State St.) to beneath the East River to Joralemon St. and Willow Place, New York, 06000015

Substation 13, (New York City Subway System MPS) 225 W 53rd St., New York, 06000026

Substation 17, (New York City Subway System MPS) 127—129 Hillside Ave., New York, 06000025

Substation 219, (New York City Subway System MPS) 309 W. 133rd St., New York, 06000023

Substation 235, (New York City Subway System MPS) 23 W. 13th St., New York, 06000021

Substation 235, (New York City Subway System MPS) 23 W. 13th St., New York, 06000022

Substation 409, (New York City Subway System MPS) 163 Essex St., New York, 06000020

Substation 42, (New York City Subway System MPS) 154 E. 57th St., New York, 06000024

Substation 7, (New York City Subway System MPS) 1782 Third Avenue, New York, 06000027

OHIO

Clermont County

Fagin, Aaron, House, 2088 Lindale-Nicholsville Rd., Monroe Township, 06000034

PUERTO RICO

Adjuntas Municipality

Quinta Vendrell, Portugues Ward, jct. of PR 143 and PR 123, Adjuntas, 06000028

VIRGINIA

Fairfax County

Tauxemont Historic District, Bet. Ft. Hunt Rd. and Accotink Place, Inc. Shenadoah, Tauxemont, Namassin, Wesmoreland and Gahant Rds. and Bolling, Alexandria, 06000033

Frederick County

Valley Mill Farm, 1494 Valley Mill Rd., Winchester, 06000032

Norfolk Independent City

Park Place Historic District, Roughly bounded by Hampton Blvd., 23rd St., Granby St. and 38th St., Norfolk (Independent City), 06000029

Petersburg Independent City

Poplar Lawn Historic District (Boundary Increase), Jct. of E Wythe and S. Jefferson, from SE of orig. HD to Lieutenant Run, Along both sides of Harrison St. at SW corner, Petersburg (Independent City), 06000030

Richmond Independent City

Hermitage Road Historic District, 3800–4200 blks of Hermitage Rd., Richmond (Independent City), 06000031

[FR Doc. E6–900 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Central Valley Project Improvement Act, Water Management Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability.

SUMMARY: The following Water Management Plans are available for review:

- City of Redding
- Santa Ynez River Conservation District
- Sacramento County Water Agency

To meet the requirements of the Central Valley Project Improvement Act of 1992 (CVPIA) and the Reclamation Reform Act of 1982, the Bureau of Reclamation has developed and published the Criteria for Evaluating Water Management Plans (Criteria).

Note: For the purpose of this announcement, Water Management Plans (Plans) are considered the same as Water Conservation Plans. The above districts have developed Plans, which Reclamation has evaluated and preliminarily determined to meet the requirements of these Criteria. Reclamation is publishing this notice in order to allow the public to review the Plans and comment on the preliminary determinations. Public comment on Reclamation's preliminary (*i.e.*, draft) determination is invited at this time.

DATES: All public comments must be received by February 24, 2006.

ADDRESSES: Please mail comments to Leslie Barbre, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, or contact at 916–978–5232 (TDD 978–5608), or e-mail at *lbarbre@mp.usbr.gov*.

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Ms. Barbre at the e-mail address or telephone number above.

SUPPLEMENTARY INFORMATION: We are inviting the public to comment on our preliminary (*i.e.*, draft) determination of Plan adequacy. Section 3405(e) of the CVPIA (Title 34 Public Law 102–575) requires the Secretary of the Interior to establish and administer an office on Central Valley Project water conservation best management practices (BMPs) that shall "* * * develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by Section 210 of the Reclamation Reform Act of 1982." Also, according to Section 3405(e)(1), these Criteria must be developed "* * * with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices." These Criteria state that all parties (Contractors) that contract with Reclamation for water supplies (municipal and industrial contracts over 2,000 acre-feet and agricultural contracts over 2,000 irrigable acres) must prepare Plans that contain the following information:

1. Description of the District
2. Inventory of Water Resources
3. BMPs for Agricultural Contractors
4. BMPs for Urban Contractors
5. BMP Plan Implementation
6. BMP Exemption Justification

Reclamation will evaluate Plans based on these Criteria. A copy of these Plans will be available for review at Reclamation's Mid-Pacific (MP) Regional Office located in Sacramento, California, and the local area office.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that Reclamation withhold their home address from public disclosure, and we will honor such request to the extent allowable by law. There also may be circumstances in which Reclamation would elect to withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public disclosure in their entirety. If you wish to review a copy of these Plans, please contact Ms. Barbre to find the office nearest you.

Dated: December 20, 2005.

Tracy Slavin,

Chief, Program Management Branch, Mid-Pacific Region.

[FR Doc. E6–904 Filed 1–24–06; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested; 30-Day Notice of Information Collection Under Review: Certification of Secure Gun Storage or Safety Devices

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 234, on page 72852 on December 7, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 24, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Secure Gun Storage or Safety Devices.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5300.42. Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. The requested information will be used to ensure that applicants for a federal firearms license are in compliance with the requirements pertaining to the availability of secure gun storage or safety devices.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 61,641 respondents, who will complete the form within approximately 1 minute.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 1,233 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: January 19, 2006.

Brenda Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 06–689 Filed 1–24–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Deaths in Custody—series of collections from local jails, State prisons and juvenile.

The Department of Justice (DOJ), Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until March 27, 2006 This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Lawrence Greenfeld, Director, Bureau of Justice Statistics, 810 Seventh St., NW., Washington, DC, 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the 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.

Overview of this information collection:

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Deaths In Custody Reporting Program

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Forms: NPS–4 (Quarterly Summary of Inmate Deaths in State Prison), NPS–4A (State Prison Inmate Death Report), NPS–5 (Quarterly Summary of Deaths in State Juvenile Residential Facilities), NPS–5A (State Juvenile Residential Death Report), CJ–9 (Quarterly Report on Inmates Under Jail Jurisdiction), CJ–9A (Annual Summary on Inmates Under Jail Jurisdiction), CJ–10 (Quarterly Report on Inmates in Private and Multi-Jurisdiction Jails), CJ–10A (Annual Summary on Inmates in Private and Multi-Jurisdiction Jails), CJ–11 (Quarterly Summary of Deaths in Law Enforcement Custody) and CJ–11A (Law Enforcement Custodial Death Report). Corrections Statistics Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Local jail administrators, State prison administrators, and State juvenile correctional administrators. Others: State-level central reporters from each State's criminal justice Statistical Analysis Center (SAC). One reporter from each of the 3,083 local jail jurisdictions in the United States, one reporter from each of the 50 State prison systems, and one reporter from the juvenile correctional authority in each of the 50 States and the District of Columbia is asked to provide information for the following categories: (a) During each reporting quarter, the number of deaths of persons in their custody; (b) As of January 1 and December 31 of each reporting year, the number of male and female inmates in their custody (local jails only); (c) Between January 1 and December 31 of each reporting year, the number of male and female inmates admitted to their custody (local jails only); (d) The name, date of birth, gender, race/ethnic origin, and date of death for each inmate who died in their custody during each reporting quarter; (e) The admission date, legal status, and current offenses for each inmate who died in their custody during the reporting quarter; (f) Whether or not an autopsy was conducted by a medical examiner or coroner to determine the cause of each inmate death that took place in their custody during the reporting quarter; (g)

The location and cause of each inmate death that took place in their custody during the reporting quarter; (h) In cases where the cause of death was illness/natural causes (including AIDS), whether or not the cause of each inmate death was the result of a pre-existing medical condition, and whether or not the inmate had been receiving treatment for that medical condition; (i) In cases where the cause of death was accidental injury, suicide, or homicide, when and where the incident causing the inmate's death took place.

To measure the law enforcement deaths BJS asks State-level central reporters (one reporter from each of the 50 States and the District of Columbia) from each State's criminal justice Statistical Analysis Center (SAC) to provide information for the following categories: (a) During each reporting quarter, the number of deaths of persons in the custody of State and local law enforcement during the process of arrest; (b) The deceased's name, date of birth, gender, race/Hispanic origin, and legal status at time of death; (c) The date and location of death, the manner and medical cause of death, and whether an autopsy was performed; (d) The law enforcement agency involved, and the offenses for which the inmate was being charged; (e) In cases of death prior to booking, whether death was the result of a pre-existing medical condition or injuries sustained at the crime or arrest scene, and whether the officer(s) involved used any weapons to cause the death; (f) In cases of death prior to booking, whether the deceased was under restraint in the time leading up to the death, and whether their behavior at the arrest scene included threats or the use of any force against the arresting officers; (g) In cases of death after booking, the time and date of the deceased's entry into the law enforcement booking facility where the death occurred, and the medical and mental condition of the deceased at the time of entry; (h) In cases of accidental, homicide or suicide deaths after booking, who and what were the means of death (e.g., suicide by means of hanging).

The Bureau of Justice Statistics uses this information to publish statistics on deaths in custody. These reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice and data.

(5) An estimated 3,235 total respondents will submit an estimated 16,455 responses each year to this collection program. The amount of time needed for an average respondent to complete each form is broken down as follows:

Local jails/quarterly (forms CJ–9 and CJ–10)—3,083 respondents (At least 90% of jails nationwide have zero deaths in a given calendar quarter; these respondents will need an average of 5 minutes to respond. For those jurisdictions with a death to report, the average response time will be 30 minutes per death.)

Local jails/annual (forms CJ–9A and CJ–10A)—3,083 respondents (average response time = 15 minutes)

State prisons/quarterly (form NPS–4)—50 respondents (average response time = 5 minutes)

State prisons addendum/quarterly (form NPS–4A)—50 respondents (average response time = 30 minutes per reported death).

State juvenile corrections/quarterly (form NPS–5)—51 respondents (average response time = 5 minutes).

State juvenile corrections addendum/quarterly (NPS–5A)—51 respondents (average response time = 30 minutes per reported death).

State and local law enforcement/quarterly (CJ–11)—51 respondents (average response time = 5 minutes).

State and local law enforcement addendum/quarterly (CJ–11A)—51 respondents (average response time = 60 minutes per reported death).

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated total public burden hours associated with this collection is 4,609 hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 20, 2006.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–891 Filed 1–24–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request Definition of "Plan Assets"—Participant Contributions

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that the data the Department collects can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of its collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the current approval of the information collection in the regulation entitled Definition of Plan Assets—Participant Contributions, codified at 29 CFR 2510.3–102. A copy of EBSA's proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted on or before March 27, 2006.

ADDRESSES: Direct all comments regarding the ICR and burden estimates to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Comments may be submitted in writing to the above address, via facsimile to (202) 219–4745, or electronically to the following Internet e-mail address: *ebsa.opr@dol.gov*. You may contact Ms. Lahne for further information at (202) 693–8410. These telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

The regulation concerning plan assets and participant contributions provides guidance for fiduciaries, participants, and beneficiaries of employee benefit plans regarding how participant contributions to pension plans must be handled when they are either paid to the employer by the participant or directly withheld by the employer from the employee's wages for transmission to the pension plan. In particular, the regulation sets standards for the timely delivery of such participant contributions, including an outside time limit for the employer's holding of

participant contributions. In addition, for those employers who may have difficulty meeting the regulation's outside deadlines for transmitting participant contribution, the regulation provides the opportunity for the employer to obtain an extension of the time limit by providing participants and the Department with a notice that contains specified information. The ICR pertains to this notice requirement. The Department previously requested review of this information collection and obtained approval from the Office of Management and Budget (OMB) under OMB control number 1210–0100. That approval is scheduled to expire on April 30, 2006.

II. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

III. Current Actions

This notice requests comments on an extension of the ICR included in the regulation governing the definition of "plan assets" as related to participant contributions. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved information collection.

Agency: Employee Benefits Security Administration.

Title: Definition of Plan Assets—Participant Contributions.

OMB Number: 1210–0100.

Affected Public: Business or other for-profit; not-for-profit institutions; individuals.

Number of Respondents: 1.

Frequency: On occasion.

Number of Annual Responses: 251.

Total Burden Hours: 3.

Total Burden Cost (Operating and Maintenance): $300.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 19, 2006.

Susan G. Lahne,

Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E6–883 Filed 1–24–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection: Comment Request National Medical Support Notice—Part B

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that the data the Department collects can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of its collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the current approval of the information collections in the regulation entitled National Medical Support Notice—Part B. A copy of EBSA's proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted to the office shown in the **ADDRESSES** section on or before March 27, 2006.

ADDRESSES: Direct all comments regarding the ICR and burden estimates to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Comments may be submitted in writing to the above address, via facsimile to (202) 219–4745, or electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.* You may contact Ms. Lahne for further information at (202) 693–8410. The above-listed telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Section 609(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), requires each group health plan, as defined in ERISA section 607(1), to provide benefits in accordance with the applicable requirements of any "qualified medical child support order" (QMCSO). A QMCSO is, generally, an order issued by a state court or other competent state authority that requires a group health plan to provide group health coverage to a child or children of an employee eligible for coverage under the plan. In accordance with Congressional directives contained in the Child Support Performance and Incentive Act of 1998, EBSA and the Federal Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS) cooperated in the development of regulations to create a National Medical Support Notice (NMSN or Notice). The Notice simplifies the establishment and processing of qualified medical child support orders issued by state child support enforcement agencies; provides for standardized communication between state agencies, employers, and plan administrators; and creates a uniform and streamlined process for enforcement of medical child support obligations ordered by state child support enforcement agencies. The NMSN comprises two parts: Part A was promulgated by HHS and pertains to state child support enforcement agencies; Part B was promulgated by the Department and pertains to plan administrators pursuant to ERISA. This solicitation of public comment relates only to Part B of the NMSN, which was promulgated by the Department. In connection with promulgation of Part B of the NMSN, the Department submitted an ICR to the Office of Management and Budget (OMB) for review, and OMB approved the information collections contained in the Part B regulation under OMB control number 1210–0113.

OMB's current approval of this ICR is scheduled to expire on April 30, 2006.

II. Desired Focus of Comments

The Department is currently soliciting comments on the information collections contained in its regulation codified at 29 CFR 2590.609–2, National Medical Support Notice—Part B. The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

III. Current Actions

This notice requests comments on the extension of the ICR included in the regulation promulgating Part B of the National Medical Support Notice. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: National Medical Support Notice—Part B.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0113.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Respondents: 156,000.

Responses: 770,000.

Estimated Total Burden Hours: 785,000.

Estimated Total Burden Cost (Operating and Maintenance): $1,100,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: January 19, 2006.

Susan G. Lahne,

Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E6–884 Filed 1–24–06; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–004)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Wednesday, February 8, 2006, 2 p.m. to 5 p.m.; and Thursday, February 9, 2006, 8 a.m. to 4 p.m.

ADDRESSES: Ronald Reagan Building and International Trade Center, Hemisphere A Conference Room, 1300 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Blackerby, Designated Federal Official, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4688.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting includes the following topics:

—Program Analysis and Evaluation Office Overview
—NASA Commercialization Overview
—Council Committee updates

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: January 17, 2006.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E6–871 Filed 1–24–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–005)]

Performance Review Board, Senior Executive Service (SES)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Membership of SES Performance Review Board.

SUMMARY: The Civil Service Reform Act of 1978, Public Law 95–454 (Section 405) requires that appointments of individual members to a Performance Review Board be published in the **Federal Register**.

The performance review function for the SES in NASA is being performed by the NASA Performance Review Board (PRB) and the NASA Senior Executive Committee. The latter performs this function for senior executives who report directly to the Administrator or the Deputy Administrator and members of the PRB. The following individuals are serving on the Board and the Committee:

Performance Review Board

Chairperson, Associate Administrator, NASA Headquarters
Executive Secretary, Director, Agency Human Resources Division, NASA Headquarters
Chief of Staff, NASA Headquarters
Associate Administrator for Exploration Systems Mission Directorate, NASA Headquarters
Associate Administrator for Space Operations Mission Directorate, NASA Headquarters
Associate Administrator for Science Mission Directorate, NASA Headquarters
Associate Administrator for Aeronautics Research Mission Directorate, NASA Headquarters
Associate Administrator for Institutions and Management, NASA Headquarters
Assistant Administrator for Diversity and Equal Opportunity, NASA Headquarters
Assistant Administrator for Human Capital Management, NASA Headquarters
General Counsel, NASA Headquarters
Director, Ames Research Center
Director, Dryden Flight Research Center
Director, Glenn Research Center
Director, Goddard Space Flight Center
Director, Johnson Space Center
Director, Kennedy Space Center
Director, Langley Research Center
Director, Marshall Space Flight Center
Director, Stennis Space Center

Senior Executive Committee

Chairperson, Deputy Administrator, NASA Headquarters
Chair, Executive Resources Board, NASA Headquarters
Chair, NASA Performance Review Board, NASA Headquarters
Chief of Staff, NASA Headquarters
Associate Administrator for Science Mission Directorate, NASA Headquarters

Associate Administrator for Program Analysis and Evaluation, NASA Headquarters
Associate Administrator for Space Operations Mission Directorate, NASA Headquarters

Michael D. Griffin,
Administrator.
[FR Doc. E6–872 Filed 1–24–06; 8:45 am]
BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Arts Advisory Panel (Arts Education application review) to the National Council on the Arts will be held by teleconference at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 from 2 p.m. to 4 p.m. (EST) on February 10, 2006. This meeting will be closed.

Closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 8, 2005, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: January 20, 2006.

Kathy Plowitz-Worden,
Panel Coordinator, Panel Operations, National Endowment for the Arts.
[FR Doc. E6–911 Filed 1–24–06; 8:45 am]
BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Materials Research (DMR) #1203.

Dates & Times: February 9, 2006; 7:15 a.m.–9 p.m. (open 8:45–12:15; 1:30–4:45; 6:15–7), (closed: 4:45–6:15; 7–9).

February 10, 2006; 7:30 a.m.–4 p.m. (open: 8:45–11:15).

Place: University of Chicago, Chicago, IL.

Type of Meeting: Part open.

Contact Person: Dr. Maija M. Kukla, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4940.

Purpose of Meeting: To provide advice and recommendations concerning progress of Materials Research Science and Engineering Center.

Agenda: February 9, 2006—Open for Directors overview of Materials Research Science and Engineering Center and presentations. Closed to brief site visit panel.

February 10, 2006—Open for view and presentations. Closed to review and evaluate progress of Materials Research Science and Engineering Center.

Reason for Closing: The work being reviewed may include information on a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 20, 2006.

Susanne Bolton,
Committee Management Officer.
[FR Doc. 06–702 Filed 1–24–06; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 7, "Application for NRC Export/Import License, Amendment, or Renewal," formerly, "Application for License to Export Nuclear Equipment and Material."

2. Current OMB approval number: 3150–0027.

3. How often the collection is required: On occasion; for each separate export, import, amendment, or renewal license application, and for exports of incidental radioactive material using existing general licenses.

4. Who is required or asked to report: Any person in the U.S. who wishes to export or import (a) nuclear material and equipment subject to the requirements of a specific license; (b) amend a license; (c) renew a license, and (d) for notification of incidental radioactive material exports that are contaminants of shipments of more than 100 kilograms of non-waste material using existing NRC general licenses.

5. The number of annual respondents: 319.

6. The number of hours needed annually to complete the requirement or request: 788 hours (2.4 hours per response).

7. Abstract: Persons in the U.S. wishing to export or import nuclear material and equipment requiring a specific authorization, amend or renew a license, or wishing to use existing NRC general licenses for the export of incidental radioactive material over 100 kilograms must file an NRC Form 7 application. The NRC Form 7 application will be reviewed by the NRC and by the Executive Branch, and if applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue an export, import, amendment or renewal license.

Submit, by March 27, 2006 comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room 0–1 F21, Rockville, MD 20852. OMB clearance requests are

available at the NRC worldwide Web site *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda J. Shelton, (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV*.

Dated at Rockville, Maryland, this 19th day of January 2006.

For the Nuclear Regulatory Commission.

Brenda J. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–887 Filed 1–24–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Nuclear Management Company, LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Nuclear Management Company, LLC (NMC) to withdraw its application of April 1, as supplemented May 26, August 25, and November 22, 2005, for proposed amendment to Facility Operating License No. DPR–20 for the Palisades Nuclear Plant located in VanBuren County, Michigan.

The proposed amendment would have changed Technical Specification (TS) 3.7.8, "Service Water System," to provide a one-time extension to the Completion Time for restoring a service water train to operable status.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on May 10, 2005 (70 FR 24654). However, NMC's letter of January 5, 2006, withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated April 1, as supplemented May 26, August 25, and November 22, 2005, and NMC's letter of January 5, 2006, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 17th day of January 2006.

For the Nuclear Regulatory Commission.

L. Mark Padovan,

Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–886 Filed 1–24–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on February 8, 2006, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 8, 2006—1:30 p.m. until 5 p.m.

The purpose of this meeting is to discuss the License Renewal Application for Brunswick Units 1 and 2 and associated Safety Evaluation Report (SER) related to the License Renewal. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Carolina Power & Light Company now doing business as Progress Energy Carolinas Incorporated, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. John G. Lamb (telephone 301/415–6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: January 12, 2006.

Michael L. Scott,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–850 Filed 1–24–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on February 9–11, 2006, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Tuesday, November 22, 2005 (70 FR 70638).

Thursday, February 9, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Application of TRACG Code for Analyzing ESBWR Stability (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and General Electric (GE) Nuclear Energy regarding application of the TRACG Code for analyzing Economic Simplified Boiling Water Reactor (ESBWR) stability.

