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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 03–047–2]

Karnal Bunt; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Karnal bunt regulations by adding certain areas in Arizona to the list of regulated areas either because they were found during surveys to contain a bunted wheat kernel, or because they are within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. We also removed certain areas from the list of regulated areas in Riverside County, CA, because detection and delineating surveys showed them to be free of Karnal bunt. These actions were necessary to prevent the spread of Karnal bunt into noninfected areas of the United States and to relieve restrictions that were no longer warranted.

EFFECTIVE DATE: The interim rule became effective on January 5, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Spaide, Senior Program Advisor, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737–1236; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum X Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the movement of infected seed. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture, to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

Upon detection of Karnal bunt in Arizona in March of 1996, Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat producing areas in the United States. The quarantine continues in effect, although it has since been modified, both in terms of its physical boundaries and in terms of its restrictions on the production and movement of regulated articles from regulated areas. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–16 (referred to below as the regulations).

In an interim rule effective and published in the **Federal Register** on January 5, 2004 (69 FR 245–247, Docket No. 03–047–1), we amended the regulations by adding certain areas in Arizona to the list of regulated areas either because they were found during surveys to contain a bunted wheat kernel, or because they are within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. We also removed certain areas from the list of regulated areas in Riverside County, CA, because detection and delineating surveys show them to be free of Karnal bunt. These actions were necessary to prevent the spread of Karnal bunt into noninfected areas of the United States and to relieve restrictions that are no longer warranted.

Comments on the interim rule were required to be received on or before March 5, 2004. We received one comment by that date. The comment was from a State wheat commission and supported the interim rule. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the Karnal bunt regulations by adding certain areas in Arizona to the list of regulated areas and by removing certain areas in California from the list of regulated areas. These actions were necessary to prevent the spread of Karnal bunt into noninfected areas of the United States and to relieve restrictions that were no longer warranted.

The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

The entities most likely to be affected by the interim rule are wheat producers whose fields were added to or removed from the list of regulated areas and who plan to grow wheat in the future. The exact number of such producers is unknown, but no more than about 35 producers are likely to have been affected by the interim rule.

Producers affected by the interim rule are likely to be small in size based on U.S. Small Business Administration (SBA) standards for wheat farmers, as well as data from the 1997 Census of Agriculture (1997 Census), which is the most recent census available. SBA classifies wheat producers with total annual sales of less than $750,000 as small entities. According to 1997 Census data, there were 6,135 farms in Arizona in 1997. (This total includes, but is not limited to, wheat farms.) Of the total number of farms in Arizona, 89 percent had annual sales that year of less than $500,000, well below SBA's small entity threshold of $750,000 for wheat farms. The percentage of farms with annual sales of less than $500,000 in California (74,126 total farms) was also 89 percent in 1997.

Producers whose fields are deregulated will benefit because they will be able to move wheat or other Karnal bunt host crops without restriction. Prior to this rule, any wheat, durum wheat, or triticale grown in those fields could be moved into or through a non-regulated area without restriction

only if it first tested negative for bunted kernels. In addition, any wheat, durum wheat, or triticale grown in those fields could not be used as seed within or outside a regulated area unless it was tested and found free of bunted kernels and spores. Conversely, producers whose fields were regulated became subject to those movement restrictions.

However, the interim rule's impact on individual producers is not likely to be significant, for several reasons. First, the testing of grain for Karnal bunt is performed free of charge for producers in all regulated areas. Producers in the newly regulated areas will not face an additional financial burden because of this requirement. Second, little or no commercial wheat seed is, or is expected to be, grown in the affected fields. Because of that, the elimination or imposition of restrictions on moving seed is expected to have only a minimal impact on producers.

The elimination or imposition of restrictions will increase or restrict marketing opportunities for producers, with impacts on prices received by individual producers. Those producers in California whose fields were deregulated may enjoy increased market opportunities for any wheat they grow in the future (e.g., the availability of export markets) and receive a higher commodity price. Alternatively, those producers in Arizona whose fields were added to the regulated area may see the market for their wheat become more limited and receive a lower price. For producers in their first regulated crop season, any negative price-received effects will be mitigated by compensation for losses. Therefore, the net effect on producer revenues in the newly regulated areas is not expected to be significant. In subsequent regulated crop seasons, producers will incorporate the risk of Karnal bunt infestation into their planting decisions.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 245–247 on January 5, 2004.