Note: A portion of the session may be closed to discuss the GE Nuclear Energy proprietary information.

10:45 a.m.–12:15 p.m.: Evaluation of Human Reliability Analysis (HRA) Methods Against Good Practices (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft NUREG report on the Evaluation of HRA Methods Against Good Practices specified in NUREG–

1792, "Good Practices for Implementing Human Reliability Analysis."

1:15 p.m.–2:45 p.m.: Proposed Revisions to SRP Section 14.2.1, "Generic Guidelines for Extended Power Uprate Testing Programs" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed revisions to the Standard Review Plan (SRP) Section 14.2.1, "Generic Guidelines for Extended Power Uprate Testing Programs," and related matters.

3 p.m.–5 p.m.: Draft ACRS Report on the NRC Safety Research Program (Open)—The Committee will discuss the draft ACRS report to the Commission on the NRC Safety Research Program.

5:15 p.m.–6:45 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. Also, the Committee will discuss a draft ACRS response to the Commission request in the December 20, 2005 Staff Requirements Memorandum regarding ACRS plans to manage the anticipated increased workload in the areas of advanced reactor designs and combined license applications.

Friday, February 10, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: FERRET Reactor Vessel Fluence Methodology (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the FERRET methodology which is used to predict the fluence on the reactor vessel wall due to neutron leakage from the core.

10:15 a.m.–11:15 a.m.: Subcommittee Reports (Open)—The Committee will hear reports by and hold discussions with cognizant Chairmen of the ACRS Subcommittees regarding: interim review of the Brunswick Nuclear Plant license renewal application and the associated NRC staff's draft Safety Evaluation Report; safety conscious work environment and safety culture; proposed Revision 4 to Regulatory Guide 1.82, "Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident;" and the draft Regulatory Guide, "An Approach for Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements."

11:15 a.m.–12:15 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

1:15 p.m.–1:30 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

1:30 p.m.–3:30 p.m.: Draft ACRS Report on the NRC Safety Research Program (Open)—The Committee will discuss the draft ACRS report to the Commission on the NRC Safety Research Program.

3:45 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, February 11, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

12:30 p.m.–1 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 29, 2005 (70 FR 56936). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92–463, I have determined that it may be necessary to close a portion of this meeting noted above to discuss and protect information classified as GE Nuclear Energy proprietary information pursuant to 5 U.S.C. 552b(c) (4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4:15 p.m., ET.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., e.t., at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: January 19, 2006.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E6–889 Filed 1–24–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on February 8, 2006, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS; and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, February 8, 2006, 10 a.m.–11:30 a.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: January 19, 2006.

Michael L. Scott,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–890 Filed 1–24–06; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Proposed Agency Information Collection Activities: PC–425–1, Fellow/USA Program improvement Survey

AGENCY: Peace Corps.

ACTION: Notice of submission for OMB Review, comment request.

SUMMARY: The Peace Corps Fellows/USA program is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, the Peace Corps is required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of revision of a collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Fellows/USA Program Improvement Survey.

DATES: Comments must be submitted on or before March 27, 2006.

ADDRESSES: Comments should be mailed to Mr. Benjamin Helwig, Fellows/USA Program, Peace Corps, 1111 20th Street, NW., Room 2150, Washington, DC 20526. Mr. Helwig can be contacted by telephone at 202–692–1438 or 800–424–8580 ext. 1438 or e-mail at *bhelwig@peacecorps.gov*. E-mail comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Mr. Benjamin Helwig, Fellows/USA Program, Peace Corps, 1111 20th Street, NW., Room 2150, Washington, DC 20526. Mr. Helwig can be contacted by telephone at 202–692–1438 or 800–424–8580 ext. 1438 or e-mail at *bhelwig@peacecorps.gov*. E-mail comments must be made in text and not in attachments.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, the Peace Corps Fellows/USA program is seeking comments on the Fellows/USA Inquirer's Survey prior to its submission for an OMB control number. The purpose of this notice is to solicit public comments on whether: (1) The proposed collection of information is necessary for the proper performance of the Peace Corps Fellows/USA program, including whether the information will have practical use; (2) the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used is accurate; (3) there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) there are ways to minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of technology.

A copy of the proposed information collection form can be obtained from Mr. Benjamin Helwig, Fellows/USA Program, Peace Corps, 1111 20th Street, NW., Room 2150, Washington, DC 20526. Mr. Helwig can be contacted by telephone at 202–692–1438 or 800–424–8580 ext. 1438 or e-mail at *bhelwig@peacecorps.gov*. Comments on the form should also be addressed to the attention of Mr. Helwig and should be received on or before March 27, 2006.

OMB Control Number: N/A.

Title: Fellows/USA Program Improvement Survey.

Need and Uses: This form is intended to receive feedback only from Returned Peace Corps Volunteers (RPCVs) who have previously contacted the Fellows/USA Office at Peace Corps for information on the Fellows/USA program but have not enrolled in the program to date. Response is voluntary. The information gathered is needed and will be used internally to improve the program and make Fellows/USA more responsive to the educational needs of RPCVs.

Type of Review: New collection.

Respondents: Returned Peace Corps Volunteers who have previously contacted the Fellows/USA Office at Peace Corps for information on the Fellows/USA program but have not enrolled in the program to date.

Respondent's Obligation to Reply: Voluntary.

Burden on the Public: a. *Annual reporting burden:* 80 hours.

b. *Annual record keeping burden:* 0 hours.

c. *Estimated average burden per response:* 8 minutes.

d. *Frequency of response:* One item.

e. *Estimated number of likely respondents:* 600.

f. *Estimated cost to respondents:* 0.

This notice issued in Washington, DC on January 25, 2006.

Gilbert Smith,

Associate Director for Management.

[FR Doc. 06–673 Filed 1–24–06; 8:45 am]

BILLING CODE 6051–01–M

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a

meeting on January 30, 2006, 9:30 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

(1) Congressional Justification language.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: January 20, 2006.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 06–738 Filed 1–23–06; 11:51 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53142; File No. SR–NASD–2006–001]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto To Establish Generic Listing Standards for Index-Linked Securities

January 19, 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 January 3, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. On January 13, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to adopt generic listing standards for index-linked securities ("Index Securities") pursuant to Rule 19b–4(e) under the Act.[4] Nasdaq will implement the proposed rule change immediately upon approval by the Commission.

The proposed rule change is available on the NASD's Web site at *http://www.nasd.com*, at the principal office of the NASD, and at the Commission's Public Reference Room. The text of the proposed rule change is also set forth below. Proposed new language is *italicized;* proposed deletions are in [brackets].

* * * * *

4420. Quantitative Designation Criteria

In order to be designated for the Nasdaq National Market, an issuer shall be required to substantially meet the criteria set forth in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), [or] (l) *or (m)* below. Initial Public Offerings substantially meeting such criteria are eligible for immediate inclusion in the Nasdaq National Market upon prior application and with the written consent of the managing underwriter that immediate inclusion is desired. All other qualifying issues, excepting special situations, are included on the next inclusion date established by Nasdaq.

(a)–(l) No Change.

(m) Index-Linked Securities

Index-linked securities are securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes. Such securities may or may not provide for the repayment of the original principal investment amount. Nasdaq may submit a rule filing pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 to permit the listing and trading of index-linked securities that do not otherwise meet the standards set forth below in paragraphs (1) through (9). Nasdaq will consider for listing and trading pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934 index-linked securities, provided:

(1) Both the issue and the issuer of such security meet the criteria for other securities set forth in paragraph (f) of this rule, except that the minimum public distribution of the security shall be 1,000,000 units with a minimum of 400 public holders, unless the security is traded in $1,000 denominations, in which case there is no minimum number of holders.

(2) The issue has a term of not less than one (1) year and not greater than ten (10) years.

(3) The issue must be the non-convertible debt of the issuer.

(4) The payment at maturity may or may not provide for a multiple of the positive performance of an underlying index or indexes; however, in no event will payment at maturity be based on a multiple of the negative performance of an underlying index or indexes.

(5) The issuer will be expected to have a minimum tangible net worth in excess of $250,000,000 and to exceed by at least 20% the earnings requirements set forth in paragraph (a)(1) of this Rule. In the alternative, the issuer will be expected: (i) To have a minimum tangible net worth of $150,000,000 and to exceed by at least 20% the earnings requirement set forth in paragraph (a)(1) of this Rule, and (ii) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange or traded through the facilities of Nasdaq exceeds 25% of the issuer's net worth.

(6) The issuer is in compliance with Rule 10A–3 under the Securities Exchange Act of 1934.

(7) Initial Listing Criteria—Each underlying index is required to have at least ten (10) component securities. In addition, the index or indexes to which the security is linked shall either (A) have been reviewed and approved for the trading of options or other derivatives by the Commission under Section 19(b)(2) of the 1934 Act and rules thereunder and the conditions set forth in the Commission's approval order, including comprehensive surveillance sharing agreements for non-U.S. stocks, continue to be satisfied, or (B) the index or indexes meet the following criteria:

(i) Each component security has a minimum market value of at least $75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the market value can be at least $50 million;

(ii) Each component security shall have trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the trading volume shall be at least 500,000 shares in each of the last six months;

(iii) In the case of a capitalization-weighted or modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1 Nasdaq made minor revisions to the proposed rule text and clarified certain details of its proposal.

[4] 17 CFR 240.19b–4(e).

in the aggregate represent at least 30% of the total number of component securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;

(iv) No underlying component security will represent more than 25% of the weight of the index, and the five highest weighted component securities in the index do not in the aggregate account for more than 50% of the weight of the index (60% for an index consisting of fewer than 25 component securities);

(v) 90% of the index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading on a national securities exchange or a national securities association;

(vi) Each component security shall be issued by a 1934 Act reporting company which is listed on Nasdaq or a national securities exchange and shall be an "NMS" stock as defined in SEC Rule 600 of Regulation NMS under the 1934 Act; and

(vii) Foreign country securities or American Depository Receipts ("ADRs") that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20% of the weight of the index.

(8) Index Methodology and Calculation—(i) Each index will be calculated based on either a capitalization, modified capitalization, price, equal-dollar or modified equal-dollar weighting methodology. (ii) Indexes based upon the equal-dollar or modified equal-dollar weighting method will be rebalanced at least quarterly. (iii) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "firewall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer. (iv) The current value of an index will be widely disseminated at least every 15 seconds, except as provided in the next clause (v). (v) The values of the following indexes need not be calculated and widely disseminated at least every 15 seconds if, after the close of trading, the indicative value of the index-linked security based on one or more of such indexes is calculated and disseminated to provide an updated value: CBOE S&P 500 BuyWrite Index(sm), CBOE DJIA BuyWrite Index(sm), CBOE Nasdaq-100 BuyWrite Index(sm). (vi) If the value of an index-linked security is based on more than one (1) index, then the composite value of such indexes must be widely disseminated at least every 15 seconds.

(9) Surveillance Procedures. Nasdaq will implement written surveillance procedures for index-linked securities, including adequate comprehensive surveillance sharing agreements for non-U.S. securities, as applicable.

(10) Index-linked securities will be treated as equity instruments. Furthermore, for the purpose of fee determination, index-linked securities shall be deemed and treated as Other Securities.

* * * * *

4450. Quantitative Maintenance Criteria

(a) and (b) No change.

(c) Other Securities Designated Pursuant to Rule 4420(f) *and Index-Linked Securities.*

(1) The aggregate market value or principal amount of publicly-held units must be at least $1 million.

(2) Delisting or removal proceedings will be commenced (unless the Commission has approved the continued trading) with respect to any index-linked security that was listed pursuant to paragraph (7)(B) of Rule 4420(m) if any of the standards set forth in paragraph (7)(B) of such rule are not continuously maintained, except that:

(i) the criteria that no single component represent more than 25% of the weight of the index and the five highest weighted components in the index may not represent more than 50% (or 60% for indexes with less than 25 components) of the weight of the Index, need only be satisfied for capitalization weighted and price weighted indexes as of the first day of January and July in each year;

(ii) the total number of components in the index may not increase or decrease by more than 33⅓% from the number of components in the index at the time of its initial listing, and in no event may be less than ten (10) components;

(iii) the trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; and

(iv) in a capitalization-weighted or modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

(3) With respect to an index-linked security that was listed pursuant to paragraph (7)(A) of Rule 4420(m), delisting or removal proceedings will be commenced (unless the Commission has approved the continued trading of the subject index-linked security) if an underlying index or indexes fails to satisfy the maintenance standards or conditions for such index or indexes as set forth by the Commission in its order under Section 19(b)(2) of the 1934 Act approving the index or indexes for the trading of options or other derivatives.

(4) Delisting or removal proceedings will also be commenced with respect to any index-linked security listed pursuant to Rule 4420(m) (unless the Commission has approved the continued trading of the subject index-linked security), under any of the following circumstances:

(i) if the aggregate market value or the principal amount of the securities publicly held is less than $400,000;

(ii) if the value of the index or composite value of the indexes is no longer calculated or widely disseminated on at least a 15-second basis, provided, however, that the values of the following indexes need not be calculated and disseminated at least every 15 seconds if, after the close of trading, the indicative value of any index-linked security linked to one or more of such indexes is calculated and disseminated to provide an updated value: CBOE S&P 500 BuyWrite Index(sm), CBOE DJIA BuyWrite Index(sm), CBOE Nasdaq-100 BuyWrite Index(sm); or

(iii) if such other event shall occur or condition exists which in the opinion of Nasdaq makes further dealings on Nasdaq inadvisable.

(d) through (i) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change will establish generic listing standards to permit the listing and trading of Index Securities pursuant to Rule 19b–4(e) under the Act.[5] Rule 19b–4(e) under the Act provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4 under the Act,[6] if the Commission has approved, pursuant to Section 19(b) of the Act,[7] the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivatives securities product, and the self-regulatory organization has a surveillance program for the product class.[8] Hence Nasdaq is proposing to adopt generic listing standards under new NASD Rules 4420(m) and 4450(c) for this product class, pursuant to which it will be able to trade Index Securities without individual Commission approval of each product pursuant to Section 19(b)(2) of the Act.[9] Instead, Nasdaq represents that any securities it lists will satisfy all of the standards set forth in NASD Rules 4420(m) and 4450(c). The Exchange states that within five (5) business days of the commencement of trading of an Index Security in reliance on NASD Rule 4420(m), Nasdaq will file Form 19b–4(e).[10]

a. Generic Listing Standards

The Commission previously approved the generic listing standards for Index Securities on the American Stock Exchange LLC ("Amex").[11] Nasdaq states that the proposed rule is substantially the same as the Amex Rule. The Commission has also previously approved the listing on Nasdaq of multiple Index Securities based on a variety of debt structures and market indexes.[12]

Adopting generic listing standards for these securities and applying Rule 19b–4(e) under the Act should fulfill the intended objective of that Rule by allowing those Index Securities that satisfy the proposed generic listing standards to commence trading, without the need for the public comment period and Commission approval. This has the potential to reduce the time frame for bringing Index Securities to market and thereby reducing the burdens on issuers and other market participants. The failure of a particular index to comply with the proposed generic listing standards under Rule 19b–4(e) under the Act, however, would not preclude a separate filing pursuant to Section 19(b)(2) of the Act, requesting Commission approval to list and trade a particular index-linked product.

b. Index Securities

Index Securities are designed for investors who desire to participate in a specific market segment or combination of market segments through an identifiable market index or combination of market indexes (the "Underlying Index" or "Underlying Indexes").[13] Index Securities are the non-convertible debt of an issuer that have a term of at least one (1) year but not greater than ten years. Each Index Security is intended to provide investors with exposure to an identifiable underlying market index. Index Securities may or may not make interest payments, dividends or other cash distributions paid in the securities compromising the Underlying Index or Indexes to the holder during their term.[14] Despite the fact that Index Securities are linked to an underlying index, each will trade as a single, exchange-listed security.

The Exchange states that an Index Security cannot exist and therefore has no value without reference to the underlying index. In contrast to a typical corporate security (*e.g.*, a share of common stock of a corporation), whose value is determined by the interplay of supply and demand in the marketplace, the fair value of an index-based security can be determined only by reference to the underlying index itself, which is a proprietary creation of the particular index provider. For this reason, the Commission has always required that markets that list or trade index-based securities continuously monitor the qualifications of not just the actual securities being traded (*e.g.*, exchange-traded funds ("ETF"), index options, or Index Securities), but also of the underlying indexes and of the index providers.

Because the value and function of an Index Security are inseparable from the Underlying Index or Underlying Indexes, such indexes and their providers must either meet the criteria set forth herein or be indexes previously approved by the Commission under Section 19(b)(2) of the Act and rules thereunder for the trading of options or other derivative securities on a national securities exchange or national securities association (and be subject to the conditions of such prior approvals). In all cases, an Underlying Index is required to have a minimum of ten (10) component securities. Certain specific criteria for each underlying component security are set forth below.

A typical Index Security listed and traded on Nasdaq provides for a payment amount in a multiple greater than one (1) times the positive index return or performance, subject to a maximum gain or cap. Nasdaq represents that the proposed generic listing standards will not be applicable to Index Securities where the payment at maturity may be based on a multiple of negative performance of an underlying index or indexes.

Some Index Securities do not provide for a minimum guaranteed amount to be repaid, *i.e.*, no "principal protection." Other Index Securities provide for participation in the positive return or performance of an index with the added protection of receiving a payment guarantee of the issuance price or "principal protection." Further iterations may also provide "contingent" or partial protection of the principal amount, whereby the principal protection may disappear if the Underlying Index at any point in time during the life of such security reaches a certain pre-determined level. Nasdaq believes that the flexibility to list a variety of Index Securities will offer investors the opportunity to more

[5] 17 CFR 240.19b–4(e).

[6] 17 CFR 240.19b–4(c)(1).

[7] 15 U.S.C. 78s(b).

[8] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998)(the "19b–4(e) Order").

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 240.19b–4(e)(2)(ii); 17 CFR 249.820.

[11] *See* Securities Exchange Act Release No. 51563 (April 15, 2005), 70 FR 21257 (April 25, 2005)(the "Amex Rule"); *see also* Securities Exchange Act Release No. 52204 (Aug. 3, 2005), 70 FR 46559 (August 10, 2005) (PCX Exchange rules applicable to the Archipelago Exchange ("Area Exchange").

[12] *See, e.g.*, Securities Exchange Act Release Nos. 52725 (November 3, 2005), 70 FR 68486 (November 10, 2005)(approving the listing and trading of 9% Targeted Income Strategic Total Return Securities Linked to the CBOE Nasdaq-100 BuyWrite Index); 50724 (November 23, 2004), 69 FR 69655 (November 30, 2004)(approving the listing and trading of Accelerated Return Notes Linked to the Russell 2000 Index), 49670 (May 7, 2004), 69 FR 27959 (May 17, 2004)(approving the listing and trading of Accelerated Return Notes Linked to the Nikkei 225 Index).

[13] Nasdaq understands that the holder of an Index Security may or may not be fully exposed to the appreciation and/or depreciation of the underlying component securities. For example, an Index Security may be subject to a "cap" on the maximum principal amount to be repaid to holders or a "floor" on the minimum principal amount to be repaid to holders at maturity.

[14] Interest payments may be based on a fixed or floating rate.

precisely focus their specific investment strategies.

The original public offering price of Index Securities may vary with the most common offering price expected to be $10 or $1,000 per unit. As discussed above, Index Securities entitle the owner at maturity to receive a cash amount based upon the performance of a particular market index or combination of indexes. The structure of an Index Security may provide "principal protection" or provide that the principal amount is fully exposed to the performance of a market index. The Index Securities do not give the holder any right to receive a portfolio security, dividend payments, or any other ownership right or interest in the portfolio or index of securities comprising the Underlying Index. Because an index-linked security has no value without reference to the Underlying Index, the current value of an Underlying Index or composite value of the Underlying Indexes will be widely disseminated at least every 15 seconds during the trading day.[15]

Index Securities may (but do not need to) be structured with accelerated returns, upside or downside, based on the performance of the Underlying Index.[16] For example, an Index Security may provide for an accelerated return of 3-to-1 if the Underlying Index achieves a positive return at maturity. Index Securities are "hybrid" securities whose rates of return are largely the result of the performance of an Underlying Index or Indexes comprised of component securities. In connection with the listing and trading of Index Securities, Nasdaq will issue an information circular to members detailing the special risks and characteristics of the securities. Accordingly, the particular structure and corresponding risk of any Index Security traded on Nasdaq will be highlighted and disclosed.

The initial offering price for an Index Security is established on the date the security is priced for sale to the public. The final value of an Index Security is determined on the valuation date at or near maturity consistent with the mechanics detailed in the prospectus for such Index Security.

[15] The values of CBOE S&P 500 BuyWrite Index(sm), CBOE DJIA BuyWrite Index(sm), and CBOE Nasdaq-100 BuyWrite Index(sm) do not need to be so disseminated if, after the close of trading, the indicative value of any index-linked security linked to these indexes is disseminated.

[16] *See, e.g.*, Securities Exchange Act Release No. 48280 (August 1, 2003), 68 FR 47121 (August 7, 2003). As stated, however, the proposed generic listing standards will not be applicable to Index Securities that are structured with "downside" accelerated returns.

c. Eligibility Standards for Issuers

The following standards are proposed for each issuer of Index Securities:

(A) *Assets/Equity*—The issuer shall have assets in excess of $100 million and stockholders' equity of at least $10 million. In the case of an issuer which is unable to satisfy the income criteria set forth in NASD Rule 4420(a)(1), Nasdaq generally will require the issuer to have the following: (i) Assets in excess of $200 million and stockholders equity of at least $10 million; or (ii) assets in excess of $100 million and stockholders equity of at least $20 million.[17]

(B) *Distribution*—Minimum public distribution of 1,000,000 notes with a minimum of 400 public shareholders, except, if traded in thousand dollar denominations, then no minimum number of holders.

(C) *Principal Amount/Aggregate Market Value*—Not less than $4 million.

(D) *Term*—The Index Security must have a term of at least one (1) year but not longer than ten (10) years.

(E) *Tangible Net Worth*—The issuer will be expected to have a minimum tangible net worth[18] in excess of $250,000,000 and to exceed by at least 20% the earnings requirements set forth in NASD Rule 4420(a)(1). In the alternative, the issuer will be expected: (i) To have a minimum tangible net worth of $150,000,000 and to exceed by at least 20% the earnings requirement set forth in NASD Rule 4420(a)(1); and (ii) not to have issued securities where the original issue price of all the issuer's other index-linked note offerings (combined with index-linked note offerings of the issuer's affiliates) listed on a national securities exchange (or on Nasdaq) exceeds 25% of the issuer's net worth.

d. Description of Underlying Indexes

Each Underlying Index will either be: (i) An index meeting the specific criteria set forth below: or (ii) an index approved by the Commission under Section 19(b)(2) of the Act and rules thereunder for the trading of options or other derivatives securities. However, in all cases, an Underlying Index must contain at least ten (10) component securities.

Examples of Underlying Indexes intended to be covered under the proposed generic listing standards include the Standard & Poor's 500 ("S&P 500"), the Nasdaq-100, the Dow Jones Industrial Average ("DJIA"), Nikkei 225, the Dow Jones EuroSTOXX 50, the Global Titans 50, the Amex Biotechnology Index, the Russell 2000 Index, the CBOE S&P 500 BuyWrite Index, the CBOE DJIA BuyWrite Index, the CBOE Nasdaq-100 BuyWrite Index, and certain other indexes that represent various industry and/or market segments.[19] An Index Security would lose its eligibility for continued Nasdaq listing if a change to the Underlying Index, including the deletion and addition of underlying component securities, index rebalancings and changes to the calculation of the index, resulted in this Underlying Index no longer satisfying the criteria for indexes that are either set forth below as part of the continued listing standards for Index Securities or contained in a Commission's Section 19(b)(2) order that approved the similar derivative product containing the Underlying Index.

In order to satisfy the proposed generic listing standards, the Underlying Index will typically be calculated based on a market capitalization,[20] modified market capitalization,[21] price,[22] equal-dollar,[23] or modified equal-dollar[24] weighting

[17] Telephone conversation between Alex Kogan, Associate General Counsel, Nasdaq, and Florence E. Harmon, Senior Special Counsel, Division, Commission, on January 11, 2006.

[18] "Tangible net worth" is defined as total assets less intangible assets and total liabilities. Intangibles include non-material benefits such as goodwill, patents, copyrights and trademarks.

[19] *See* note 12 *supra*.

[20] A "market capitalization" index is the most common type of stock index. The components are weighted according to the total market value of the outstanding shares, *i.e.*, share price times the number of shares outstanding. This type of index will fluctuate in line with the price moves of the component stocks.

[21] A "modified market capitalization" index is similar to the market capitalization index, except that an adjustment to the weights of one or more of the components occurs. This is typically done to avoid having an index that has one or a few stocks representing a disproportionate amount of the index value.

[22] A "price weighted" index is an index in which the component stocks are weighted by their share price. The most common example is the DJIA.

[23] An "equal dollar weighted" index is an index structured so that share quantities for each of the component stocks in the index are determined as if one were buying an equal dollar amount of each stock in the index. Equal dollar weighted indexes are usually rebalanced to equal weightings either quarterly, semiannually, or annually.

[24] A "modified equal-dollar weighted" index is designed to be a fair measurement of the particular industry or sector represented by the index, without assigning an excessive weight to one or more index components that have a large market capitalization relative to the other index components. In this type of index, each component is assigned a weight that takes into account the relative market capitalization of the securities comprising the index. The index is subsequently rebalanced to maintain these pre-established weighting levels. Like equal-dollar weighted indexes, the value of a modified equal-dollar weighted index will equal the current combined market value of the assigned number of shares of each of the underlying components

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methodology. If a broker-dealer is responsible for maintaining (or has a role in maintaining) the Underlying Index, such broker-dealer is required to erect and maintain a "firewall," in a form satisfactory to Nasdaq, to prevent the flow of information regarding the Underlying Index from the index production personnel to the sales and trading personnel.[25] In addition, an Underlying Index that is maintained by a broker-dealer is also required to be calculated by an independent third party that is not a broker-dealer.

e. Eligibility Standards for Underlying Securities

Index Securities will be subject to both initial and continued listing criteria. For an Underlying Index to be appropriate for the initial listing of an Index Security, such Index must either have been previously approved for the trading (on a national securities exchange or national securities association) of options or other derivative securities by the Commission under Section 19(b)(2) of the Act and rules thereunder, or meet the following requirements:

- A minimum market value of at least $75 million, except that for each of the lowest weighted Underlying Securities in the index that in the aggregate account for no more than 10% of the weight of the index, the market value can be at least $50 million;
- Trading volume in each of the last six months of not less than 1,000,000 shares, except that for each of the lowest weighted Underlying Securities in the index that in the aggregate account for no more than 10% of the weight of the index, the trading volume shall be at least 500,000 shares in each of the last six months;
- In the case of a capitalization-weighted index or modified capitalization weighted index, the lesser of the five highest weight Underlying Securities in the index or the highest weighted Underlying Securities in the index that in the aggregate represent at least 30% of the total number of Underlying Securities in the index, each have an average monthly trading volume of at least 2,000,000 shares over the previous six months;
- No component security will represent more than 25% of the weight of the index, and the five highest weighted component securities in the index will not in the aggregate account for more than 50% of the weight of the index (60% for an index consisting of fewer than 25 Underlying Securities);
- 90% of the index's numerical index value and at least 80% of the total number of component securities will meet the then current criteria for standardized options trading on a national securities exchange or a national securities association;
- Each component security shall be issued by an Act reporting company under the Act, shall be listed on Nasdaq or a national securities exchange and be subject to last sale reporting as a "NMS" stock; and
- Foreign country securities or American Depository Receipts ("ADRs") that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20% of the weight of the index.

As stated above, under Description of Underlying Indexes, all Underlying Indexes are required to have at least ten (10) component securities.

For Index Securities listed under NASD Rule 4420(m)(7)(B),[26] Nasdaq will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the Index Security) if the applicable standard for Underlying Indexes under which the particular security's initial eligibility was determined is not being continuously met, except that:

- The criteria that no single component represent more than 25% of the weight of the index and the five highest weighted components in the index can not represent more than 50% (or 60% for indexes with less than 25 components) of the weight of the Index, need only be satisfied for capitalization weighted and price weighted indexes as of the first day of January and July in each year;
- The total number of components in the index may not increase or decrease by more than 33⅓% from the number of components in the index at the time of its initial listing, and in no event may be less than ten (10) components;
- The trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted components in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; and
- In a capitalization-weighted index or modified capitalization weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index have had an average monthly trading volume of at least 1,000,000 shares over the previous six months.

In the case of an Index Security that is listed pursuant to NASD Rule 4420(m)(7)(A) (previously approved index), Nasdaq will commence delisting or removal proceedings (unless the Commission has approved the continued trading of the Index Security) if an underlying index or indexes fails to satisfy the maintenance standards or conditions for such index or indexes as set forth by the Commission in its order under Section 19(b)(2) of the Act approving the index or indexes for the trading of options or other derivatives.

Finally, as set forth in proposed rule, Nasdaq will commence delisting or removal proceedings with respect to an Index Security (unless the Commission has approved the continued trading of the Index Security), under any of the following circumstances:

- If the aggregate market value or the principal amount of the securities publicly held is less than $400,000;
- With a minor exception referenced below, if the value of the Underlying Index or composite value of the Underlying Indexes is no longer calculated and widely disseminated on at least a 15-second basis (because an index-linked security has no value without reference to the underlying index); or
- If such other event shall occur or condition exists which is the opinion of the Nasdaq makes further dealings on Nasdaq inadvisable.

The requirement that the value of the index be calculated and widely disseminated every 15 seconds does not apply to the following indexes: the CBOE S&P 500 BuyWrite Index, the CBOE DJIA BuyWrite Index, and the CBOE Nasdaq-100 BuyWrite Index.[27]

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divided by the appropriate index divisor. A modified equal-dollar weighted index will typically be re-balanced quarterly.

[25] For certain indexes, an index provider, such as Dow Jones, may select the components and calculate the index, but overseas broker-dealer affiliates of U.S. registered broker-dealers may sit on an "advisory" committee that recommends component selections to the index provider. In such case, appropriate information barriers and insider trading policies should exist for this advisory committee. *See* Securities Exchange Act Release No. 50501 (October 7, 2004), 69 FR 61533 (October 19, 2004) (approving SR–NASD–2004–138, pertaining to index-linked notes on the Dow Jones Euro Stoxx 50 Index).

[26] The Commission expects Nasdaq to continuously monitor these continued listing criteria, unless the particular standard sets forth the particular dates on which such standard should be satisfied. Telephone conversation between Alex Kogan, Associate General Counsel, Nasdaq, and Florence E. Harmon, Senior Special Counsel, Division, Commission, on January 18, 2006.

[27] A "buy-write" is a conservative options strategy in which an investor buys a stock or portfolio and writes call options on the stock or

The Commission has previously approved for listing and trading several Index Securities linked to these three indexes,[28] and the exception for the first two of them is already incorporated in the Amex Rule. The Commission did not require dissemination of the BuyWrite index values every 15 seconds during trading hours because the value of these indexes is readily approximated from observable market prices from the current price of the relevant securities indexes and the nearest-to-expiration call and put options on these securities indexes.[29] Consistent with the Amex Rule, indicative values of Index Securities based on one of these three indexes must be calculated and disseminated after the close of trading to provide an updated value.

The issuers of the Index Securities listed on Nasdaq will be required to comply with Rule 10A–3 under the Act, but not the Index Securities themselves.[30]

f. Nasdaq Rules Applicable to Index Securities

Index Securities will be treated as equity instruments and will be subject to all Nasdaq rules governing the trading of equity securities, including trading halt rules. Index Securities will be subject to the same fee schedule as Other Securities listed under Rule 4420(f). The applicable fee schedule is currently codified as Rule 4530.

g. Information Circular

In addition, Nasdaq will evaluate the nature and complexity of each Index Security and, if appropriate, distribute a circular to the membership, prior to the commencement of trading, providing guidance with respect to, among other things, member firm compliance responsibilities when handling transactions in Index Securities and highlighting the special risks and characteristics. Specifically, the circular, among other things, will discuss and emphasize the structure and operation of the Index Security, the requirement under the Securities Act of 1933 ("1933 Act")[31] that members and member firms deliver a prospectus to investors purchasing an Index Security in the initial distribution prior to or concurrently with the confirmation of a transaction, applicable Nasdaq rules, dissemination information regarding the Underlying Index, trading information and applicable suitability rules.[32]

h. Surveillance

The NASD will monitor activity in Index Securities to identify and discipline any improper trading activity in Index Securities.[33] For this purpose, the NASD will rely on its existing surveillance procedures applicable to equities, including derivative products. The NASD will maintain such procedures in writing. The NASD will also be developing, for future implementation, procedures for monitoring activity in the Index Security and in related Underlying Indexes and their underlying securities, which will enhance the NASD's ability to identify improper trading activity. Overall, while the NASD's existing surveillance procedures are adequate to properly monitor the trading of Index Securities, the NASD is expecting to begin phasing in significant enhancements to such procedures in 2006.

Nasdaq has a general policy prohibiting the distribution of material, non-public information by its employees. As detailed above in the description of the generic standards, if the issuer or a broker-dealer is responsible for maintaining (or has a role in maintaining) the Underlying Index, such issuer or broker-dealer is required to erect and maintain a "firewall" in a form satisfactory to Nasdaq, in order to prevent the flow of information regarding the Underlying Index from the index production personnel to sales and trading personnel. In addition, Nasdaq will require that calculation of Underlying Indexes be performed by an independent third party that is not a broker-dealer.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,[34] in general, and with Section 15A(b)(6) of the Act,[35] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to 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

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change, as amended, were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–001 on the subject line.

portfolio. This strategy is also known as a "covered call" strategy. A buy-write strategy provides option premium income to cushion decreases in the value of an equity portfolio, but will under perform stocks in a rising market.

[28] *See, e.g.*, Securities Exchange Act Release Nos. 52756 (November 9, 2005), 70 FR 70006 (November 18, 2005) (approving the listing and trading of Index Securities linked to the CBOE Nasdaq-100 Buy Write Index); 52725 (November 3, 2005), 70 FR 68486 (November 10, 2005) (approving the listing and trading of Index Securities linked to the CBOE Nasdaq-100 BuyWrite Index); 51840 (June 14, 2005), 70 FR 35468 (June 20, 2005) (approving the listing and trading of Index Securities linked to the CBOE DJIA BuyWrite Index); and 51634 (April 29, 2005), 70 FR 24138 (May 6, 2005) (approving the listing and trading of Index Securities linked to the CBOE S&P 500 BuyWrite Index).

[29] Telephone conversation between Alex Kogan, Associate General Counsel, Nasdaq, and Florence E. Harmon, Senior Special Counsel, Commission, Division on January 11, 2006.

[30] *See* Rule 10A–3(c)(7) under the Act, 17 CFR 240.10A–3(c)(7)

[31] 15 U.S.C. 77e(b)(2).

[32] Members conducting a public securities business are subject to the rules and regulations of the NASD, including NASD Rule 2310(a) and (b). Accordingly, NASD Notice to Members 03–71 regarding nonconventional investments or "NCIs" applies to members recommending/selling index-linked securities to public customers. This Notice specifically reminds members in connection with NCIs (such as index-lined securities) of their obligations to: (1) Conduct adequate due diligence to understand the features of the product; (2) perform a reasonable-basis suitability analysis; (3) perform customer-specific suitability analysis in connection with any recommended transactions; (4) provide a balanced disclosure of both the risks and rewards associated with the particular product, especially when selling to retail investors; (5) implement appropriate internal controls; and (6) train registered persons regarding the features, risk and suitability of the products.

[33] The Nasdaq Market Watch Department also performs certain day-to-day surveillance activities that will be applicable to the trading of the Index Securities. Telephone conversation between Alex Kogan, Associate General Counsel, Nasdaq, and Florence E. Harmon, Senior Special Counsel, Commission, division on January 18, 2006.

[34] 15 U.S.C. 78*o*–3.

[35] 15 U.S.C. 78*o*–3(b)(6).

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2006–001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of the filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–001 and should be submitted on or before February 15, 2006.

IV. Commission's Findings

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[36] In particular, the Commission believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act[37] 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has previously approved the listing and trading of several Index Securities based on a variety of debt structures and market indexes.[38] The Commission has also approved, pursuant to Rule 19b–4(e) under the Act,[39] generic listing standards for these securities proposed by the Amex that, in all material respects, are identical to those listing standards proposed by Nasdaq.

Consistent with its previous orders, the Commission believes that generic listing standards proposed by Nasdaq for Index Securities should fulfill the intended objective of Rule 19b-4(e) under the Act by allowing those Index Securities that satisfy the generic listing standards to commence trading without public comment and Commission approval.[40] This has the potential to reduce the time frame for bringing Index Securities to market and thereby reduce the burdens on issuers and other market participants and thus enhances investors' opportunities.

A. Trading of Index Securities

Taken together, the Commission finds that Nasdaq's proposal contains adequate rules and procedures to govern the trading of Index Securities listed pursuant to Rule 19b–4(e) on Nasdaq. All Index Security products listed under the standards will be subject to the full panoply of Nasdaq rules and procedures that now govern the trading of Index Securities and the trading of equity securities on Nasdaq.

Nasdaq has proposed asset/equity requirements and tangible net worth for each Index Security issuer, as well as minimum distribution, principal/market value, and term thresholds for each issuance of Index Securities. As set forth more fully above, Nasdaq's proposed listing criteria include minimum market capitalization, monthly trading volume, and relative weighting requirements for the Index Securities. These requirements are designed to ensure that the trading markets for index components underlying Index Securities are adequately capitalized and sufficiently liquid, and that no one stock dominates the index. The Commission believes that these requirements should significantly minimize the potential for of manipulation. The Commission also finds that the requirement that each component security underlying an Index Security be listed on a national securities exchange or traded through the facilities of a national securities system and subject to last sale reporting will contribute significantly to the transparency of the market for Index Securities. Alternatively, if the index component securities are foreign securities that are not reporting companies, the generic listing standards permit listing of an Index Security if the Commission previously approved the underlying index for trading in connection with another derivative product and if certain surveillance sharing arrangements exist with foreign markets. The Commission believes that if it has previously determined that such index and its components were sufficiently transparent, then Nasdaq may rely on this finding, provided it has comparable surveillance sharing arrangements with the foreign market that the Commission relied on in approving the previous product.

The Commission believes that by requiring pricing information for both the relevant underlying index or indexes and the Index Security to be readily available and disseminated, the proposed listing standards should help ensure a fair and orderly market for Index Securities approved pursuant to such proposed listing standards.

The Commission also believes that the requirement that at least 90 percent of the component securities, by weight, and 80 percent of the total number of Underlying Securities, be eligible individually for options trading will prevent an Index Security from being a vehicle for trading options on a security not otherwise options eligible.

Nasdaq has also developed delisting criteria that will permit Nasdaq to suspend trading of an Index Security in case of circumstances that make further dealings in the product inadvisable. The Commission believes that the delisting criteria will help ensure a minimum level of liquidity exists for each Index Security to allow for the maintenance of fair and orderly markets. Also, Nasdaq will commence delisting proceedings in the event that the value of the underlying index or index is no longer calculated and widely disseminated on at least a 15-second basis.[41]

[36] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 15 U.S.C. 78*o*–3(b)(6).

[38] *See* Securities Exchange Act Release Nos. 41091 (February 23, 1999), 64 FR 10515 (March 4, 1999) (Narrow-Based Index Options); 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000) (ETFs); and 43396 (September 29, 2000), 65 FR 60230 (October 10, 2000) (TIRs).

[39] 17 CFR 240.19b–4(e).

[40] The Commission notes that the failure of a particular index to comply with the proposed generic listing standards under Rule 19b–4(e) under the Act, however, would not preclude Nasdaq from submitting a separate filing pursuant to Section 19(b)(2) of the Act, requesting Commission approval to list and trade a particular index-linked product.

[41] In the case of the BuyWrite Index Securities, CBOE disseminates a daily index value.

B. Surveillance

Nasdaq must have surveillance procedures to monitor trading in any products listed under the generic listing standards. An Index Security, just like an ETF, derives its value by reference to the underlying index. For this reason, the Commission has required that markets that list index based securities monitor the qualifications of not just the actual security (*e.g.*, the ETF, index option, or Index Securities), but also of the underlying indexes (and of the index providers). In this regard, the Commission believes that a surveillance sharing agreement between a self-regulatory organization proposing to list a stock index derivative product and the self-regulatory organization trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. When a new derivative securities product based upon domestic securities is listed and traded on an exchange or national securities association pursuant to Rule 19b–4(e) under the Act, the self-regulatory organization should determine that the markets upon which all of the U.S. component securities trade are members of the Intermarket Surveillance Group ("ISG"), which provides information relevant to the surveillance of the trading of securities on other market centers.[42] For derivative securities products based on previously approved indexes that contain securities from one or more foreign markets, the self-regulatory organization should have a comprehensive Intermarket Surveillance Agreement, as prescribed in the prior Commission order, which covers the securities underlying the new securities product.[43] With respect to indexes not previously approved by the Commission, the Commission finds that Nasdaq's commitment to implement comprehensive surveillance sharing agreements,[44] as necessary, and the definitive requirements that: (i) Each component security shall be a registered reporting company under the Act; and (ii) no more than 20 percent of the weight of the Underlying Index or Underlying Indexes may be comprised of foreign country securities or ADRs not subject to a comprehensive surveillance sharing agreement,[45] will make possible adequate surveillance of trading of Index Securities listed pursuant to the proposed generic listing standards.

With regard to actual oversight, Nasdaq represents that its surveillance procedures are sufficient to detect fraudulent trading among members in the trading of Index Securities pursuant to the proposed generic listing standards.

C. Acceleration

The Commission finds good cause for approving proposed rule change, as amended, prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. The proposal implements generic listing standards substantially identical to those already approved for the Amex. The Commission does not believe that Nasdaq's proposal raises any novel regulatory issues. The proposed generic listing criteria should enable more expeditious review and listing of Index Securities by Nasdaq, thereby reducing administrative burdens and benefiting the investing public. Thus, the Commission finds good cause to accelerate approval of the proposed rule change, as amended.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[46] that the proposed rule change, as amended (SR–NASD–2006–001), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[47]

Nancy M. Morris,

Secretary.

[FR Doc. E6–864 Filed 1–24–06; 8:45 am]

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Additionally, a daily indicative value for the product is also disseminated.

[42] See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7–13–98). ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. The Commission notes that all of the registered national securities exchanges, including the ISE, as well as the NASD, are members of the ISG.