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

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

Done in Washington, DC, this 11th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18785 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–130–3]

Oriental Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Oriental fruit fly regulations by removing portions of Los Angeles and Orange Counties, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. The interim rule was necessary to relieve restrictions that were no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States.

EFFECTIVE DATE: The interim rule became effective on July 15, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, National Program Manager, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737–1231; (301) 734–6553.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, vegetables, and berries. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks, which can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), were established to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective on July 15, 2003, and published in the **Federal Register** on July 22, 2003 (68 FR 43286–43287, Docket No. 02–130–2), we amended the regulations by removing portions of Los Angeles and Orange Counties, CA from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. That action was based on our determination that the Oriental fruit fly had been eradicated from those portions of Los Angeles and Orange Counties, CA, and that the quarantine and restrictions were no longer necessary.

Comments on the interim rule were required to be received on or before September 22, 2003. We received one comment by that date. The comment was from a representative of a Hispanic growers advisory committee. The commenter supported the interim rule, but posed two questions.

First, the commenter noted that in the interim rule we stated that the Oriental fruit fly "has been eradicated" and "no longer exists" in the quarantined areas. The commenter asked if these were two different types of determinations based on different processes, or part of the same process. Our statements that the Oriental fruit fly "has been eradicated" and "no longer exists" in the quarantined area were simply two ways of referring to the same type of determination based on a single process.

Second, the commenter noted that in the interim rule we stated that our determination that Oriental fruit fly had been eradicated was based on trapping surveys. The commenter asked if trapping surveys were the only method used to determine that the Oriental fruit fly had been eradicated. Trapping surveys conducted by Animal and Plant Health Inspection Service and State inspectors are known to be reliable and effective and, as such, are the only method we employ to determine whether the Oriental fruit fly is present in a particular area.

The commenter also suggested some editorial changes to the text in the interim rule's **SUPPLEMENTARY INFORMATION** section. These suggested changes had no bearing on the basis for or effects of the interim rule, thus there is no need to make any changes to the interim rule in response to the commenter's suggestions.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 68 FR 43286–43287 on July 22, 2003.

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

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

Done in Washington, DC, this 11th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18784 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number EE–RM–98–440]

RIN 1904–AB46

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Energy (DOE) is revising the Code of Federal Regulations to incorporate certain energy conservation standards that will apply to residential central air conditioners and central air conditioning heat pumps beginning on January 23, 2006. More specifically, this technical amendment replaces standard levels currently in the Code of Federal Regulations, which were established by a final rule published by DOE on May 23, 2002, with standard levels that were set forth in a final rule published by DOE on January 22, 2001. As explained in the Supplementary Information section of this notice, the U.S. Court of Appeals for the Second Circuit has ruled that DOE's withdrawal of the rule published on January 22, 2001, was unlawful, and, therefore, that certain standards promulgated in the May 23, 2002, final rule are invalid. DOE has decided not to seek further review of that ruling. Consequently, DOE is now revising its regulations consistent with the court's ruling.

EFFECTIVE DATE: February 21, 2001.

ADDRESSES: For access to the docket to read background documents or comments received, go to *http://www.eere.energy.gov/buildings/appliance_standards/residential/ac_central.html* and/or visit the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note: The Department's Freedom of Information Reading Room (formerly Room 1E–190 at the Forrestal Building) is no longer housing rulemaking materials.