[43] Id.

[44] Proposed NASD Rule 4420(m)(9).

[45] Proposed NASD Rules 4420(m)(7)(vi)–(vii).

[46] 15 U.S.C. 78s(b)(2).

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53147; File No. SR–Phlx–2006–02]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay Implementation of a Split of the PHLX Housing Sector℠ Index Option

January 19, 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 January 4, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. The Phlx filed the proposal as a "non-controversial" proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to section 19(b)(1) of the Act [6] and Rule 19b–4 thereunder,[7] proposes to delay until February 1, 2006 [8] the implementation of a split of the PHLX Housing Sector℠ Index ("Index") option ("HGX") [9] to one-half

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] As required by Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii), the Phlx submitted 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.

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 240.19b–4.

[8] In its proposal, the Phlx requested a delay until February 2006. During a telephone conversation on January 12, 2006, the Exchange specified that it is seeking to delay implementation until February 1, 2006. Telephone conversation between Jurij Trypupenko, Director and Counsel, Phlx, and Christopher Chow, Attorney, Division of Market Regulation, on January 12, 2006.

[9] HGX is a modified capitalization-weighted index composed of 21 companies whose primary lines of business are directly associated with the U.S. housing construction market. The Index encompasses residential builders, suppliers of aggregate, lumber and other construction materials, manufactured housing and mortgage insurers. The

Continued

its present value,[10] so that any open interest in HGX contracts at $2.50 strike price intervals expire before the split.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Previously, the Exchange filed a proposed rule change to reduce the value of the HGX to one-half its present value.[11] The purpose of the proposed rule change is to delay the implementation of a split of the value of the HGX so that upon splitting the index the Exchange can list new, post-split options series at strike prices of $2.50 or higher.

The Exchange may now set index option strike price intervals at $2.50 or higher pursuant to Phlx Rule 1101A. Rule 1101A indicates that the Exchange may determine fixed strike price intervals for index options that may generally be $2.50 for the three consecutive near-term months, $5 for the fourth month and $10 for the fifth month. The rule further allows that the Exchange may determine to list strike prices at $2.50 intervals in response to demonstrated customer interest or specialist request, and to list strike prices at wider intervals.[12] No Phlx rule accommodates index option strike price intervals lower than $2.50.

There are several HGX option series priced at $2.50 strike price intervals that have options contracts with open interest. The open interest in these series would expire by the end of January 2006. Splitting the HGX index at a time when there is open interest in these series would result in strike price intervals smaller than $2.50.[13] Because index option strike prices that are smaller that $2.50 (for example $1.00) are not supported in Phlx rules, the delay in the implementation of the split is necessary.

The Exchange believes that delayed implementation should attract more volume by making option premiums more appealing for retail investors and allowing investors to better utilize the HGX as a trading and hedging vehicle with a smaller capital outlay.[14]

The Exchange will announce the effective date of the implementation of the split on February 1, 2006 by way of an Exchange memorandum to the membership, which will also serve as notice of the strike price and position limit changes.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act[15] in general, and furthers the objectives of section 6(b)(5) of the Act[16] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by delaying the implementation of a split establishing a lower Index value, which should, in turn, facilitate trading in HGX, creating a more liquid trading environment. The Exchange believes that reducing the value of the Index should not raise manipulation concerns and should not cause adverse market impact because the Exchange will continue to employ its surveillance procedures and has proposed an orderly procedure to achieve the Index split, including adequate prior notice to market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Phlx has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the additional time may allow the Exchange to list new, post-split options series at strike prices of $2.50 or higher, as required under the Exchange's rules.[17] For this reason, the Commission designates that the proposal has become effective and

Index is currently composed of the following stocks: American Standard Companies, Beazer Homes USA, Inc., Champion Enterprises, Inc., Centex Corp., DR Horton, Inc., Hovnanian Enterprises, Inc., KB Home, Lennar Corp., Masco Corp., MDC Holdings, Inc., OfficeMax, Inc., Pulte Homes, PMI Group, Inc., Radian Group, Inc., Ryland Group, Inc., Standard Pacific Corp., Temple Inland, Inc., Toll Brothers, Inc., USG Corp., Vulcan Materials Company, Weyerhaeuser Company.

[10] The Commission notes that it published notice of a proposed rule change allowing a split of the HGX, which was effective upon filing (September 15, 2005) and which, per the Exchange's request, became operative on September 27, 2005. *See* Securities Exchange Act Release No. 52512 (September 27, 2005), 70 FR 57919 (October 4, 2005) (SR–Phlx–2005–50).

[11] *See* above, at n.10; telephone conversation between Jurij Trypupenko, Director and Counsel, Phlx, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation, on January 19, 2006.

[12] The Exchange has filed a rule change (SR–Phlx–2005–43) and amendments thereto proposing to simplify the Rule 1101A procedure for setting option index strike prices so that, among other things, there is no correlation between index strike price intervals and months.

[13] For example, an HGX option series with a $457.50 pre-split strike price, after a two-for-one split, would change to a $228.75 strike price, which would require a smaller than $2.50 strike price interval.

[14] The Exchange notes that to accommodate the two-fold increase in the number of contracts outstanding after the split, the position limits applicable to HGX (currently 31,500 contracts pursuant to Rule 1001A) will be temporarily increased to 63,000 until such time that all pre-split options expire, at which point the position limits will return to the 31,500 position limit specified in Rule 1001A. *See* Exchange Act Release No. 52512 (September 27, 2005), 70 FR 57919 (October 4, 2005) (SR–Phlx–2005–50).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] For 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).

operative immediately upon filing with the Commission.

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.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2006–02 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 20549–9303.

All submissions should refer to File Number SR–Phlx–2006–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2006–02 and should be submitted on or before February 15, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–923 Filed 1–24–06; 8:45 am]

BILLING CODE 8010–01–P

[18] *See* Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53139; File No. SR–Phlx–2005–67]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Maintenance, Retention, and Furnishing of Books, Records, and Other Information Regarding Payment for Order Flow

January 18, 2006.

On November 3, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Phlx Rule 760 (Maintenance, Retention and Furnishing of Books, Records and Other Information) to incorporate recent changes to the Exchange's payment for order flow program. On November 22, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on December 14, 2005.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The Exchange recently amended its payment for order flow program for trades settling on or after October 1, 2005 ("October program").[5] The Exchange represented that Registered Options Traders who receive electronically-delivered orders directed to them ("Directed ROTs") may, pursuant to the October program, direct the Exchange to make payments to order flow providers on their behalf.[6] Thus, the Exchange proposed to amend the Supplementary Material to Phlx Rule 760 to clarify that these Directed ROTs would now be required to retain records relating to payment for order flow arrangements.[7] The Exchange also proposed to amend the Supplementary Material to Phlx Rule 760 because the Exchange's current payment for order flow program no longer tracks payments to order flow providers on an option by option basis. In addition, the Exchange noted that specialists and specialist units no longer need to maintain records relating to the use, transfer, and distribution of payment for order flow funds because they would now direct the Exchange to make payments to order flow providers on their behalf. The Exchange further proposed to specifically request that books and records regarding the rate (whether on a per contract or flat fee basis) that is paid to order flow providers and the basis for the amount that Directed ROTs, specialists, and specialist units direct the Exchange to pay to order flow providers be maintained and made available as may be requested by the Exchange.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] The Commission believes that the proposed rule change, as amended, is consistent with section 6(b)(5) of the Act[9] in that this proposal 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 provided clarifying language to Phlx Rule 760 and the purpose section of the filing.

[4] Securities Exchange Act Release No. 52903 (December 7, 2005), 70 FR 74082 (December 14, 2005) (SR–Phlx–2005–67).

[5] The October program is in effect as a pilot program that is scheduled to expire on May 27, 2006. *See* Securities Exchange Act Release No. 52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR–Phlx–2005–58).

[6] The Exchange represented that under previous payment for order flow programs, specialist units requested reimbursement from the Exchange for monies they paid to order flow providers. Pursuant to the October program, the available payment for order flow funds would be disbursed by the Exchange according to the instructions of the specialist units and Directed ROTs.

[7] The Exchange represented that specialists/specialist units are already specifically required to maintain these books and records.

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

facilitating transaction 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. The Commission believes that the proposed rule change clarifies the parties that must maintain records relating to payment for order flow arrangements and the nature of the records to be maintained. The Commission also believes that the proposed rule change would assist the Exchange in determining whether its payment for order flow program is being carried out in accordance with the Exchange's requirements.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–Phlx–2005–67), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–924 Filed 1–24–06; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10325]

Connecticut Disaster # CT–00003'

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Connecticut (FEMA–1619–DR), dated 12/16/2005.

Incident: Severe Storms and Flooding.

Incident Period: 10/14/2005 through 10/15/2005.

Effective Date: 12/16/2005.

Physical Loan Application Deadline Date: 02/14/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/16/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Litchfield, New London, Tolland, Windham

The Interest Rates are:

	Percent
Other (including non-profit organizations) with credit available elsewhere	4.750
Businesses and non-profit organizations without credit available elsewhere	4.00

The number assigned to this disaster for physical damage is 10325.

(Catalog of Federal Domestic Assistance Number 59008)

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–880 Filed 1–24–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10327]

Minnesota Disaster # MN–00003

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Minnesota (FEMA–1622–DR), dated 01/04/2006.

Incident: Severe Winter Storm.

Incident Period: 11/27/2005 through 11/29/2005.

Effective Date: 01/04/2006.

Physical Loan Application Deadline Date: 03/06/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/04/2006, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Big Stone, Clay, Lac Qui Parle, Lincoln, Norman, Stevens, Traverse, Wilkin, Yellow Medicine.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10327.

(Catalog of Federal Domestic Assistance Number 59008)

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–936 Filed 1–24–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10274]

North Dakota Disaster # ND–00004

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA–1616–DR), dated 11/21/2005.

Incident: Severe Winter Storm and Record and Near-Record Snow.

Incident Period: 10/04/2005 through 10/06/2005.

Effective Date: 01/13/2006.

Physical Loan Application Deadline Date: 01/23/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Dakota, dated 11/21/2005, is hereby amended to include the following areas as adversely affected by the disaster.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

Primary County:
Slope.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–878 Filed 1–24–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10326]

North Dakota Disaster # ND–00005

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA–1621–DR), dated 01/04/2006.

Incident: Severe Winter Storm.

Incident Period: 11/27/2005 through 11/30/2005.

Effective Date: 01/04/2006.

Physical Loan Application Deadline Date: 03/06/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/04/2006, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Cass, Ransom, Richland, Sargent.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10326.

(Catalog of Federal Domestic Assistance Number 59008)

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–937 Filed 1–24–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10324]

South Dakota Disaster # SD–00003

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA–1620–DR), dated 12/20/2005.

Incident: Severe Winter Storm.

Incident Period: 11/27/2005 through 11/29/2005.

Effective Date: 12/20/2005.

Physical Loan Application Deadline Date: 02/21/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/20/2005, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Aurora, Beadle, Bon Homme, Brookings, Brown, Charles Mix, Clark, Codington, Davison, Day, Deuel, Douglas, Edmunds, Grant, Gregory, Hamlin, Hanson, Hutchinson, Jerauld, Kingsbury, Marshall, Miner, Roberts, Sanborn, Spink

The Interest Rates are:

	Percent
Other (including non-profit organizations) with credit available elsewhere	5.000
Businesses and non-profit organizations without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 10324.

(Catalog of Federal Domestic Assistance Number 59008).

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–879 Filed 1–24–06; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individual at the address and fax number listed below:

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

The information collection listed below is pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410–

965–0454 or by writing to the address listed above.

Permanent Residence Under Color of the Law (PRUCOL)—20 CFR 416.1615 and 416.1618—0960–0451. Under Public Law 104–193, which was effective August 22, 1996, a non-citizen must be a "qualified alien" and meet certain additional requirements in order to be eligible for Supplemental Security Income (SSI). This law also established an exception to the new requirements for certain "nonqualified aliens" (*i.e.*, non-citizens who are not qualified aliens). Nonqualified aliens who were receiving SSI on August 22, 1996 were allowed to remain on the rolls until September 30, 1997, at which time benefits would be suspended if the aliens had not acquired qualified alien status. Public Law 105–33 extended the suspension date to September 30, 1998. Public law 105–306, enacted October 28, 1998, provided that nonqualified aliens who were receiving SSI on August 22, 1996 would remain eligible for SSI after September 30, 1998 provided all other requirements for eligibility were met (*e.g.*, income and resources, etc.). SSI eligibility for this group of aliens—"grandfathered nonqualified aliens"—will continue to be determined based on the rules governing alien eligibility in effect prior to August 22, 1996, *i.e.*, the PRUCOL standard.

As discussed in SSA regulations at 20 CFR 416.1615 and 416.1618, a PRUCOL alien must present evidence of his/her alien status at application and periodically thereafter as part of the eligibility determination process for SSI. SSA verifies the validity of the evidence of PRUCOL for grandfathered nonqualified aliens with the Department of Homeland Security (DHS). Based on the DHS response, SSA will determine whether the individual is PRUCOL. Without this information, SSA would not be able to determine whether the individual is eligible for SSI payments. The respondents are individuals who have alien status and live in the United States.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 9,000.

Frequency of Response: 1.

Average Burden per Response: 5 minutes.

Estimated Annual Burden: 750 hours.

Dated: January 18, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–888 Filed 1–24–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for Actions To Substantially Restore Natural Quiet to the Grand Canyon National Park and Public Scoping

AGENCY: Federal Aviation Administration and National Park Service.

ACTION: Notice of Intent: Request for scoping comments.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS), as co-leads in the environmental process, intend to prepare an Environmental Impact Statement (EIS) under the provisions of the National Environmental Policy Act of 1969, as amended. The EIS will address environmental and related impacts that may result from actions to be proposed and alternatives to be developed to achieve the statutory mandate of Public Law 100–91 ("commonly know as the Overflights Act"); to provide for the substantial restoration of the natural quiet and experience of Grand Canyon National Park (GCNP). The Presidential Memorandum dated April 22, 1996, Earth Day Initiative, Parks for Tomorrow calls for substantial restoration of natural quiet in the GCNP to be achieved by 2008. "Substantial restoration of natural quiet" has been defined by the NPS to mean that 50 percent or more of the park will achieve natural quiet (i.e., no aircraft audible) for 75 to 100 percent of the day.

This undertaking is a follow-on to previous actions taken by the FAA, in cooperation with the NPS, since December 1996.

The FAA and NPS are inviting the public, agencies, and other interested parties to provide comments, suggestions, and input regarding: (1) The scope, issues, and concerns related to the development of proposed and alternative actions at Grand Canyon National Park that provide for the substantial restoration of the natural quiet and experience of the park and protection of public health and safety from significant adverse effects associated with all aircraft overflights; (2) past, present, and reasonably foreseeable future actions which, when considered with any alternatives, may result in significant cumulative impacts; and, (3) potential alternatives.

The scoping process for this EIS will include three public meetings and a ninety-day comment period for interested agencies and parties to submit oral and/or written comments representing the concerns and issues they believe should be addressed. Please submit any written comments within ninety-days from the date of this Notice, or no later than April 27, 2006. Address your comments to: Docket Management System, Doc No. FAA–2005–23402, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001.

The purpose of this Notice is to inform Federal, State, local government agencies, and the public of the intent to prepare an Environmental Impact Statement (EIS) and to conduct a public and agency scoping process. Information, data, opinions, and comments obtained throughout the scoping process will be considered in preparing the Draft EIS.

To maximize the opportunities for public participation in this environmental process, the FAA and NPS will also publish notices in the major local newspapers in the vicinity of the study area.

DATES: The scoping period, and the opportunity to provide written comments will extend from publication of this Notice for a period of ninety-days. The forecast period of public and Agency scoping is January 20, through April 27, 2006.

Public Meetings: Public scoping meetings will be held in Phoenix, Arizona (AZ) on February 21, Flagstaff, AZ on February 22, and in Las Vegas, Nevada (NV) on February 23. Following are the specifics for each of the public meetings:

Phoenix—February 21, 2006; 4 p.m. to 8 p.m., Glendale Community College, 6000 W. Olive Ave., Glendale, AZ 85302;

Flagstaff—February 22; 4 p.m. to 8 p.m., Museum of Northern Arizona, 3101 N. Ft. Valley Rd., Flagstaff, AZ 86001; and,

Las Vegas—February 23; 4 p.m. to 8 p.m., Henderson Convention Center, 200 Water St., Henderson, NV 89015.

FOR FURTHER INFORMATION PLEASE CONTACT: Questions concerning the environmental process should be directed to either the FAA or the NPS. The FAA contact person is Mr. Barry Brayer. Mr. Brayer can be contacted in writing at Federal Aviation Administration, Executive Resource Staff (AWP–4) 15000 Aviation Blvd., PO Box 92007, Los Angeles, CA 90009–2007; or via telephone at (310) 725–3800.

The NPS contact person is Ms. Mary Killeen. She can be contacted at Chief, Office of Planning and Compliance, Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023; or via telephone at (928) 638–7885.

SUPPLEMENTARY INFORMATION: The FAA and NPS, with a working group established under the auspices of the National Parks Overflights Advisory Group (NPOAG) and any cooperating agency(ies), will develop alternatives to meet the statutory mandate for substantial restoration of natural quiet to the GCNP.

In accordance with section 805 of the National Parks Air Tour Management Act of 2000, the Administrator of the FAA and the Director of the NPS jointly established the NPOAG on April 5, 2001. The NPOAG provides continuing advice and counsel with respect to commercial air tour operations over and near national parks. On October 10, 2003, the FAA Administrator signed FAA Order 1110.138, the NPOAG Aviation Rulemaking Committee Charter. The NPOAG is comprised of a balanced group of representatives of general aviation, commercial air tour operators, environmental interests, and American Indian tribes. Additional information related to the NPOAG can be found on their Web site at *http://www.atmp.faa.gov/npoag.htm.*

At the request of the FAA and NPS, the U.S. Institute of Environmental Conflict Resolution (USIECR) began working with the two agencies in 2003 to help develop a cooperative working relationship to facilitate the resolution of issues surrounding the implementation of the Overflights Act at Grand Canyon National Park. The agencies agreed to move forward with an Alternative Dispute Resolution (ADR) process and through the USIECR, the firm of Lucy Moore Associates, Inc. was contracted to assist in the ADR process. Additionally, the two agencies decided to create a working group, under the authority of the NPOAG, to assist in the process. Through notice in the **Federal Register**, the agencies invited nominations from individuals, who met certain criteria established for participation on the working group. The result was the establishment of the Grand Canyon Working Group that consists of representatives from FAA, NPS, air tour operators, environmental groups, American Indian Tribes, commercial and general aviation, recreational interests, and other federal agencies. The working group is specifically tasked with developing recommendations for proposed actions to meet the statutory mandate contained in the Overflights Act. Information obtained during the public scoping process will inform and assist the working group in developing recommendations. The working group will participate in the development of the EIS and in any rulemaking that may be required with respect to a final overflights plan.

Further, the FAA and NPS are aware of American Indian Tribes with ties to the GCNP. The FAA, NPS, and Tribes will interact on a government-to-government basis, in accordance with all executive orders, laws, regulations and other memoranda. They are also being invited to participate in the environmental process as Cooperating Agencies in accordance with NEPA and section 106 of the National Historic Preservation Act. To the extent practicable, compliance with section 106 will be combined with the NEPA process, pursuant to Title 36, Code of Federal Regulations, part 800, sections 800.3(b), and 800.8.

The environmental process of developing and reviewing alternatives to achieve the substantial restoration of natural quiet at the GCNP began in 1996. This is also the timeframe when consultation with American Indian Tribes with traditional cultural ties to the park began. Data and documentation from these previous actions have been retained and will be utilized, as necessary, as part of this current undertaking. As a result of the final rulemaking of December 31, 1996, flight free zones, air tours and reporting requirements were defined.

In February 2000, the FAA issued a Supplemental Final Environmental Assessment (SFEA) and Finding of No Significant Impact (FONSI) associated with a final rule to modify the airspace over the GCNP, and a final rule to limit the number of commercial air tour operations that could be flown in that airspace. In May 2000, the FAA implemented the final rule limiting commercial air tour operations. However, the FAA determined that implementation of the airspace and proposed commercial air tour route changes for the east end of the GCNP should be delayed to address safety concerns that had not been previously raised by the commercial air tour operators.

Additionally, in late-spring 2000, litigation related to the SFEA and FONSI was initiated. The litigation related to the final rule for airspace was stayed by the court pending FAA resolution of the safety issues. However, the Court remanded the SFEA, as it pertained to the limitations final rule, back to the FAA for resolution of several issues of concern between the FAA and NPS. Those issues have been substantially resolved and the FAA and NPS are ready to move forward with this EIS to develop and evaluate alternatives for a final overflights plan to substantially restore natural quiet in the GCNP.

Since 1996, there has been considerable public participation in the environmental processes associated with these actions. The FAA, in cooperation with the NPS, held numerous meetings with the Tribes and the public. Copies of the previous environmental documents from 1996 through 2000 were mailed to numerous Federal, State, and local agencies and elected officials; Tribes; private and public organizations and individuals; and libraries within the study area.

As this undertaking will be a follow-on to the previous actions, the December 1996 Final Environmental Assessment and the February 2000 Final Supplemental Environmental Assessment may be reviewed for additional supplemental information at one of the following libraries to which it was mailed:

Librarian, 113 South 1st St., Williams, AZ 86046.