FOR FURTHER INFORMATION CONTACT: Michael Raymond, Project Manager, Energy Conservation Standards for Central Air Conditioners and Heat Pumps, Docket No. EERM–440, EE–2J/ Forrestal Building, U.S. Department of Energy, Office of Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611. E-mail: *michael.raymond@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Appliance Energy Conservation Act of 1987 (NAECA) (Pub. L. 100–12) established energy efficiency standards for various consumer products, including residential central air conditioners, and directed DOE to undertake periodic rulemakings to decide whether to amend those standards. NAECA also amended the Energy Policy and Conservation Act (EPCA) to provide, in section 325(o)(1), that when DOE reviews efficiency standards, it "may not prescribe any amended standard which increases the maximum allowable energy use * * * or decreases the minimum required energy efficiency" of a covered product (42 U.S.C. 6295(o)(1)).

On January 22, 2001, DOE published a rule in the **Federal Register** amending the efficiency standard for central air conditioners established by NAECA by increasing the standard from 10 to 13 SEER ("seasonal energy efficiency ratio"), a 30% increase in energy efficiency. 66 FR 7170. The rule stated it would become effective on February 21, 2001, but manufacturers' products would not have to meet the 13 SEER standard until January 23, 2006. On January 24, 2001, the President's Chief of Staff issued a memorandum asking Executive Branch agencies to review ongoing rulemaking proceedings and to postpone the effective dates of any new regulations already published in the **Federal Register** but not yet effective, pending completion of such review. DOE accordingly issued a rule delaying the effective date of the central air conditioner rule published on January 22, 2001, in order to conduct that review. 66 FR 8745. DOE also received a petition from the Air-Conditioning and Refrigeration Institute (ARI), an association of air conditioner manufacturers, asking DOE to reconsider the 13 SEER standard. On May 23, 2002, DOE withdrew the 13 SEER rule and promulgated a new rule establishing a 12 SEER efficiency standard, a 20% increase in energy efficiency. 67 FR 36368.

The Natural Resources Defense Council (NRDC) and various public interest groups, joined by several state Attorneys General, filed suit in federal district court, and alternatively in the U.S. Court of Appeals for the Second Circuit, challenging DOE's withdrawal of the 13 SEER rule and promulgation of the 12 SEER standard. Among other things, they alleged that section 325(o)(1) of EPCA precluded DOE from adopting the 12 SEER rule.

On January 13, 2004, the U.S. Court of Appeals for the Second Circuit decided that once DOE published the 13 SEER rule for central air conditioners in the **Federal Register**, DOE was precluded from subsequently adopting a lower standard for those products. Thus, DOE's actions of withdrawing the 13 SEER standard and promulgating the 12 SEER standard violated section 325(o)(1). *Natural Resources Defense*

Council, et al. v. *Abraham*, 355 F.3d 179 (2nd Cir. 2004). The court's written opinion disclaimed any intent to affect a challenge to the 13 SEER standard that ARI and certain manufacturers had filed in the U.S. Court of Appeals for the Fourth Circuit. Nonetheless, ARI and the manufacturers who joined it in the Fourth Circuit lawsuit subsequently withdrew their challenge to the 13 SEER rule, citing the need for regulatory certainty.

On April 2, 2004, DOE publicly announced that, in the interest of giving all affected persons regulatory certainty, DOE would not appeal or seek further review of the ruling of the U.S. Court of Appeals for the Second Circuit. As a result, the 13 SEER standard will apply to covered conventional central air conditioners and central air conditioning heat pumps manufactured on or after January 23, 2006. Today's technical amendment places those standards in the Code of Federal Regulations.

II. Summary of Today's Action

DOE is revising the energy conservation standards for split system and single package central air conditioners and central air conditioning heat pumps in 10 CFR 430.32(c)(2). The standards currently set forth in the Code of Federal Regulations are 12 SEER for split system and single package air conditioners, and 12 SEER, 7.4 HSPF ("heating system performance factor") for split system and single package heat pumps. DOE is replacing these standards with the following standards established in the January 22, 2001 final rule: 13 SEER for split system and single package air conditioners, and 13 SEER, 7.7 HSPF for split system and single package heat pumps.