Flagstaff Public Library, Public Service/Reference Room, 300 W. Aspen, Flagstaff, AZ 86001.

Fredonia Public Library, Director, P.O. Box 217, Fredonia, AZ 86022.

Grand Canyon Community Library, Librarian, P.O. Box 518, Grand Canyon, AZ 86023.

Phoenix Public Library, Government Documents, 1221 N. Central Ave., Phoenix, AZ 85004.

Phoenix Public Library, Arizona Room, 1221 N. Central Ave., Phoenix, AZ 85004.

Washington County Library, Reference Department, 50 South Main, St. George, UT 84770.

Kanab City Library, Director, 13 South 100 East #129–6, Kanab, UT 84741.

Mohave County Library, ATTN: Lee Smith, P.O. Box 7000, Kingman, AZ 86402–7000.

William C. Withycombe,

Western Pacific Regional Administrator, Federal Aviation Administration.

Steve Martin,

Deputy Director, National Park Service.

[FR Doc. 06–708 Filed 1–20–06; 2:48 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2005–23099]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 17 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: You may submit comments identified by DOT Docket Management System (DMS) Docket Number FMCSA–2005–23099 using any of the following methods:

- *Web site: http://dmses.dot.gov/submit.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or 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. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *mgunnels@fmcsa.dot.gov,* FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." FMCSA can renew exemptions at the end of each 2-year period. The 17 individuals listed in this notice each have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

John R. Alger

Mr. Alger, 72, has complete loss of vision in his left eye due to phthisis, chronic retinal detachment, and surgical aphakia since 1998. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2005, his ophthalmologist noted, "Mr. Alger has demonstrated the ability to operate a motor vehicle. In my opinion, his vision is stable and sufficient to continue operating a commercial vehicle." Mr. Alger reported that he has driven straight trucks for 25 years, accumulating 125,000 miles and tractor-trailer combinations for 16 years, accumulating 1.6 million miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Gene Bartlett, Jr.

Mr. Bartlett, 43, has had refractive amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/60–2. His optometrist examined him in 2005 and noted, "In my opinion, Mr. Gene Bartlett Jr. has more than sufficient vision to safely operate a commercial vehicle." Mr. Bartlett reported that he has driven straight trucks for 22 years, accumulating 66,000 miles, and tractor-trailer combinations for 22 years, accumulating 66,000 miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Raymond C. Becker

Mr. Becker, 80, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/70. Following an examination in 2005, his optometrist noted, "I do believe that he has the vision to perform driving tasks to operate a commercial vehicle." Mr. Becker reported that he has driven straight trucks for 4 years, accumulating 48,000 miles and tractor-trailer combinations for 49 years, accumulating 5.8 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Marland L. Brassfield

Mr. Brassfield, 50, has had an enucleation of his left eye due to trauma he sustained in 1961. The best uncorrected visual acuity in his right eye is 20/15. His optometrist examined him in 2005 and noted, "In my opinion Mr. Brassfield has more than sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Brassfield reported that he has driven straight trucks for 6 years, accumulating 270,000 miles and tractor-trailer combinations for 9 years, accumulating 900,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Walter M. Brown

Mr. Brown, 49, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in the left 20/200.

Following an examination in 2005, his optometrist noted, "It is my medical opinion that Mr. Brown has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Brown reported that he has driven straight trucks for 19 years, accumulating 988,000 miles and tractor-trailer combinations for 19 years, accumulating 342,000 miles. He holds a Class A CDL from South Carolina. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Rodney D. Curtis

Mr. Curtis, 41, has a prosthetic right eye due to trauma he sustained in 1992. The best corrected visual acuity in his left eye is 20/15. Following an examination in 2005, his optometrist noted, "In my opinion, Mr. Curtis has sufficient vision to operate a commercial vehicle." Mr. Curtis reported that he has driven straight trucks for 4 years, accumulating 80,000 miles and tractor-trailer combinations for 20 years, accumulating 1.4 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Troy S. David

Mr. David, 36, has a prosthetic left eye due to trauma he sustained as a child. The best corrected visual acuity in his right eye is 20/15. Following an examination in 2005, his optometrist noted, "Mr. David's visual deficiency is stable, and he has sufficient vision to operate a commercial vehicle." Mr. David reported that he has driven straight trucks for 5 years, accumulating 50,000 miles and tractor-trailer combinations for 15 years, accumulating 1.2 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Norman J. Day

Mr. Day, 58, has a corneal scar on his left eye due to chicken pox and measles infections he sustained as a child. The best corrected visual acuity in his right eye is 20/15 and in the left, hand motion. His optometrist examined him in 2005 and noted, "I certify that Mr. Norman Day has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Day reported that he has driven straight trucks for 39 years, accumulating 780,000 miles and tractor-trailer combinations for 35 years, accumulating 1 million miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

John M. Doney

Mr. Doney, 47, has had loss of vision in his right eye due to trauma he sustained in 1965. The best corrected visual acuity in his right eye is 20/70 and in the left, 20/20. Following an examination in 2005, his optometrist noted, "We hereby certify that in our opinion he has sufficient vision to operate a commercial vehicle." Mr. Doney reported that he has driven straight trucks for 5 years, accumulating 124,000 miles and tractor-trailer combinations for 1 year, accumulating 15,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Dale Fields

Mr. Fields, 65, has commotio retinae in his left eye due to trauma sustained in 1948. The best corrected visual acuity in the right eye, is 20/40 and in the left, 20/400. Following an examination in 2005, his optometrist noted, "In my opinion, Mr. Fields has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Fields reported that he has driven tractor-trailer combinations for 39 years, accumulating 3,120,000 miles. He holds a Class A CDL from West Virginia. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Billy Ray Jeffries

Mr. Jeffries, 49, has had strabismic amblyopia in his right eye since childhood. His optometrist noted that there is no way of knowing how long he has been amblyopic. The best corrected visual acuity in his right eye is 20/25 and in the left, 20/200. His optometrist examined him in 2005 and noted, "In my professional opinion, Mr. Jeffries has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Jeffries reported that he has driven straight trucks for 6 years, accumulating 150,000 miles. He holds a Class A CDL from West Virginia. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Brian E. Monaghan

Mr. Monaghan, 55, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/200. Following an examination in 2005, his ophthalmologist noted, "He should have sufficient vision to drive a commercial vehicle." Mr. Monaghan reported that he has driven straight trucks for 28 years, accumulating 1.2 million miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Roberto G. Serna

Mr. Serna, 49, has maculopathy in his left eye due to trauma he sustained over 20 years ago. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/70. His optometrist examined him in 2005 and noted "After examining him, in my opinion, he has sufficient vision to operate a commercial vehicle." Mr. Serna reported that he has driven straight trucks for 30 years, accumulating 90,000 miles. He holds a Class C operator's license from Maryland. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Robert V. Sloan

Mr. Sloan, 45, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/80. His optometrist examined him in 2005 and noted, "I think Mr. Robert Sloan has sufficient vision for driving a commercial vehicle." Mr. Sloan reported that he has driven straight trucks for 9 years, accumulating 98,550 miles. He holds a Class C operator's license from North Carolina. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Raymond C. Smith

Mr. Smith, 72, has had ischemic optic neuropathy in his right eye since 2000. The best corrected visual acuity in his right eye is count-finger-vision at 8 feet and in the left, 20/20. Following an examination in 2004, his optometrist noted, "In my opinion, Mr. Smith retains more than enough vision to perform the driving tasks required to operate a commercial vehicle." Mr. Smith reported that he has driven straight trucks for 8 years, accumulating 384,000 miles and tractor-trailer combinations for 45 years, accumulating 2.7 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Gary N. Wilson

Mr. Wilson, 51, has a prosthetic right eye due to an injury he sustained in 1959. The best corrected visual acuity in

his left eye is 20/20. Following an examination in 2005, his optometrist noted, "I feel Gary has sufficient vision to operate a commercial vehicle. He has had this condition since he has been driving and he has a very good driving record." Mr. Wilson reported that he has driven straight trucks for 31 years, accumulating 775,000 miles. He holds a Class D operator's license from Utah. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

William B. Wilson

Mr. Wilson, 63, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/80 and in the left, 20/20. Following an examination in 2005, his ophthalmologist noted, "It is my medical opinion that Mr. Wilson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Wilson reported that he has driven straight trucks for 47 years, accumulating 1.2 million miles and tractor-trailer combinations for 6 years, accumulating 600,000 miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The agency will consider all comments received before the close of business February 24, 2006. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on January 18, 2006.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. E6–856 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 38]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of the Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the next meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The RSAC meeting topics include opening remarks from the FRA Administrator, an update on the National Rail Safety Action Plan, a discussion of track issues, hazardous material non-accident releases, a rail security update, and the Collision Analysis Study (concluding work previously undertaken by the Collision Analysis Working Group). Status reports will be given on the Passenger Safety, Railroad Operating Rules, and Roadway Worker Safety working groups. The report of the Railroad Operating Rules Working Group is expected to be its final report on preparation of a notice of proposed rulemaking to address three principal causes of human factor train accidents, and the Committee may be asked to vote on the recommendations contained in that report if available sufficiently in advance of the meeting. The Committee will be asked to vote to accept a task to review and revise the Railroad Locomotive Safety Standards, and FRA may offer a task regarding improvement of the Track Safety Standards (including resolution of issues raised in comments under the interim final rule on joint integrity in continuous welded rail).

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m., and conclude at 4 p.m., on Wednesday, February 22, 2006.

ADDRESSES: The meeting of the RSAC will be held at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005, (at Massachusetts Avenue and 14th Street), (202) 842–1300. The meeting is open to the public on a first-come, first-serve basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Patricia Butera, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590, (202) 493–6212 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The meeting is scheduled to begin at 9:30 a.m., and conclude at 4 p.m., on Wednesday, February 22, 2006. The meeting of the RSAC will be held at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005, (at Massachusetts Avenue and 14th Street), (202) 842–1300. RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual voting representatives and five associate representatives drawn from among 30 organizations representing various rail industry perspectives, two associate representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, and other diverse groups. Staffs of the National Transportation Safety Board and the Federal Transit Administration also participate in an advisory capacity.

See the RSAC Web site for details on pending tasks at: *http://rsac.fra.dot.gov.* Please refer to the notice published in the **Federal Register** on March 11, 1996, (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on January 17, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–859 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA–2006–23656]

Incentive Grants To Support Increased Safety Belt Use Rates Section 406 Implementing Guidelines

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of grant program for States that enact and enforce primary safety belt use laws or achieve and maintain a high safety belt use rate without primary safety belt use laws.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a new primary safety belt use law and safety belt performance grant

program to increase safety belt use by Americans in passenger motor vehicles. The program makes funds available during fiscal years 2006 through 2009 to provide a one-time only grant to States that enact and enforce primary safety belt use laws within certain time periods or achieve 85 percent or higher safety belt use for two consecutive years without a primary safety belt use law. This notice informs the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of Northern Mariana Islands, Guam and the Virgin Islands, through their Governors' Representatives for Highway Safety, of the application procedures to receive grant funds to be made available in fiscal years 2006 through 2009.

DATES: Applications must be submitted on or before July 1 of the fiscal year for which a State seeks a grant.

ADDRESSES: Applications must be submitted to the appropriate Regional Administrator.

FOR FURTHER INFORMATION CONTACT: For program issues, John Oates, Chief, Implementation Division, Office of Injury Control Operations and Resources, NTI–200, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–2121. For legal issues, Tina Mun Ro, Attorney-Advisor, Office of Chief Counsel, NCC–113, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION:

Background

Section 2005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) establishes a grant program to encourage increased safety belt use by Americans in passenger motor vehicles. The law accomplishes this by rewarding States that enact and enforce a primary safety belt use law or, in the absence of a primary law, achieve and maintain a safety belt use rate of 85 percent or higher in two consecutive years. The one-time grant program is codified at 23 U.S.C. 406 ("the Section 406 Program"), and allows recipients to use funds for a variety of highway safety or roadway safety purposes.

Requirements To Receive a Grant

The Section 406 Program provides three circumstances under which States may qualify for a one-time grant award. A State may enact a primary safety belt use law on or after January 1, 2003 (a "New Primary Law State"); it may have a primary safety belt use law in effect on or before December 31, 2002 (a "Pre-2003 Primary Law State"); or it may achieve a safety belt use rate of 85 percent or higher in two consecutive calendar years beginning after December 31, 2005 (a "Safety Belt Performance State"). These qualification requirements are described in more detail below. Note that a State may receive only one grant and under only one of these categories for the duration of the Section 406 grant program.

New Primary Law States

SAFETEA–LU provides a one-time grant award equal to 475 percent of the amount apportioned to the State under Section 402(c) for Fiscal Year (FY) 2003 to any State that "enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles." Under this program, a conforming primary safety belt use law is a safety belt use law that allows law enforcement officials to stop a passenger motor vehicle and issue a citation to, at a minimum, any front seat passenger not wearing a safety belt, without the need for probable cause to believe that another violation has been committed. "Passenger Motor Vehicle" is defined under the statute to mean a passenger car, a pickup truck, and a van, minivan or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.

Since SAFETEA–LU contains the qualifier that the safety belt use law be "enacted for the first time," only States that did not have a conforming primary safety belt use law in effect at any time on or before December 31, 2002 may qualify as a New Primary Law State. Also, since SAFETEA–LU requires the safety belt use law to be "in effect" and the State to be "enforcing" it, the law must not only be enacted but be in operation, allowing citations to be issued. Therefore, for example, a primary safety belt use law that has a future effective date or that includes a provision limiting enforcement to written warnings during a "grace period" after the law goes into effect would not be deemed in effect or being enforced until the effective date is reached or the grace period ends.

In order for a New Primary Law State to qualify for a grant award in a fiscal year, SAFETEA–LU further requires that the law be enacted before July 1 of that fiscal year. A law enacted on or after July 1 is deemed by the statute to be enacted on October 1 of the next Federal fiscal year. In the event that a State enacts a conforming primary safety belt use law by June 30 of a fiscal year that will not go into effect until sometime between July 1 and the cut-off date for award of that fiscal year's grants, the agency will set aside funds for that State, but will not award those funds until the agency confirms that the law is in effect and is being enforced and has received a certification to that effect from the State.

While NHTSA does not require or encourage the adoption of exemptions, the agency notes that many existing safety belt use laws contain a number of exemptions. The agency believes that the Section 406 Program's ultimate goal of achieving higher belt use rates would not be served by denying a grant to States whose laws contain any exemptions, without regard to the nature of those exemptions. On the other hand, some exemptions would so severely undermine the safety considerations underlying the statute as to render a State whose law contains such exemptions ineligible for a grant. The agency will review each State's primary safety belt use law to determine the acceptability of any exemptions. As NHTSA did in 1998 to implement the Section 405 grant program under the Transportation Equity Act for the 21st Century (TEA–21), the agency has reviewed existing safety belt use laws and has determined that the following exemptions are not incompatible with the requirements of SAFETEA–LU:

- Persons with medical conditions who are unable to use a safety belt, provided there is written documentation from a physician;
- Postal, utility, and other commercial drivers who make frequent stops in the course of their business;
- Emergency vehicle operators and passengers;
- Persons riding in seating positions or vehicles not required to be equipped with safety belts;
- Public and livery conveyances;
- Farm vehicles;
- Unrestrained occupants when all safety belts are being used by other occupants;
- Vehicles designed for 10 or more people;
- Off-road vehicles;
- Persons riding in parade vehicles; and
- Persons in the custody of police.

The agency has accepted these exemptions by long-standing application in safety belt programs. A State that enacts a law with any exemption other than those identified as acceptable should anticipate that the agency will review the exemption to determine whether its impact on traffic safety is minimal and it is, therefore, acceptable.

Pre-2003 Primary Law States

SAFETEA–LU provides a one-time grant award equal to 200 percent of the amount apportioned to the State under Section 402(c) for FY 2003 to "each State that enacted, has in effect, and is enforcing a conforming primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003." NHTSA has identified and reviewed all primary safety belt use laws enacted before January 1, 2003. The following States qualify for grants as Pre-2003 Primary Law States: Alabama, American Samoa, California, Commonwealth of the Northern Mariana Islands, Connecticut, District of Columbia, Guam, Hawaii, Iowa, Louisiana, Maryland, Michigan, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Puerto Rico, Texas, Virgin Islands, Washington.

Two States that enacted primary safety belt use laws before January 1, 2003, Georgia and Indiana, do not qualify for grants as Pre-2003 Primary Law States because their laws do not include coverage for all passenger motor vehicles, a requirement of SAFETEA–LU.

Safety Belt Performance States

SAFETEA–LU provides a one-time grant award equal to 475 percent of the amount apportioned to the State under Section 402(c) for FY 2003 to any State that does not have a conforming primary safety belt use law but, after December 31, 2005, has a State safety belt use rate of 85 percent or higher for each of the two consecutive calendar years immediately preceding the fiscal year in which the State is applying for the grant. SAFETEA–LU specifies that the safety belt use rate is to be determined under criteria developed by the Secretary of Transportation (by delegation, NHTSA).

On September 1, 1998, NHTSA published in the **Federal Register** the "Uniform Criteria for State Observational Surveys of Seat Belt Use" (codified at 23 CFR part 1340). The Uniform Criteria, adopted as a final rule after addressing State comments, established requirements to ensure the statistical validity and consistency of safety belt use surveys conducted in connection with a grant program under the Transportation Equity Act for the 21st Century (TEA–21). Since States have already implemented the procedures and deployed the resources to conduct these surveys, and have been conducting these surveys for many years, NHTSA intends to retain these Uniform Criteria for use in the Section 406 Program. This will ensure that the integrity of safety belt use rate data is maintained without imposing new burdens or procedures on the States. Therefore, a State seeking a grant as a Safety Belt Performance State must demonstrate the required safety belt use rates by conducting surveys in accordance with the Uniform Criteria at 23 CFR part 1340.

The first fiscal year a State may receive a grant as a Safety Belt Performance State is FY 2008. This results from SAFETEA–LU's requirement that the two consecutive calendar years of 85 percent safety belt use rate begin in calendar year 2006 and precede the fiscal year of the grant. Only States without a conforming primary safety belt use law in effect and that did not have such a law in effect on August 10, 2005 (the date SAFETEA–LU was enacted) are eligible for a grant as a Safety Belt Performance State. The August 10, 2005 date precludes a State from rescinding an existing primary safety belt use law in an effort to qualify as a Safety Belt Performance State. We believe this would be inconsistent with SAFETEA–LU's intent.

Eligibility

The Section 406 Program derives its definition of "State" from 23 U.S.C. 401. In accordance with 23 U.S.C. 401, the 50 States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam and the Virgin Islands ("the States") are eligible to apply for grants under Section 406.

Application Procedures

New Primary Law States

To apply for grant funds in a fiscal year, New Primary Law States must submit the certifications required by Appendix 1, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator by no later than July 1 of the fiscal year. (In order to receive its grant award as soon as possible following the date of effectiveness of its primary safety belt use law, a State is encouraged to submit this information earlier than the July 1 deadline of each year.)

Pre-2003 Primary Law States

Pre-2003 Primary Law States need not submit an application. SAFETEA–LU provides that, to the extent funds remain in each fiscal year after award of grants to all qualifying New Primary Law States and Safety Belt Performance States, including Catch-Up grants, NHTSA may make awards to Pre-2003 Primary Law States. The Pre-2003 Primary Law States identified under that section will receive grants in accordance with this statutory provision. Pre-2003 Primary Law States must submit the certifications required by Appendix 2, signed by the Governor's Representative for Highway Safety, as a precondition to receiving grant funds.

Safety Belt Performance States

Beginning in FY 2008, a Safety Belt Performance State may qualify for a grant by having safety belt use rates of 85 percent or more for the two consecutive calendar years preceding the fiscal year for which it seeks a grant (i.e., a State seeking a grant in FY 2008 must have a safety belt use rate of 85 percent or more in calendar years 2006 and 2007 and a State seeking a grant in FY 2009 must have a safety belt use rate of 85 percent or more in calendar years 2007 and 2008). The reported safety belt use rates must be at least 85 percent for each year, as mandated by SAFETEA–LU, and measured by observational surveys conducted in accordance with the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR part 1340. The State's survey must be reviewed and approved by NHTSA. A State whose survey has previously been approved by NHTSA as conforming to the Uniform Criteria and whose survey design has remained unchanged does not need to resubmit its survey for review. For each survey year, a Safety Belt Performance State must provide the use rate information (from its survey results) and certifications required by Appendix 3, signed by the Governor's Representative for Highway Safety.

NHTSA will accept the information and certifications required by Appendix 3 for a given calendar year from June 15 of that calendar year through March 1 of the following calendar year. States may conduct more than one survey in a calendar year, and may submit a safety belt use rate and accompanying certification for each survey. For the purposes of this program, the final measure of the State's safety belt use rate for a given calendar year is the highest result obtained by the State for that year, using a conforming survey. Within 30 days of a State's submission of the information and certifications required by Appendix 3 in each calendar year, NHTSA will respond with one of the following: (1) A confirmation that the submitted safety belt use rate is based on a survey that is consistent with the Uniform Criteria for State Observational Surveys of Seat Belt Use; (2) a determination that the submission is not consistent with the

Uniform Criteria for State Observational Surveys of Seat Belt Use, with an explanation of the reasons for this determination; or, (3) a request for additional information to assist in determining whether the reported safety belt use rate is acceptable.

Award Procedures

Initial Agency Response

New Primary Law States

Within 30 days following receipt of the specified application materials, NHTSA will respond to New Primary Law States with one of the following: (1) An affirmation that the State's law satisfies the requirements for a Section 406 grant; (2) a determination that the law is not a conforming primary safety belt use law, with an explanation of the reasons for this determination; or (3) a request for additional information to assist in determining whether the law is a conforming primary safety belt use law.

Pre-2003 Primary Law States

If funds remain after all qualifying New Primary Law States (and, beginning in FY 2008, all Safety Belt Performance States) have received their awards in a fiscal year, the agency will notify Pre-2003 Primary Law States of their awards. Before receiving any grant funds, a Pre-2003 Primary Law State must submit the certification required by Appendix 2, as described above under "Application Procedures."

Safety Belt Performance States

Beginning in FY 2008, the agency will notify Safety Belt Performance States of their awards, based on achieving a safety belt use rate of 85 percent or more for the two consecutive calendar years preceding the fiscal year of the grant. Before receiving any grant funds, a Safety Belt Performance State must submit the certification required by Appendix 4.

Award of Grant Funds

Section 406 authorizes $124.5 million during each of four fiscal years from FY 2006 through FY 2009. SAFETEA–LU provides that, in the event that there are insufficient funds available to fully fund all eligible States under the Section 406 grant program, the agency must first make grants to New Primary Law States and Safety Belt Performance States, in the order in which conforming laws are enacted or the 85 percent use rate is achieved for 2 consecutive calendar years, respectively. For purposes of determining the order of grant awards, a New Primary Law State will be deemed to have enacted its law on the date it becomes effective (because SAFETEA–LU requires the law to be "in effect") and a Safety Belt Performance State will be deemed to have achieved its safety belt use rate on December 31 of the second of the two consecutive calendar years for which it submits its safety belt use rates (because SAFETEA–LU and the Uniform Criteria at 23 CFR part 1340 allow for the measurement of safety belt use rates throughout the calendar year). Subject to the availability of funds in each fiscal year, NHTSA will award grants to New Primary Law States and Safety Belt Performance States based on the date they were deemed to achieve compliance. If necessary due to funding constraints, Safety Belt Performance States will receive awards in descending order of the safety belt use rate achieved during the second of the two consecutive calendar years on which the award is based.

SAFETEA–LU provides for a "Catch-Up" grant in the next fiscal year to any New Primary Law State or Safety Belt Performance State that did not receive a grant due to a shortfall in available funds, provided the State's primary safety belt use law remains in effect or its safety belt use rate remains at 85 percent or more in the calendar year preceding the fiscal year of the Catch-Up grant. Subject to these conditions, should funds be exhausted before NHTSA has fully funded all New Primary Law State grants and Safety Belt Performance State grants in a fiscal year, these shortfall States will receive Catch-Up awards before any new grants are awarded in the following fiscal year.

After awards have been made to all qualifying New Primary Law States (and, beginning in FY 2008, to all Safety Belt Performance States) in a fiscal year, including all Catch-Up awards, NHTSA will award any remaining funds in that fiscal year to Pre-2003 Primary Law States. SAFETEA–LU provides that these awards may be made in "annual installments." Therefore, if remaining amounts are insufficient to fully fund the Pre-2003 Primary Law States, NHTSA intends to provide each such State a share of the available funds (up to the maximum for which the State qualifies) based on the ratio of the State's fully-funded grant to the total grant funds for which these States collectively qualify (consistent with SAFETEA–LU's requirement that a grant be made to "each State"). A Pre-2003 Primary Law State may continue to receive annual installment awards only as long as it remains in compliance with the award criteria.

In the event that funds remain in the Section 406 program after all qualifying States have been fully funded in FY 2009, including Catch-Up grants and completion of annual installments, SAFETEA–LU provides that those amounts are to be allocated among all States that have in effect and are enforcing conforming primary safety belt use laws. SAFETEA–LU further provides that the allocations are to be made in accordance with the formula for apportioning funds to the States under Section 402.

Eligible Uses of Grant Funds

As prescribed by SAFETEA–LU, grant funds awarded under Section 406 may be used for any safety purpose under Title 23, United States Code, including behavioral and infrastructure safety programs, or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including:

- Intersection improvements;
- Pavement and shoulder widening;
- Installation of rumble strips and other warning devices;
- Improving skid resistance;
- Improvements for pedestrian or bicyclist safety;
- Railway-highway crossing safety;
- Traffic calming;
- The elimination of roadside obstacles;
- Improving highway signage and pavement marking;
- Installing priority control systems for emergency vehicles at signalized intersections;
- Installing traffic control or warning devices at locations with high accident potential;
- Safety conscious planning; and,
- Improving crash data collection and analysis.

SAFETEA–LU stipulates that each State that receives a Section 406 grant must expend at least $1 million of those funds for safety activities under 23 U.S.C. Chapter 4, which are administered by HTSA, and a State that receives full funding must meet this requirement. If a State receives less than the full grant to which it is entitled in a fiscal year and receives later catch-up grants or installments, the State may, at its election, pro-rate the amount spent on safety activities under 23 U.S.C. Chapter 4 across the fiscal years during which the grant is paid out.

States are encouraged to consult the Strategic Highway Safety Plan, developed and implemented in accordance with 23 U.S.C. 148, when determining the uses of these grant funds.

Financial Accounting and Administration

Within 30 days after notification of award, but in no event later than September 12, States must submit a letter to the appropriate NHTSA Regional Administrator and FHWA Division Administrator, signed by both the Governor's Representative for Highway Safety and the Chief Executive of the State's Department of Transportation, specifying how the State intends to split the funds between behavioral highway safety programs administered by NHTSA and Federal-aid highway safety programs administered by FHWA, provided that at least $1 million of the funds (or a pro-rated amount, as noted above) must be identified for behavioral highway safety activities. The funds identified for Federal-aid highway safety programs will be provided to FHWA to administer. (The letter to the Regional and Division Administrators is necessary to ensure proper accounting for the federal funds.) Within that time period, States must also submit electronically to the agency a program cost summary (HS Form 217) obligating the NHTSA-administered funds to programs authorized under 23 U.S.C. 406. Submission of the letter to NHTSA/FHWA Regional and Division Administrators and the NHTSA program cost summary is a precondition to receiving grant funds. The Federal share of programs funded under this Section shall be 100 percent.

Reporting Requirements

Each fiscal year until all Section 406 grant funds are expended, States should carefully document how they intend to use the NHTSA-administered funds in the Highway Safety Plan they submit pursuant to 23 U.S.C. 402 (or in an amendment to that plan) and detail the program activities accomplished in the Annual Report they submit pursuant to 23 CFR 1200.33.

Each fiscal year until all Section 406 grant funds are expended, States should carefully document how they intend to use the FHWA-administered funds in the States' program of projects and strategies to reduce identified safety problems pursuant to 23 U.S.C. 148 and detail the program activities accomplished in the annual report they submit pursuant to 23 U.S.C. 148(g).

BILLING CODE 4910–59–P

APPENDIX 1

NEW PRIMARY SAFETY BELT USE LAW CERTIFICATION FORM

State:_____ Fiscal Year: _____

I hereby certify that the safety belt use law, available at

_____,
(include citations to all relevant provisions)

is (check one):

- ☐ in effect and being enforced,
- ☐ will be in effect on _____ and will be enforced on
(date)

_____;
(date)

and that the State (or Commonwealth) of _____:

- will use the Section 406 grant funds awarded in accordance with the requirements of Section 2005(e) of SAFETEA-LU, Pub. L. 109-59; and
- will administer the Section 406 grant funds in accordance with 49 CFR Part 18.

_____
Governor's Highway Safety Representative

Date:_____

APPENDIX 2

PRE-2003 PRIMARY SAFETY BELT USE LAW CERTIFICATION FORM

State :_____ Fiscal Year: _____

I hereby certify that the State's safety belt use law is in effect and being enforced and that the State (or Commonwealth) of _____:

- will use the Section 406 grant funds awarded in accordance with the requirements of Section 2005(e) of SAFETEA-LU, Pub. L. 109-59; and
- will administer the Section 406 grant funds in accordance with 49 CFR Part 18.

_____
Governor's Highway Safety Representative

Date:_____

APPENDIX 3

STATE SAFETY BELT SURVEY CERTIFICATION FORM

State: _____ Survey Year: _____

State Safety Belt Use Rate: _____% Standard Error: _____%

Part A: Certification

I hereby certify that:

- The reported safety belt use rate is based on a survey whose design was approved by NHTSA, in writing, as conforming to the Uniform Criteria for State Observational Surveys of Seat Belt Use, 23 CFR Part 1340.
- The survey design has remained unchanged since the survey was approved.
- The survey samples all passenger motor vehicles (including passenger cars, pickup trucks, vans, minivans and sport utility vehicles with a gross vehicle weight rating of less than 10,000 pounds), measures safety belt use by all front outboard occupants in the sampled vehicles, and counts safety belt use completely within the calendar year for which the safety belt use rate is reported.
- The individual named below is a qualified Statistician and has reviewed and approved the safety belt use rate and standard error reported above.

_____

Governor's Highway Safety Representative

Date: _____

Part B: Data and Statistician Contact Information

The above reported safety belt use rate and standard error are based on the following.

Observation Site	Inverse of the Site's Selection Probability	Number of Belted Front Seat Outboard Occupants Observed at the Site	Number of Front Seat Outboard Occupants Observed at the Site
1			
2			
3			
… (continue listing for all observation sites)			
Total	NA		

_____

Printed Name of State Safety Belt Use Survey Statistician

Address: _____

Email: _____

Phone: _____

APPENDIX 4

SAFETY BELT PERFORMANCE STATE CERTIFICATION FORM

State :_____ Fiscal Year: _____

I hereby certify that the State (or Commonwealth) of _____:

- will use the Section 406 grant funds awarded in accordance with the requirements of Section 2005(e) of SAFETEA-LU, Pub. L. 109-59; and
- will administer the Section 406 grant funds in accordance with 49 CFR Part 18.

_____
Governor's Highway Safety Representative

Date:_____

Issued on: January 19, 2006.

Jacqueline Glassman,

Deputy Administrator.

[FR Doc. 06–718 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Applications for Modification of Special Permit.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of special permits *e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" demote a modification request. There applications have been separated from the new applications for special permits to facilitate processing.

DATES: Comments must be received on or before February 9, 2006.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington, DC, or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of special permits is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 18, 2006.

R. Ryan Posten,

Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of special permit	Nature of special permit thereof
Modification Special Permits					
11579–M		Dyno Nobel, Inc. Salt Lake City, UT.	49 CFR 177.848(e)(2); 177.848(g)(3).	11579	To modify the special permit to authorize the transportation of additional Class 8 materials in non-DOT specification metal containers.
11691–M		Sensient Flavors, Inc. Indianapolis, IN.	49 CFR 176.83(d); 176.331; 176.800(a).	11691	To modify the special permit to update a proper shipping description and authorize the transportation of a Class 9 material with Class 3 and Class 8 materials not subject to the segregation requirements for vessel storage when shipped in the same transport vehicle.
12844–M		Delphi Corporation Vandalia, OH.	49 CFR 173.301(h); 173.302(a); 175.3.	12844	To modify the special permit to authorize an increase in maximum service pressure of the non-DOT specification cylinder design.
12920–M		Epichem, Inc. Haverhill, MA.	49 CFR 173.181(c) ...	12920	To modify the special permit to authorize VCR connections and allow both the 10 and 20 liter drums to be made of 304 or 316 stainless steel.
14183–M		LND, Inc. Oceanside, NY.	49 CFR 173.302a, 172.101(9A).	14183	To modify the special permit to authorize additional design types, reduce the minimum volumetric capacity of certain design types, and authorize titanium as an additional material of construction.
14282–M		Dyno Nobel Transportation, Inc. Salt Lake City, UT.	49 CFR 173.835(g) ..	14282	To reissue the special permit originally issued on an emergency basis for the transportation in commerce of certain detonators and detonator assemblies on the same motor vehicle with other Class 1 explosives when they are in separate and isolated cargo-carrying compartments powered by the same tractor.

[FR Doc. 06–699 Filed 1–24–06; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazards Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If Confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington, DC, or at *http://dms.dot.gov.*

This notice of receipt of applications for special permits is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 18, 2006.

R. Ryan Posten,

Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
		New Special Permits		
14296–N		Triple S Gas Tanks (PTY) Ltd dba GasCon Elsieriver, South Africa.	49 CFR 173.315	To authorize the manufacture, marking, sale and use of certain non-DOT Specification steel portable tanks conforming with Section VII, Division 2 of the ASME Code for the transportation in commerce of Division 2.1 and 2.2 materials. (modes 1, 2, 3)
14297–N		Southeast Testing & Engineering Lawrenceville, GA.	49 CFR 173.201, 173.202, 173.203.	To authorize the transportation in commerce of certain hazardous material liquids in a UN5H woven plastic bag. (modes 1, 3, 4, 5)
14298–N		Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 180.209(a) and (b).	To authorize the transportation in commerce of certain hazardous materials in DOT Specifications 3AX, 3AAX and 3T cylinders with a water capacity over 125 lbs that may be requalified every ten years rather than every five years. (modes 1, 2, 3)
14299–N		Great Lakes Chemical Corporation El Dorado, AR.	49 CFR 172.102(c) Special Provision B32.	To authorize the transportation in commerce of ethylene dibromide in MC 312 cargo tank motor vehicles, (mode 1)
14301–N		Triple S Gas Tanks (PTY) Ltd dba GasCon Elsieriver, South Africa.	49 CFR 178.274(b) and 178.276 (b)(1).	To authorize the manufacture, marking, sale and use of certain non-DOT specification steel portable tanks which are designed and constructed in accordance with Section VIII, Division 2 of the ASME Code for three transportation in commerce of Division 2.1 and 2.2 materials. (modes 1, 2, 3)
14303–N		Constellation Energy Lusby, MD.	49 CFR 173.403, 173.427 (b)(1), 173.465(c) and 173.465(d).	To authorize the one-time, one-way transportation in commerce of reactor vessel closure heads in alternative packaging. (mode 1)

[FR Doc. 06–700 Filed 1–24–06; 8:45am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–05–22356]

RIN 2137–AE13

Hazardous Materials: Enforcement Procedures

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meetings.

SUMMARY: PHMSA is inviting interested persons to participate in a series of public meetings that will address new hazardous materials transportation enforcement authority contained in the Hazardous Materials Safety and Security Reauthorization Act of 2005 (Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), enacted on August 10, 2005. This expanded authority permits DOT enforcement personnel to open the outer packaging(s) of a package believed to contain hazardous materials; order a package believed to contain hazardous

materials to be transported to an appropriate facility for examination and analysis; assist in the safe resumption of transportation of a package when practicable and an imminent hazard is found not to exist; and, when an imminent hazard may exist, remove a package from transportation or issue an emergency restriction, prohibition, recall, or out-of-service order.

DATES: *Public meetings:*

(1) February 21, 2006, starting at 8 a.m., in Dallas, Texas;

(2) March 8, 2006, starting at 9 a.m., in Washington, DC; and

(3) March 15, 2006, starting at 3 p.m., in Seattle, Washington.

ADDRESSES: *Public meetings:*

(1) Dallas/Addison Marriott Quorum by the Galleria, 14901 Dallas Parkway, Dallas, TX 75254;

(2) DOT Headquarters, Nassif Bldg., Room 2230, 400 Seventh Street, SW., Washington, DC 20590; and

(3) Doubletree Guest Suites Seattle, South Center, 16500 South Center Parkway, Seattle, WA 98188. This meeting will be conducted in conjunction with the Multimodal Hazmat Transportation Training Seminar being held on March 14–15, 2006. To register for the Seminar (free to the first 450 pre-registrants), please complete and submit the registration form available on the Web site of PHMSA's Office of Hazardous Materials Safety (*http://hazmat.dot.gov/training/training.htm*).

Oral presentations: Any person wishing to present an oral statement should notify Vincent Lopez, by telephone, e-mail, or in writing, at least four business days before the date of the public meeting at which the person wishes to speak. Oral statements will be limited to 15 minutes per commenter. For information on facilities or services for persons with disabilities or to request special assistance at the meetings, contact Mr. Lopez by telephone or e-mail as soon as possible.

Docket: For access to the docket to read background documents including those referenced in this document go to *http://dms.dot.gov* and/or Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jackie K. Cho (*jackie.cho@dot.gov*) or Vincent Lopez (*vincent.lopez@dot.gov*), Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Room 8417, Washington, DC 20590, (202) 366–4400.

SUPPLEMENTARY INFORMATION:

Statutory Amendments to Inspection and Investigation Authority

On August 10, 2005, the President signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, 119 Stat. 1144. Title VII of SAFETEA–LU—the Hazardous Materials Safety and Security Reauthorization Act of 2005—revised 49 U.S.C. 5121 to provide that a designated agent of the Secretary of Transportation may open and examine a package offered for, or in, transportation when an officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material. If it is determined that a statutory or regulatory violation constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard. Such action will be in the form of a written emergency order describing the violation, condition, or practice underlying the imminent hazard; stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and describing the standards and procedures for obtaining relief from the order. A petition for review of the action under section 554 of title 5 may be filed within 20 calendar days of the date of issuance of the emergency order. If a petition for review of an action is timely filed and the review is not completed within 30 days from the date the petition is filed, the action will cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

PHMSA invites interested persons to participate in a series of three public meetings to discuss the manner in which DOT should implement the authority in revised 49 U.S.C. 5121 (c) and (d).

Among the topics to be addressed at the public meetings are the following:

1. The types of outer packagings that could be opened by an inspector, if the person in possession of the package does not agree to open the package himself.

2. Whether the legal standard for opening an outer packaging, *i.e.*, "an objectively reasonable and articulable belief that the package may pose an imminent hazard," needs further explanation in the regulations.

3. The locations at which a package would be observed and the relevance of this fact to the manner of opening the outer packaging and, if no imminent hazard is found, the manner of reclosing the package for further transportation in compliance with the Hazardous Materials Regulations (HMR).

4. The amount of time required to open an outer packaging, examine the inner container(s) or receptacle(s) and, when no imminent hazard is found, reclose the package for further transportation in compliance with the HMR.

5. The circumstances under which a person would be required to have a package transported, opened, and the contents examined and analyzed, at an appropriate facility.

6. The time and cost for the facility to examine and analyze the contents of a package.

7. The value of the contents of a package which would be examined and analyzed at an appropriate facility.

8. The effect upon an offeror or transporter subject to an emergency action or order, including removing a package from transportation or ordering a restriction, prohibition, recall, or out-of-service order in order to abate an imminent hazard.

9. Conditions that would be appropriate for including in an emergency restriction, prohibition, recall, or out-of-service order, such as allowing a vehicle to be moved to a safe location for inspection or vehicle repairs.

10. The time and cost of preparing a petition for review of an emergency action or order.

11. The criteria necessary to seek relief from the issuance of an emergency action or order.

Documents

A copy of the relevant text of Title VII of SAFETEA–LU—the Hazardous Materials Safety and Security Reauthorization Act of 2005 revising 49 U.S.C. 5121 may be obtained from DOT Docket Management System Web site: *http://dms.dot.gov.* and/or 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.

Issued in Washington, DC, on January 19, 2006, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 06–726 Filed 1–24–06; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5310–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

DATES: Written comments should be received on or before March 27, 2006. to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION: *Title:* Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business.

OMB Number: 1545–1225.

Form Number: 5310–A.

Abstract: Internal Revenue Code section 6058(b) requires plan administrators to notify IRS of any plan mergers, consolidations, spinoffs, or transfers of plan assets or liabilities to another plan. Code section 414(r) requires employers to notify IRS of separate lines of business for their deferred compensation plans. Form 5310–A is used to make these notications.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time per Respondent: 10 hours, 35 minutes.

Estimated Total Annual Burden Hours: 158,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–863 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 138529–05

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 138529–05, Section 1503(d) Failure to File Relief.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Section 153(d) Failure to File Relief.

Notice Number: 1545–1987.

Abstract: Treasury regulations § 1.1503–2(b) provides that a dual consolidated loss of a dual resident corporation cannot offset the taxable income of any domestic affiliate in the taxable year in which the loss is recognized or in any other taxable year. To implement this general rule and its exceptions, Treas. Reg. §§ 1.1503–2, l.503–2A, and 1.1503–2T require various filings to be included in a timely filed tax return. Taxpayers that fail to include § 1503(d) filings on a timely basis are currently required to request an extension of time to file under the provisions of § 301.9100–1 through 301.9100–3. This Notice announces that taxpayers will not be required to request extensions for most section 1503(d) filings if they can demonstrate that the failure to timely file was due to reasonable cause and not willful neglect.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 898.

Estimated Time per Respondent: 1 hour, 22 minutes.

Estimated Total Annual Burden Hours: 1,238.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–865 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4029

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4029, Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits.

OMB Number: 1545–0064.

Form Number: 4029.

Abstract: Form 4029 is used by members of recognized religious groups apply for exemption from social security and Medicare taxes under Internal Revenue Code sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Current Actions: There are no changes being made to Form 4029 at this time.

Type of Review: Extension of a current OMB approval. *Affected Public:* Individuals or households.

Estimated Number of Respondents: 3,754.

Estimated Time per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 3,154.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–866 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–54–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI–54–93 (TD 8554), Clear Reflection of Income in the Case of Hedging Transactions (§ 1.146–4(d)).

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution, Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Clear Reflection of Income in the Case of Hedging Transactions.