The January 22, 2001, final rule also established a separate product class of "space constrained products," but it did not establish amended standard levels for those products. DOE explained in the preamble to the January 22, 2001, final rule that it was concerned that air conditioners and heat pumps intended to serve applications with severe space constraints would have difficulty in meeting the 13 SEER standard. 66 FR 7196. Therefore, DOE established a separate product class for space constrained products and reserved setting standard levels for that class pending completion of later rulemaking proceedings. Subsequently, in the rulemaking culminating in the May 23, 2002, final rule, DOE determined that 12 SEER was the appropriate standard level for all space constrained products except those with through-the-wall condensers, and the final rule established lower standards for through-the-wall products. 67 FR 36402–03, 36406. The standards established for space constrained products in the May 23, 2002, final rule are unaffected by the January 13, 2004, ruling of the U.S. Court of Appeals for the Second Circuit because the January 22, 2001, final rule set no standards for these products and. thus, section 325(o)(1) of EPCA does not affect the validity of the standards for these products that were published on May 23, 2002.

The May 23, 2002, final rule set forth a compliance date of January 23, 2006, for all of the efficiency standards promulgated in that rule, including the standards for space-constrained products. This is the same compliance date set forth in the January 22, 2001, final rule for the standards promulgated in that rule. The May 23, 2002, rule's preamble discussed why DOE was adopting the January 23, 2006, compliance date. 67 FR 36394. DOE recognized that by adopting that date, the time between publication of the May 23, 2002 rule and the compliance date would be less than the five-year interval provided in the statute (42 U.S.C. 6295(d)(3)(A)). DOE explained that when it cannot meet a statutory deadline to promulgate a rule (as was the case with the products covered by the January 22, 2001, and May 23, 2002, final rules), it generally will adjust the date such rule becomes enforceable to allow for the same amount of lead time as provided in the statute, but that in special circumstances DOE will not follow that practice. DOE stated it would set the effective date for the standards adopted in the May 23, 2002, final rule at less than five years from the date of publication because all of the participants in the rulemaking, including representatives of the manufacturers who would have to comply with the standards and who had expressed a view about the matter, had agreed that five years of lead time was not needed for central air conditioner manufacturers to come into compliance with the standards adopted in the May 23, 2002, final rule. DOE stated, however, that if, as a result of unforeseen circumstances, a particular manufacturer could show hardship, inequity, or unfair distribution of burdens, the effective date would be subject to case-by-case exception pursuant to the authority of the DOE Office of Hearings and Appeals under section 504 of the Department of Energy Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003.

DOE is today adding to § 430.2 the definition of "space constrained product" that was contained in the January 22, 2001, final rule and adding the following standard levels set in the May 23, 2002, final rule: 12 SEER for space constrained air conditioners, and 12 SEER, 7.4 HSPF for space constrained heat pumps. The standards for through-the-wall air conditioners and heat pumps, which fall within the definition of "space constrained product," were set in the May 23, 2002, final rule, and are: 10.9 SEER, 7.1 HSPF for split systems and 10.6 SEER, 7.0 HSPF for single package systems. The definition of "through-the-wall air conditioner and heat pump" in § 430.2 provides that this product class exists only for products manufactured prior to January 23, 2010. After that date, the standards for space constrained products will apply to these through-the-wall air conditioners and heat pumps.

The January 22, 2001, final rule did not establish a separate product class for covered central air conditioners that are small duct, high velocity systems, and the rule did not establish separate standards for them; nor are these products "space constrained products" (*see* discussion at 66 FR 7197). Therefore, small duct, high velocity systems are covered by the 13 SEER standard. However, in the May 23, 2002, notice of final rulemaking, DOE explained that information obtained in the rulemaking proceeding indicated that the special characteristics of small duct, high velocity systems made it unlikely such systems could even meet the 12 SEER/7.4 HSPF standard established for conventional products. 67 FR 36396. As a result, DOE included the NAECA-prescribed values for small duct, high velocity systems in the Code of Federal Regulations pending a later rulemaking to establish appropriate standards for that product class. Because the Second Circuit's ruling prevents DOE from adopting a standard lower than 13 SEER for small duct, high velocity systems, despite DOE's later conclusion that it is unlikely such systems can meet even the lower 12 SEER standard, DOE has advised the two manufacturers of these systems of the procedure available to affected persons under section 504 of the Department of Energy Organization Act (42 U.S.C. 7194), which allows them to request relief from hardship or inequity caused by a regulation issued under EPCA.