OMB Number: 1545–1412.

Regulation Project Number: FI–54–93.

Abstract: This regulation provides guidance to taxpayers regarding when gain or loss from common business hedging transactions is recognized for tax purposes and requires that the books and records maintained by a taxpayer disclose the method or methods used to account for different types of hedging transactions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 22,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–867 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13614(SP)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13614(SP), Interview and Intake Sheet.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION: *Title:* Interview and Intake Sheet.

OMB Number: 1545–1985.

Form Number: 13614(SP).

Abstract: This Spanish version of Form 13614(SP) is used by screeners, preparers, or others involved in the return preparation process to more accurately complete tax returns of Spanish speaking taxpayers having low to moderate incomes. These persons need assistance having their returns prepared so they can fully comply with the law.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations.

Estimated Number of Respondents: 85,540.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 17,108.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–868 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8882

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8882, Credit for Employer-Provided Child Care Facilities and Services.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Credit for Employer-Provided Child Care Facilities and Services.

OMB Number: 1545–1809.

Form Number: 5882.

Abstract: Qualified employers use Form 8882 to request a credit for employer-provided child care facilities and services. Section 45F provides credit based on costs incurred by an employer in providing child care facilities and resource and referral services. The credit is 25% of the qualified child care expenditures plus 10% of the qualified child care resource and referral expenditures for the tax year, up to a maximum credit of $150,000 per tax year.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and invididuals.

Estimated Number of Respondents: 666,666.

Estimated Time per Respondent: 8 hours, 14 minutes.

Estimated Total Annual Burden Hours: 5,486,662.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–869 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–34–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI–34–91 (TD 8396), Conclusive Presumption of Worthlessness of Debts Held by Banks (§ 1.166–2).

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Conclusive Presumption of Worthlessness of Debts Held by Banks.

OMB Number: 1545–1254.

Regulation Project Number: FI–34–91.

Abstract: Section 1.166–2(d)(3) of this regulation allows a bank to elect to determine the worthlessness of debts by using a method of accounting that conforms worthlessness for tax purposes to worthlessness for regulatory purposes, and establish a conclusive presumption of worthlessness. An election under this regulation is treated as a change in accounting method.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 12, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–873 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2005–89

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2005–89, Temporary Relief for Certain REITs and Taxable REIT Subsidiaries that Provide Accommodations to Persons Affected by Hurricanes Katrina and Rita.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Temporary Relief for Certain REITs and Taxable REIT Subsidiaries that Provide Accommodations to Persons Affected by Hurricanes Katrina and Rita.

OMB Number: 1545–1977.

Notice Number: Notice 2005–89.

Abstract: The Internal Revenue Service will not treat a hotel, motel, or other establishment that otherwise satisfies the definition of a "lodging facility" under section 856(d)(9) of the Internal Revenue Code as other than a "lodging facility" if it is used to provide temporary housing on a nontransient basis to certain persons affected by Hurricane Katrina or Hurricane Rita, provided the recordkeeping requirements of this Notice are satisfied.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 25.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 12, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–874 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13751

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13751, Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

OMB Number: 1545–1969.

Form Number: 13751.

Abstract: The information requested on Form 13751 (as required under Announcement 2005–80) will be used to determine the eligibility for participation in the settlement initiative of taxpayers related through TEFRA partnerships to ineligible applicants. Such determinations will involve

partnership items and partnership-level determinations, as well as the calculation of tax liabilities resolved under this initiative, including penalties and interest.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer

[FR Doc. E6–875 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–28–78]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–28–78 (TD 7845), Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans (§§ 301.6104(a)–1, 301.6104(a)–5, 301.6104(a)–6, 301.6104(b)–1 and 301.6104(c)–1).

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (Larnice.Mack@irs.gov).

SUPPLEMENTARY INFORMATION: *Title:* Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans.

OMB Number: 1545–0817.

Regulation Project Number: EE–28–78.

Abstract: Internal Revenue Code section 6104 requires applications for tax exempt status, annual reports of private foundations, and certain portions of returns to be open for public inspection. Some information may be withheld from disclosure. The Internal Revenue Service needs the required information to comply with requests for public inspection.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, Federal Government, and state, local or tribal government.

Estimated Number of Respondents: 42,370.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 8,538.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–876 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–19 and Notice 98–34

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–19 and Notice 98–34, Guidance for Expatriates under Internal Revenue Code sections 877, 2501, 2107 and 6039F.

DATES: Written comments should be received on or before March 27, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Guidance for Expatriates under Internal Revenue Code section 877, 2501, 2107 and 6039F.

OMB Number: 1545–1531.

Notice Number: Notice 97–19 and Notice 98–34.

Abstract: Notice 97–19 and Notice 98–34 provide guidance regarding the federal tax consequences for certain individuals who lose U.S. citizenship, cease to be taxed as U.S. lawful permanent residents, or are otherwise subject to tax under Code section 877. The information required by these notices will be used to help make a determination as to whether these taxpayers expatriated with a principal purpose to avoid tax.

Current Actions: There are no changes being made to the notices at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 12,350.

Estimated Time per Respondent: 32 minutes.

Estimated Total Annual Burden Hours: 6,525.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer

[FR Doc. E6–896 Filed 1–24–06; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Carolyn Bartholomew, Acting Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on "the national budget of the People's Republic of China, and the fiscal strength of the People's Republic of China in relation to internal instability in the People's Republic of China and the likelihood of the externalization of problems arising from such internal instability." Pursuant to this mandate, the Commission will be holding a public hearing in Washington, DC on February 2–3, 2006.

Background

This event is the second in a series of public hearings the Commission will hold during its 2006 report cycle to collect input from leading experts in academia, business, industry, government and the public on the impact of U.S-China trade and economic relations. The February 2–3 hearing is being conducted to obtain commentary about issues connected to the major domestic challenges facing Chinese leaders. Information on upcoming hearings, as well as transcripts of past Commission hearings, can be obtained from the USCC Web site *http://www.uscc.gov*.

The February 2–3 hearing will be Co-chaired by Commissioners William A. Reinsch and Dr. Larry M. Wortzel.

Purpose of Hearing

The hearing is designed to assist the Commission in fulfilling its mandate by examining the issues to identify the major challenges facing the Chinese leadership, how those challenges manifest themselves in a growing frequency of public protests, how China's state bureaucracies are responding to the protests, and what actions the United States is taking or should be taking as a consequence of the challenges confronting the Chinese leadership. Invited witnesses include administration officials, academic experts, and research fellows.

Copies of the hearing agenda will be made available on the Commission's Web site *http://www.uscc.gov*. Any interested party may file a written statement by February 3, 2005, by mailing to the contact below.

DATES: Thursday, February 2, 2006, 9 a.m. to 2:45 p.m., and Friday, February 3, 2006, 9 to 11:30 a.m., Eastern Standard Time. A detailed agenda for the hearing will be posted to the Commission's Web site at *http://www.uscc.gov* in the near future.

ADDRESSES: The hearing will be held on Capitol Hill in Room 1310 of the Longworth House Office Building, Independence and New Jersey Avenues, SE., Washington, DC. Public Seating is limited to about 50 people on a first come, first served basis.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the hearing should contact Kathy Michels, Associate Director for the U.S.-China Economic and Security Review Commission, 444

North Capitol Street, NW., Suite 602, Washington, DC 20001; phone 202–624–1409, or via e-mail at *kmichels@uscc.gov*.

Authority: The Commission was established in October 2000 pursuant to the Floyd D. Spence National Defense Authorization Act Section 1238, Pub. L. 106–398, 114 Stat. 1654A–334 (2000) (codified at 22 U.S.C. section 7002 (2001), as amended by Public Law 109–108 dated November 16, 2005, and the "Consolidated Appropriations Resolution of 2003," Pub. L. No. 108–7 dated February 20, 2003.

Dated: January 19, 2006.

Kathleen J. Michels,

Associate Director, U.S.-China Economic and Security Review Commission.

[FR Doc. E6–931 Filed 1–24–06; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0013]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, FAX (202) 565–6950 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0013."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0013" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for United States Flag for Burial Purposes, VA Form 21–2008.

OMB Control Number: 2900–0013.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–2008 is used to determine a family member or friend of a deceased veteran eligibility for issuance of a burial flag.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 2, 2005 at page 66487.

Affected Public: Individuals or households, Federal Government, and State, Local or Tribal Government.

Estimated Annual Burden: 162,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 650,000.

Dated: January 10, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–852 Filed 1–24–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0034]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, ((202) 565–8374, fax (202–565–6950 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0034."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0034" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Trainee Request for Leave—Chapter 31, Title 38 U.S.C., VA Form 28–1905h.

OMB Control Number: 2900–0034.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 28–1905h to request leave from their Vocational Rehabilitation and Employment Program training. The trainer or authorized school official must verify on the form that the absence will or will not interfere with claimant's progress in the program. Claimants will continue to receive subsistence allowance and other program services during the leave period as if he or she were attending training. Disapproval of the request may result in loss of subsistence allowance for the leave period.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 02, 2005 at pages 66486—66487.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 30,000.

Dated: January 12, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–853 Filed 1–24–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Geriatrics and Gerontology Advisory Committee will be held at VA Central Office, 810 Vermont Avenue, NW., Washington, DC on April 4–5, 2006. The meeting will be held on April 4 in Room 430 from 8:30 a.m. to 5 p.m. and on April 5 in Room 730 from 8 a.m. to 12 noon. This meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology by assessing the capability of VA health care facilities to meet the medical, psychological, and social needs of older veterans and by evaluating VA facilities designated as Geriatric Research, Educaion, and Clinical Centers.

The meeting will feature presentations on VA research initiatives in areas that affect aging, dementia treatment initiatives, VA nursing home care unit cultural transformation, and performance oversight of the VA Geriatric Research, Education, and Clinical Centers.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee not less than 10 days in advance of the meeting to Mrs. Marcia Holt-Delaney, Office of Geriatrics and Extended Care (114), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Individuals who wish to attend the meeting should contact Mrs. Holt-Delaney, Program Analyst, at (202) 273–8540, at least seven days in advance of the meeting.

Dated: January 18, 2006.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–678 Filed 1–24–06; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 71, No. 16
Wednesday, January 25, 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 THE INTERIOR

Bureau of Land Management

[UT–921–1430–ET; UTU 042887]

Public Land Order No. 7650; Revocation of Public Land Order No. 852; Utah

Correction

In notice document E5–7485 appearing on page 75218 in the issue of Monday, December 19, 2005, make the following correction:

On page 75218, in the third column, in the **EFFECTIVE DATE** heading, "January 18, 2005" should read "January 18, 2006".

[FR Doc. Z5–7485 Filed 1–24–06; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Wednesday,
January 25, 2006

Part II

Department of Labor

Delegation of Authority and Assignment of Responsibility to the Benefits Review Board; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 03–2006]

Delegation of Authority and Assignment of Responsibility to the Benefits Review Board

1. Purpose

To delegate authority and assign responsibility to the Benefits Review Board, define its composition, and describe its functions.

2. Background

The Benefits Review Board (hereinafter referred to as the "Board" or "BRB") has been given by statute and regulation the authority and responsibility to decide certain appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims for compensation or benefits under the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921), and its extensions, as well as pneumoconiosis disability and death claims under the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969 as amended (30 U.S.C. 932(a)). Provision is made under the statute, for judicial review of final orders of the Benefits Review Board in the United States Courts of Appeals. Pursuant to a statutory amendment to Section 21 of the Longshoremen's and Harbor Workers' Compensation Act, the Secretary was required to create the Board in Secretary's Order 38–72, which delegated authority and assigned responsibilities to the Board. A later statutory amendment made other organizational and structural changes, including renaming the act to the "Longshore and Harbor Workers' Compensation Act." This Secretary's Order delegates authority and assigns responsibility to the BRB with certain modifications to Secretary's Order 38–72. Specifically, this Order: (1) Increases the total membership of the Board from three Members to five Members consistent with statutory authority; and (2) codifies the location of the BRB in the Department's organizational structure, consistent with regulatory authority.

3. Directives Affected

Secretary's Order 38–72, establishing the Benefits Review Board, is hereby canceled.

4. Delegation of Authority and Assignment of Responsibilities

As prescribed by statute, the Board has been delegated authority and assigned responsibility to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims for compensation or benefits arising under:

A. The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 *et seq.* as amended;

B. The Defense Base Act, 42 U.S.C. 1651 *et seq.*;

C. The District of Columbia Workmen's Compensation Act, 36 D.C. Code 501 *et seq.*;

D. The Outer Continental Shelf Lands Act, 43 U.S.C. 1331;

E. The Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171 *et seq.*;

F. Title IV, Section 415 and Part C, of the Federal Mine Health and Safety Act of 1977, Public Law 95–164, 91 Stat. 1290 (formerly the Federal Coal Mine Health and Safety Act, hereinafter, FCMHSA, of 1969), as amended by the Black Lung Benefits Act Reform Act of 1977, Public Law 92–239, 92 Stat. 95, the Black Lung Benefits Revenue Act of 1977, Public Law 95–227, 92 Stat. 11, and the Black Lung Benefits Amendments of 1981, Public Law 97–119, 95 Stat. 1643 (30 U.S.C. 901 *et seq.*).

G. Any laws or regulations subsequently enacted or promulgated that provide for final decisions by the BRB upon appeal or review of decisions, as directed by the Secretary, which are similar to those listed under paragraph 4.A. through 4.F. of this section.

5. Composition, Panel Configuration, and Voting

As prescribed by statute:

A. The Board shall consist of five permanent Members, one of whom shall be designated Chair. The Members of the Board shall be appointed by the Secretary of Labor, and shall be especially qualified to serve on such Board. The Chair shall have the authority as chief administrative officer, as delegated by the Secretary, to exercise all administrative functions necessary to operate the Board. The four remaining permanent Members shall be the Associate Members of the Board. Each permanent Member shall serve an indefinite term subject to the discretion of the Secretary.

B. For the purpose of carrying out Board functions, three Members of the Board shall constitute a quorum and official action can be taken only on the affirmative vote of at least three Members.

C. Notwithstanding paragraph 5.(A) and (B), upon application of the Chair of the Board, the Secretary may designate up to four Department of Labor administrative law judges to serve on the Board as temporary Members, for not more than one year.

D. The Board is authorized to delegate to panels of three Members any or all of the powers which the Board may exercise. Each such panel shall have no more than one temporary Member. Two Members shall constitute a quorum of a panel. Official adjudicative action may be taken only on the affirmative vote of at least two Members of a panel. Any party aggrieved by a decision of a panel of the Board may, within thirty days after the date of entry of the decision, petition the entire permanent Board for review of the panel's decision. Upon affirmative vote of the majority of the permanent Members of the Board sitting *en banc*, the petition shall be granted. Notwithstanding this paragraph, *en banc* action is not available in cases arising under the District of Columbia Workmen's Compensation Act.

6. Organizational Placement

As prescribed by the statute, the functions of the Benefits Review Board are quasi-judicial in nature and involve review of decisions made in the course of the administration of the above statutes by the Employment Standards Administration in the Department of Labor. The Board is placed in and shall receive from the Office of the Deputy Secretary necessary funds, personnel, supplies, equipment and records services (20 CFR 801.103).

7. Questions Reviewable; Record; Conclusiveness of Findings; Stay of Payments; Remand

As prescribed by statute:

A. The Board shall be authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under this Act and the extensions thereof. The Board's orders shall be based upon the hearing record. The findings of fact in the decision under review by the Board shall be conclusive if supported by substantial evidence in the record considered as a whole. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer or carrier.

B. The Board may, on its own motion or at the request of the Secretary, remand a case to the administrative law judge for further appropriate action. The consent of the parties in interest shall

not be a prerequisite to a remand by the Board.

8. Time for Appeal to the Board

Notice of appeal must be filed within 30 days of the date the decision or order being appealed from is filed in the office of a district director (20 CFR 701.301(a)(7)). Such notice of appeal shall be in writing and contain the names of the parties, docket or case number, and the date of the decision or order appealed from.

9. Location of Board's Proceedings

The Board shall hold its proceedings in Washington, DC, unless for good cause the Board orders that proceedings in a particular matter be held in another location.

10. Rules and Regulations

The Deputy Secretary may promulgate such rules and regulations as may be necessary or appropriate for effective operation of the Benefits Review Board as an independent quasi-judicial body in accordance with the provisions of the statute. Procedural rules for performance by the Board of its review functions and for ensuring an adequate record for any judicial review of its orders shall be promulgated by the Benefits Review Board with the approval of the Deputy Secretary. Such rules shall incorporate and implement procedural requirements of section 21(b) of the Longshore and Harbor Workers' Compensation Act, as amended.

11. Departmental Counsel

A. Representation before the Board. On any issues requiring representation of the Secretary, the Director, Office of Workers' Compensation Programs, a district director, or an administrative law judge before the Board, such representation shall be provided by attorneys designated by the Solicitor of Labor. Representation of all other persons before the Board shall be as provided for by statute or by the rules of practice and procedure promulgated under Paragraph 10 of this Order (20 CFR 801.401).

B. Representation of Board in Court Proceedings. Except in proceedings in the Supreme Court of the United States, any representation of the Benefits Review Board in court proceedings shall be by attorneys provided by the Solicitor of Labor (20 CFR 801.402).

12. Effective Date

This delegation of authority and assignment of responsibility is effective immediately.

Dated: January 18, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 06–696 Filed 1–24–06; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Wednesday,
January 25, 2006

Part III

Department of Labor

Mine Safety and Health Administration

30 CFR Part 49
Underground Mine Rescue Equipment and Technology; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 49

RIN 1219–AB44

Underground Mine Rescue Equipment and Technology

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Request for information.

SUMMARY: The Mine Safety and Health Administration is requesting data, comments, and other information on issues relevant to underground mine rescue equipment and technology. Over the last several years, improvements have been made to communication devices, sensors and other forms of technology in general industry. As such, continuous development and deployment of mine rescue equipment and technology are crucial to enhancing the effectiveness of mine rescue operations and improving miners' survivability in the event of a mine emergency. Responses to this request for information will assist the Agency in determining an appropriate course of action as necessary to improve mine rescue capabilities.

DATES: Comments must be submitted on or before March 27, 2006.

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *zzMSHA-Comments@dol.gov*. Include the Regulatory Information Number (RIN) for this rulemaking (RIN 1219–AB44) in the subject line of the message.
- Fax: (202) 693–9441. Include RIN 1219–AB44 in the subject line of the fax.
- Mail/Hand Delivery/Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939. If hand-delivered in person or by courier, please stop by the 21st floor first to check in with the receptionist before continuing on to the 23rd floor.
- Instructions: All submissions must reference MSHA and RIN 1219–AB44.

Docket: To access comments electronically, go to *http://www.msha.gov* and click on "Comments" under "Rules and Regulations." All comments received will be posted without change at this Web address, including any personal information provided. Paper copies of the comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert Stone, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939. Mr. Stone can be reached at *Stone.Robert@dol.gov* (Internet E-mail), (202) 693–9444 (voice), or (202) 693–9441 (facsimile). The documents also are available on the Internet at *http://www.msha.gov/currentcomments.asp*. MSHA maintains a listserve on MSHA's Web site that enables subscribers to receive e-mail notification when MSHA publishes rulemaking documents in the **Federal Register**. To subscribe to the listserve, visit the site at *http://www.msha.gov/subscriptions/subscribe.aspx*.

SUPPLEMENTARY INFORMATION:

I. Background

When mine accidents occur, effective mine rescue operation can play a crucial role in ensuring the safe withdrawal of affected miners. Specialized rescue equipment and technology are important components of that effort. Section 501(a) of the Federal Mine Safety and Health Act of 1977 directs the Secretary of Labor and the Secretary of Health and Human Services "as appropriate" to "conduct such studies, research, experiments, and demonstrations as may be appropriate—(2) to develop new or improved methods of recovering persons in coal or other mines after an accident; and (3) to develop new or improved means and methods of communication from the surface to the underground area of a coal or other mine." In addition, section 502(b) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires that the Secretary of Labor, to the greatest extent possible, provide technical assistance to mine operators in meeting the requirements of the Mine Act and in further improving the health and safety conditions and practices in the mines. The Mine Act also requires in Section 115(e) that the Secretary publish regulations for the availability of underground mine rescue teams.

We accordingly test, evaluate and approve certain technologies and equipment for use in mines (see, Title 30, Code of Federal Regulations (CFR), Subchapter B). We also promulgated requirements for underground mine rescue teams in part 49, 30 CFR, covering, among other things, team equipment, equipment maintenance, and training.

II. Current Status of Mine Rescue

The Sago Mine accident in West Virginia on January 2, 2006, that claimed the lives of 12 miners, has underscored the vital role that mine rescue operations play in response to catastrophic mine incidents. An MSHA investigation into the cause or causes of this accident, along with a detailed evaluation of the emergency response, is underway. Therefore, the role that the mine rescue played has yet to be determined and evaluated. We believe, however, that regardless of the outcome of the investigation, the role of equipment and technology in mine rescue efforts merits a separate review so that we can better assure that the best and most practicably available equipment and technology are being deployed—and continuously upgraded—to maximize mine rescue responses and miner survivability in the wake of mine accidents.

III. Key Issues on Which Comment Is Requested

We are requesting comments, data, and other information on topics relevant to underground mine rescue equipment and technology. Public comment is invited in response to the specific questions posed below. Persons may comment on any other relevant aspects, issues, or questions relevant to mine rescue equipment or technology.