Lastly, DOE is revising § 430.2 to remove several definitions that were included to implement DOE's interpretation of section 325(o)(1) of EPCA contained in the preamble of the May 23, 2002, final rule. Because its

interpretation has been rejected by the U.S. Court of Appeals for the Second Circuit, DOE is removing the definitions of "effective date," "maximum allowable energy use," "maximum allowable water use," and "minimum required energy efficiency."

III. Procedural Requirements

A. Public Comment

Section 553 of the Administrative Procedure Act (5 U.S.C. 553) generally requires agencies to provide notice and an opportunity for public comment on substantive rules. The requirement does not apply, however, if the agency determines that notice and opportunity for public comment is "impracticable, unnecessary, or contrary to the public interest." DOE finds that good cause exists for dispensing with notice and opportunity for public comment in issuing today's rule because those procedures are unnecessary where, as here, the agency has no discretion in fashioning its rule. Today's final rule simply conforms the Code of Federal Regulations to the order of the U.S. Court of Appeals for the Second Circuit, and DOE has no discretion to deviate from the court's ruling. For this reason, DOE has characterized today's rule as a "technical amendment" in the Action line at the beginning of this notice of final rulemaking.

B. Review Under Executive Order 12866

The Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) has determined that today's regulatory action is a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, DOE submitted today's notice to OMB for clearance under the Executive Order. OMB has completed its review.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov*. DOE today is simply revising the Code of Federal Regulations to comply with the order of the U.S. Court of Appeals for the Second Circuit. Because the energy conservation standards in this rule were established in prior final rules that have taken effect, today's rule does not establish any new requirements for any entity. On this basis, DOE certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Review Under the Paperwork Reduction Act

This rulemaking will impose no new information or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and the Department's implementing regulations at 10 CFR part 1021. This rule is a technical amendment that reinstates, pursuant to court order, amended energy conservation standards for central air conditioners and heat pumps that were published in the **Federal Register** on January 22, 2001. DOE has therefore determined that this rule is covered by the Categorical Exclusion in paragraph A6 to subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

F. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's final rule and has determined that it does 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. State regulations that may have existed on the products that are the subject of today's final rule were preempted by the Federal standards established in NAECA. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. No further action is required by Executive Order 13132.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. With respect to a proposed regulatory action that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation), section 202 of the Act requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a),(b)). The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under the Act (62 FR 12820) (also available at *http://www.gc.doe.gov*). The rule published today does not contain any Federal mandate; it only incorporates into the Code of Federal Regulations standards set forth in rules promulgated in 2001 and 2002.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630

DOE has determined pursuant to Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

K. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

N. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on August 4, 2004.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by:

■ a. Removing the definitions for "effective date," "maximum allowable energy use," "maximum allowable water use," and "minimum required energy efficiency"; and

■ b. Adding a definition of "space constrained product" in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Space constrained product means a central air conditioner or heat pump:

(1) That has rated cooling capacities no greater than 30,000 BTU/hr;

(2) That has an outdoor or indoor unit having at least two overall exterior dimensions or an overall displacement that:

(i) Is substantially smaller than those of other units that are:

(A) Currently usually installed in site-built single family homes; and

(B) Of a similar cooling, and, if a heat pump, heating capacity; and

(ii) If increased, would certainly result in a considerable increase in the usual cost of installation or would certainly result in a significant loss in the utility of the product to the consumer; and

(3) Of a product type that was available for purchase in the United States as of December 1, 2000.

* * * * *

■ 3. Section 430.32 of subpart C is amended by revising paragraph (c)(2) to read as follows:

§ 430.32 Energy and water conservation standards and effective dates.