Commenters are encouraged to include any related cost and benefit (*e.g.*, lives saved) data with their submission to this request for information. Any specific issues related to the impact on small or remote mines should also be identified.

When answering the questions below, please key your responses to the specific topic and number of the question, and explain the specific reasons supporting your views. Please identify and provide relevant information on which you rely, including, but not limited to, episodes of past experience, as well as data, studies and articles, and standard professional practices.

A. Rapid Deploy Systems

Rapid Deploy Systems are systems which are easily transportable for use in mine emergencies and which can be quickly set up to provide emergency service. An example would be a seismic sensing system for detecting movement underground, or an electromagnetic sensing system to detect signals transmitted by trapped miners. These systems may employ advanced technology and may be under development.

1. What kinds of rapidly deployable systems could be used to locate miners who are trapped by a mine emergency?
2. How would such a system work?
3. Is the system currently available? If not, what obstacles are there to the development and implementation of this type of system? How long would it take to develop the system?

B. Breathing Apparatus

A mine rescue breathing apparatus is a device which provides oxygen for a mine rescue team member to use in contaminated mine atmospheres.

1. U.S. mine rescue teams use devices by Draeger and Biomarine. What other types of breathing apparatuses are currently in use by foreign mine rescue teams?
2. Are these other types of breathing apparatuses the best available for quick response in mine emergencies?
3. Do these apparatuses incorporate the best available technology? Can they be readily obtained? Do they meet U.S. approval and certification standards?
4. How can they be improved? How long would it take and at what cost?

C. Self-Contained Self-Rescuers (SCSR)

SCSRs are devices that provide miners with an MSHA required one hour of useable oxygen to be used for a mine emergency escape. Currently, SCSRs rely on two different technologies. One type uses a chemical reaction to generate oxygen. The other type uses compressed oxygen.

1. Is there more effective technology to protect miners than the SCSRs currently available? If so, please describe.
2. Should an SCSR be developed that provides more than one hour duration of oxygen? What duration is feasible considering that miners must carry the SCSR? Would it be desirable to require smaller and lighter SCSRs with less oxygen capacity to be worn on miner's belts while at the same time requiring longer duration SCSRs to be stored in caches?
3. MSHA standards require each mine operator to make available an approved SCSR device or devices to each miner. Should mines be required to maintain underground caches of SCSRs for miners to use during an emergency, or should each miner have access to more than one SCSR?
4. SCSRs are currently required to be inspected at designated intervals pursuant to 30 CFR 75.1714–3. Should SCSRs be inspected more frequently than the current requirements?
5. SCSR service life is determined by MSHA, NIOSH and the device's manufacturer. The service life can range from ten to fifteen years depending on the type of SCSR. Should the service life of SCSRs be reduced to five years or a different time limit?

D. Rescue Chambers

A rescue chamber is an emergency shelter to which persons may go in case of a mine emergency for protection against hazards. A rescue chamber could provide, among other things, an adequate supply of air, first aid, and an independent communication system.

1. Should rescue chambers be required for coal mines?
2. What characteristics should they have? Should they be mobile? Should the rescue chamber be semi-permanent, or built into the mine?
3. How long should they support a breathable environment?
4. How many people should they support?
5. How many rescue chambers should be required—how far apart should they be located?

E. Communications

1. What types of communication systems can be utilized in an emergency to enhance mine rescue?
2. Current systems include permissible hand-held radios, hand-held radios using small diameter wires, pager systems, sound powered telephones, leaky feeder systems that "leak" radio signals out of and into special cables, and inductive coupled radios that use existing mine wires as a carrier for radio signals. Are there other systems?
3. Should a particular system be required over another? If so, which system and why?
4. What new communication devices or technology may be well suited for day-to-day operations and also assist miners in the event of an emergency?
5. How should information be securely, reliably, and quickly transmitted during emergencies from remote locations to the mine rescue Command Center, or from MSHA headquarters to District offices? What technology should be used to quickly and securely transmit information from the mine site to or from MSHA headquarters, to District offices, mining companies, and the media?
6. How can the number of relay points be minimized in a rescue situation so that communications do not get garbled or misunderstood?
7. How can communications be improved when a rescuer is wearing a breathing apparatus and talking through a speaking diaphragm in the mask?
8. PEDs are one-way communication devices that transmit text messages through the earth to receivers which are carried by miners. PEDs are currently being used in nineteen mines throughout the U.S. Should PEDs be used even though they can only transmit signals to miners and are not bi-directional?
9. Can PEDs be developed into 2-way systems? If so, how long would it take and at what cost?

F. Robotics

A robot is a remote controlled device that can obtain and transmit information relative to the underground environment during mine emergencies. MSHA has pioneered the use of robots in mine emergency operations.

1. Besides providing video, gas readings and temperature readings, what other uses can be made of robotics in mine emergencies?
2. What could be the role of a robot in mine rescue operations?
3. What information could the robot supply to the Command Center?
4. What tasks could robots be built and programmed to perform?
5. Should individual mines use robots for emergency situations?

G. Thermal Imagers and Infra-Red Imagers

Thermal imagers are devices which provide video pictures of the heat emitted by objects underground. Infra-red imagers provide similar information through the use of the infra-red light spectrum.

1. What "thermal imagers" and "infra-red imagers" outside of those currently available in the U.S. are in use in other countries, and how can these be deployed in a mine rescue?
2. Permissible equipment is equipment which is approved by MSHA to be safely used in gassy atmospheres. Should thermal and infra-red imagers be permissible equipment?
3. What are the costs associated with these devices?
4. Should all underground mining operations be required to have one of these devices available on-site?

H. Developing New Mine Rescue Equipment

1. What are the technological or economic problems in developing new equipment such as mine communications equipment or other mine rescue technology?
2. Do manufacturers of such equipment have problems with making the equipment permissible for use?
3. What are the specific problems?
4. Should the approval process for such equipment be streamlined or otherwise changed? Do current approval

standards allow the flexibility for developing new technology?

5. How can equipment manufacturers be encouraged to invest in new technologies for mine rescue equipment?

I. Mine Rescue Teams

Mine rescue teams are specially equipped and trained miners who enter mines during mine emergencies to rescue trapped miners and help recover mines. Teams are equipped with self-contained breathing apparatuses, gas detectors, mine rescue communication systems, and other specialized equipment.

1. What equipment should an effective team have?

2. Should the number of required breathing apparatuses per station be changed? How and why?

3. Each mine rescue station is required to have twelve permissible cap lamps and a charging rack. Each station is also required to have two gas detectors. Should the number of cap lamps and detectors per station be changed? How and why?

4. Where and how should that equipment be maintained?

5. MSHA requirements for mine rescue teams are found in 30 CFR part 49. These requirements cover such topics as type of equipment, equipment maintenance, team membership and training. What other equipment, technology, membership requirements and training would facilitate or would better facilitate team preparedness?

6. Should each team be familiar with the operation of the transportation equipment maintained at all the mines the team covers?

7. Some mine rescue teams are using breathing apparatus which, according to the equipment manufacturer, will soon become obsolete. How can existing mine rescue teams be encouraged to update the equipment and technology they use?

8. Should any new technology be used to assist mine rescue teams at mine emergencies?

J. Government Role

1. What equipment and technology should be promoted to improve mine rescue?

2. How should a mine's status (small, remote or operating under special circumstances) be taken into account in developing new or different equipment requirements?

2. How could our standards and implementation regarding mine equipment and technology be improved?

3. What training, instruction and procedures should be provided to miners to better enable them to survive an underground emergency?

4. What types of emergency supplies (timbering materials, ventilation materials, sealing materials, etc.) should be maintained at each mine site?

5. What non-regulatory initiatives should we explore?

6. What further steps should we take to improve the capability, availability and effective use of mine rescue equipment and technology?

Dated: January 20, 2006.

David G. Dye,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. 06–722 Filed 1–23–06; 10:48 am]

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Federal Register

Wednesday,
January 25, 2006

Part IV

The President

Proclamation 7975—National Sanctity of Human Life Day, 2006

Federal Register
Vol. 71, No. 16
Wednesday, January 25, 2006

Presidential Documents

Title 3—

The President

Proclamation 7975 of January 20, 2006

National Sanctity of Human Life Day, 2006

By the President of the United States of America

A Proclamation

Our Nation was founded on the belief that every human being has rights, dignity, and value. On National Sanctity of Human Life Day, we underscore our commitment to building a culture of life where all individuals are welcomed in life and protected in law.

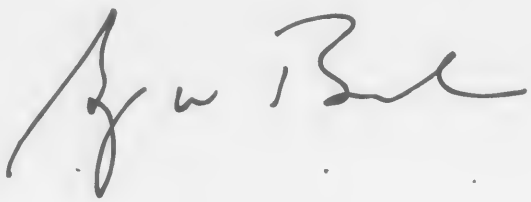
America is making great strides in our efforts to protect human life. One of my first actions as President was to sign an order banning the use of taxpayer money on programs that promote abortion overseas. Over the past 5 years, I also have been proud to sign into law the Born-Alive Infants Protection Act, the Unborn Victims of Violence Act, and a ban on partial-birth abortion, In addition, my Administration continues to fund abstinence and adoption programs and numerous faith-based and community initiatives that support these efforts.

When we seek to advance science and improve our lives, we must always preserve human dignity and remember that human life is a gift from our Creator. We must not sanction the creation of life only to destroy it. America must pursue the tremendous possibilities of medicine and research and at the same time remain an ethical and compassionate society.

National Sanctity of Human Life Day is an opportunity to strengthen our resolve in creating a society where every life has meaning and our most vulnerable members are protected and defended—including unborn children, the sick and dying, and persons with disabilities and birth defects. This is an ideal that appeals to the noblest and most generous instincts within us, and this is the America we will achieve by working together.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, January 22, 2006, as National Sanctity of Human Life Day. I call upon all Americans to recognize this day with appropriate ceremonies and to reaffirm our commitment to respecting and defending the life and dignity of every human being.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–230	3
231–536	4
537–872	5
873–1388	6
1389–1472	9
1473–1682	10
1683–1914	11
1915–2134	12
2135–2452	13
2453–2856	17
2857–2990	18
2991–3204	19
3205–3408	20
3409–3752	23
3753–4032	24
4033–4230	25

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6867 (See: Notice of January 10, 2006).....2133
7757 (See: Notice of January 10, 2006).....2133
7973.....3199
7974.....3201
7975.....4229
Executive Orders:
12947 (See Notice of January 18, 2006).....3407
13099 (See Notice of January 18, 2006).....3407
13395.....3203
Administrative Orders:
Memorandums:
Memorandum of December 15, 2005.....1467
Presidential Determinations:
No. 2006–6 of December 22, 2005.....1469
No. 2006–7 of December 30, 2005.....871
No. 2006–8 of December 30, 2005.....1471
Notices:
Notice of January 6, 2006.....1681
Notice of January 10, 2006.....2133
Notice of January 18, 2006.....3407

5 CFR

337.....3409
1650.....1389
Proposed Rules:
724.....4053
1651.....1984

7 CFR

226.....1
400.....2135
930.....1915
946.....1919
982.....1921
1740.....3205
Proposed Rules:
56.....2168, 4056
57.....4056
70.....2168
319.....1700
457.....4056
1000.....545
1001.....545
1005.....545
1006.....545
1007.....545
1030.....545
1032.....545
1033.....545, 3435
1124.....545
1126.....545
1131.....545
1493.....3790
1496.....3442

9 CFR

78.....2991
317.....1683
381.....1683
391.....2135
590.....2135
592.....2135
Proposed Rules:
77.....1985
318.....2483
381.....2483
392.....1988
439.....2483

10 CFR

35.....1926
Proposed Rules:
20.....29
30.....29, 275
31.....29, 275
32.....29, 275
33.....29
35.....29
50.....4061
73.....3791
150.....275

12 CFR

205.....1473, 1638
741.....4033
742.....4035
Proposed Rules:
Ch. I.....287
Ch. II.....287
Ch. III.....287
Ch. V.....287
611.....1704

13 CFR

Proposed Rules:
120.....4062

14 CFR

11.....1483
21.....534
23.....537, 1926, 2143
25.....1485; 3753
36.....530
39.....231, 873, 1390, 1930, 1935, 1937, 1939, 1941, 1947, 1949, 1951, 2453,

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 25, 2006

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bombardier; published 12-21-05

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Soybean promotion and research order; comments due by 1-31-06; published 12-2-05 [FR E5-06786]

Spearmint oil produced in—

Far West; comments due by 2-3-06; published 12-5-05 [FR 05-23620]

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Basic provisions; written agreements and use of similar agricultural commodities; comments due by 1-30-06; published 11-30-05 [FR 05-23509]

AGRICULTURE DEPARTMENT

Forest Service

National Forest System land and resource management planning:

2005 planning rule; amendments; comments due by 2-3-06; published 1-4-06 [FR E5-08245]

BLIND OR SEVERELY DISABLED, COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE

Committee for Purchase From People Who Are Blind or Severely Disabled

Javits-Wagner-O'Day (JWOD) Program:

Nonprofit agencies and central nonprofit agencies; governance standards; comments due by 1-31-06; published 12-16-05 [FR E5-07439]

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Accident investigation initiation notice and order to preserve evidence; comments due by 2-3-06; published 1-4-06 [FR E5-08239]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

Coastal pelagic species; comments due by 2-1-06; published 1-17-06 [FR E6-00419]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act) and natural gas companies (Natural Gas Act):

Jurisdictional agreements modifications; review standard; comments due by 2-3-06; published 1-4-06 [FR E5-08217]

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Fuel and fuel additives—

Renewable Fuel Program; 2006 default standard; comments due by 1-30-06; published 12-30-05 [FR 05-24611]

Renewable Fuel Program; 2006 default standard; comments due by 1-30-06; published 12-30-05 [FR 05-24610]

Air quality implementation plans:

Ambient air quality standards, national—

Fine particles; comments due by 1-31-06; published 11-1-05 [FR 05-20455]

Fine particles; hearing; comments due by 1-31-06; published 11-15-05 [FR 05-22694]

Air quality implementation plans; approval and promulgation; various States:

Michigan; comments due by 1-30-06; published 12-29-05 [FR E5-08036]

Montana; comments due by 2-2-06; published 1-3-06 [FR 05-24365]

Tennessee; comments due by 2-2-06; published 1-3-06 [FR 05-24412]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Hexythiazox; comments due by 1-30-06; published 12-30-05 [FR E5-08037]

HEALTH AND HUMAN SERVICES DEPARTMENT

Quarantine, inspection, and licensing:

Communicable diseases control; comments due by 1-30-06; published 11-30-05 [FR 05-23312]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Washington; comments due by 2-3-06; published 12-5-05 [FR 05-23637]

Pollution:

Pollution prevention equipment; oil discharge reduction from vessels, and elimination of ozone-depleting solvents in equipment tests; comments due by 2-1-06; published 11-3-05 [FR 05-21573]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

California red-legged frog; comments due by 2-1-06; published 11-3-05 [FR 05-21594]

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Federal leases on takes or entitlements basis; reporting and paying royalties; meeting; comments due by 1-30-06; published 11-29-05 [FR C5-23380]

LABOR DEPARTMENT

Occupational Safety and Health Administration

Construction and occupational safety and health standards:

Roll-over protective structures; comments due by 1-30-06; published 12-29-05 [FR 05-24462]

SOCIAL SECURITY ADMINISTRATION

Social security benefits:

Disability benefits; suspension during continuing disability reviews; comments due by 2-3-06; published 12-5-05 [FR 05-23615]

Fugitive felons and probation or parole violators; nonpayment of benefits; comments due by 2-3-06; published 12-5-05 [FR 05-23618]

TRANSPORTATION DEPARTMENT

Air travel; nondiscrimination on basis of disability:

Medical oxygen and portable respiration assistive devices; comments due by 1-30-06; published 10-21-05 [FR 05-21078]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Transport category airplanes; enhanced airworthiness program for airplane systems and fuel tank safety; comments due by 2-3-06; published 10-6-05 [FR 05-19419]

Airworthiness directives:

BAE Systems (Operations) Ltd.; comments due by 2-3-06; published 1-4-06 [FR E5-08243]

Boeing; comments due by 1-30-06; published 12-15-05 [FR 05-24052]

Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 2-3-06; published 1-4-06 [FR E5-08242]

Eurocopter France; comments due by 2-3-06; published 12-5-05 [FR 05-23602]

Fokker; comments due by 2-3-06; published 1-4-06 [FR E5-08240]

Gulfstream; comments due by 2-3-06; published 1-4-06 [FR E5-08241]

Learjet; comments due by 2-3-06; published 12-5-05 [FR 05-23510]

McCauley Propeller Systems; comments due by 1-30-06; published 11-30-05 [FR 05-23430]

Airworthiness standards:

Special conditions—

Garmin International, Inc.; GFC-700 AFCS on Mooney M20M and M20R airplanes; comments due by 1-30-06; published 12-30-05 [FR 05-24668]

Transport category airplanes—

Airplane performance and handling qualities in

icing conditions; comments due by 2-2-06; published 11-4-05 [FR 05-21793]

Class E airspace; comments due by 2-3-06; published 12-20-05 [FR 05-24228]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Interstate system; highway construction and reconstruction projects; design standards; comments due by 1-30-06; published 11-30-05 [FR 05-23476]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Alcohol-impaired driving prevention programs; incentive grant criteria; comments due by 2-2-06; published 1-3-06 [FR 05-24623]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

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H.R. 4340/P.L. 109–169
United States-Bahrain Free Trade Agreement Implementation Act (Jan. 11, 2006; 119 Stat. 3581)
Last List January 12, 2006

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109th Congress

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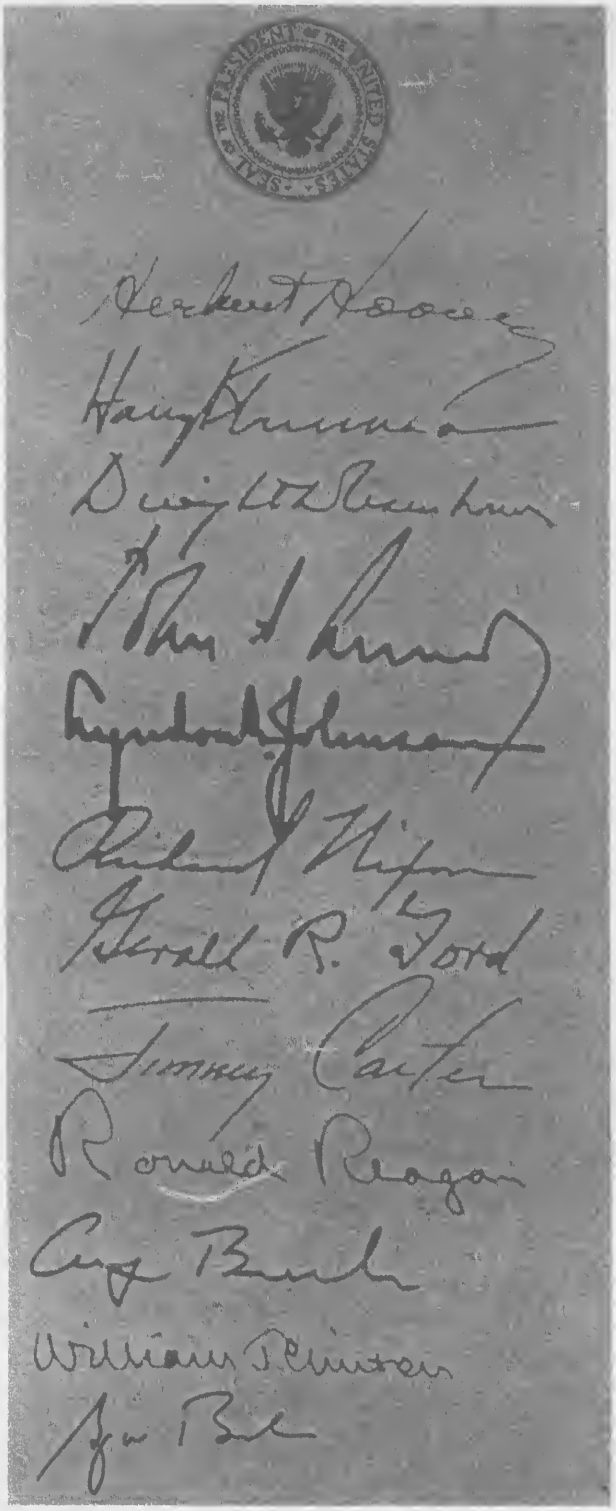

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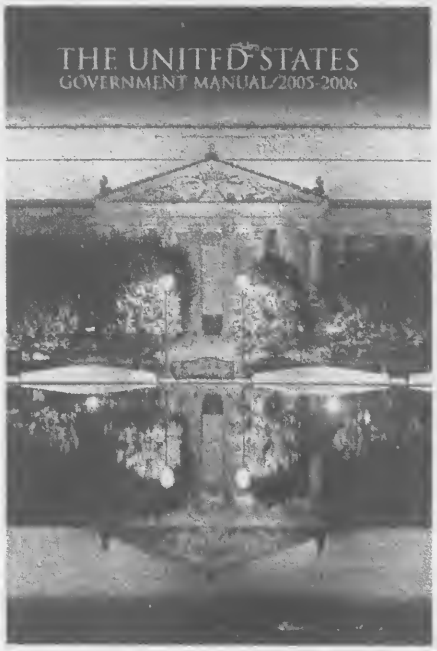

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