* * * * *

(c) * * *

(2) Central air conditioners and central air conditioning heat pumps manufactured on or after January 23,

2006, shall have Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor no less than:

Product class	Seasonal energy efficiency ratio (SEER)	Heating seasonal performance factor (HSPF)
(i) Split system air conditioners	13	
(ii) Split system heat pumps	13	7.7
(iii) Single package air conditioners	13	
(iv) Single package heat pumps	13	7.7
(v)(A) Through-the-wall air conditioners and heat pumps-split system [1]	10.9	7.1
(v)(B) Through-the-wall air conditioners and heat pumps-single package [1]	10.6	7.0
(vi) Small duct, high velocity systems	13	7.7
(vii)(A) Space constrained products-air conditioners	12	
(vii)(B) Space constrained products-heat pumps	12	7.4

[1] As defined in § 430.2, this product class applies to products manufactured prior to January 23, 2010.

* * * * *

[FR Doc. 04–18533 Filed 8–16–04; 8:45 am]
BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the primary credit rate at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.

DATES: The amendments to part 201 (Regulation A) are effective August 17, 2004. The rate changes for primary and secondary credit were effective on the dates specified in 12 CFR 201.51, as amended.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board (202/452–3259); for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

The Board approved requests by the Reserve Banks to increase by 25 basis points the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 2.25 percent to 2.50 percent the rate that each Reserve Bank charges for extensions of primary credit. As a result of the Board's action on the primary credit rate, the rate that each Reserve Bank charges for extensions of secondary credit automatically increased from 2.75 percent to 3.00 percent under the secondary credit rate formula. The final amendments to Regulation A reflect these rate changes.

The 25-basis-point increase in the primary credit rate was associated with a similar increase in the target for the federal funds rate (from 1.25 percent to 1.50 percent) approved by the Federal Open Market Committee (Committee) and announced at the same time. A press release announcing these actions indicated that:

> The Committee believes that, even after this action, the stance of monetary policy remains accommodative and, coupled with robust underlying growth in productivity, is providing ongoing support to economic activity. In recent months, output growth has moderated and the pace of improvement in labor market conditions has slowed. This softness likely owes importantly to the substantial rise in energy prices. The economy nevertheless appears poised to resume a stronger pace of expansion going forward. Inflation has been somewhat elevated this year, though a portion of the rise in prices seems to reflect transitory factors.
>
> The Committee perceives the upside and downside risks to the attainment of both sustainable growth and price stability for the next few quarters are roughly equal. With underlying inflation still expected to be relatively low, the Committee believes that policy accommodation can be removed at a pace that is likely to be measured. Nonetheless, the Committee will respond to changes in economic prospects as needed to fulfill its obligation to maintain price stability.

Regulatory Flexibility Act Certification

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the new primary and secondary credit rates will not have a significantly adverse economic impact on a substantial number of small entities because the final rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The Board did not follow the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of these amendments because the Board for good cause determined that delaying implementation of the new primary and secondary credit rates in order to allow notice and public comment would be unnecessary and contrary to the public interest in fostering price stability and sustainable economic growth. For these same reasons, the Board also has not provided 30 days prior notice of the effective date of the rule under section 553(d).

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[1]

(a) *Primary credit.* The interest rates for primary credit provided to depository institutions under § 201.4(a) are:

Federal Reserve Bank	Rate	Effective
Boston	2.50	Aug. 10, 2004.
New York	2.50	Aug. 10, 2004.
Philadelphia	2.50	Aug. 10, 2004.
Cleveland	2.50	Aug. 10, 2004.
Richmond	2.50	Aug. 10, 2004.
Atlanta	2.50	Aug. 10, 2004.
Chicago	2.50	Aug. 10, 2004.
St. Louis	2.50	Aug. 11, 2004.
Minneapolis	2.50	Aug. 10, 2004.
Kansas City	2.50	Aug. 10, 2004.
Dallas	2.50	Aug. 10, 2004.
San Francisco	2.50	Aug. 10, 2004.

(b) *Secondary credit.* The interest rates for secondary credit provided to depository institutions under 201.4(b) are:

Federal Reserve Bank	Rate	Effective
Boston	3.00	Aug. 10, 2004.
New York	3.00	Aug. 10, 2004.
Philadelphia	3.00	Aug. 10, 2004.
Cleveland	3.00	Aug. 10, 2004.
Richmond	3.00	Aug. 10, 2004.
Atlanta	3.00	Aug. 10, 2004.
Chicago	3.00	Aug. 10, 2004.
St. Louis	3.00	Aug. 11, 2004.
Minneapolis	3.00	Aug. 10, 2004.
Kansas City	3.00	Aug. 10, 2004.
Dallas	3.00	Aug. 10, 2004.
San Francisco	3.00	Aug. 10, 2004.

* * * * *

By order of the Board of Governors of the Federal Reserve System, August 11, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–18754 Filed 8–16–04; 8:45 am]

BILLING CODE 6210–02–P

[1] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–186–AD; Amendment 39–13768; AD 2004–16–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes three existing airworthiness directives (AD); applicable to certain Boeing Model 767–200, –300, and –300F series airplanes. One AD currently requires modification of the nacelle strut and wing structure for certain Boeing Model 767–200, —300, and —300F series airplanes powered by Pratt & Whitney engines. The second AD currently requires a similar modification for certain Boeing Model 767–200, –300, and –300F series airplanes powered by General Electric engines. The third AD currently requires repetitive inspections for cracking of the outboard pitch load fittings of the wing front spar, and corrective action if necessary, for certain Boeing Model 767–200 series airplanes. The third AD also provides a terminating action for the repetitive inspections, which is optional for uncracked pitch load fittings. This amendment requires, for airplanes subject to the first and second existing ADs on which certain modifications have been accomplished previously, reworking the aft pitch load fitting, and installing a new diagonal brace fuse pin. This amendment also requires, for airplanes subject to the third existing AD, replacing the outboard pitch load fitting of the wing front spar with a new, improved fitting, which terminates certain currently required repetitive inspections. The actions specified by this amendment are intended to prevent fatigue cracking in primary strut structure, which could result in separation of the strut and engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2004.

The incorporation by reference of Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000, was approved previously by the Director of the Federal Register as of May 14, 2001 (66 FR 21069, April 27, 2001).

The incorporation by reference of Boeing Service Bulletin 767–54–0081, dated July 29, 1999, was approved previously by the Director of the Federal Register as of May 7, 2001 (66 FR 17492, April 2, 2001).

The incorporation by reference of certain publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 5, 2001 (66 FR 8085, January 29, 2001).

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of October 17, 2000 (65 FR 58641, October 2, 2000).

The incorporation by reference of Boeing Service Bulletin 767-57-0053, Revision 2, dated September 23, 1999, was approved previously by the Director of the Federal Register as of July 24, 2000 (65 FR 37843, June 19, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding the following ADs was published in the **Federal Register** on February 11, 2004 (69 FR 6587):

- AD 2001–02–07, amendment 39–12091 (66 FR 8085, January 29, 2001), which is applicable to certain Boeing Model 767–200, –300, and –300F series airplanes powered by Pratt & Whitney engines.
- AD 2001–06–12, amendment 39–12159 (66 FR 17492, April 2, 2001), applicable to certain Boeing Model 767–200, –300, and –300F series airplanes powered by General Electric engines.

• AD 2001–08–23, amendment 39–12200 (66 FR 21069, April 27, 2001), applicable to certain Boeing Model 767–200 series airplanes.

The action proposed to continue to require modification of the nacelle strut and wing structure, as currently required by AD 2001–02–07 and AD 2001–06–12. The action also proposed to continue to require repetitive inspections for cracking of the outboard pitch load fittings of the wing front spar, and corrective action if necessary, as currently required by AD 2001–08–23. The action also proposed to continue to provide a terminating action for the repetitive inspections, which is optional for uncracked pitch load fittings. For certain airplanes on which certain modifications have been accomplished previously, the action proposed to add new requirements for reworking the aft load pitch fitting, and installing a new diagonal brace fuse pin. For certain other airplanes, the action proposed to add a new requirement for replacing the outboard pitch load fitting of the wing front spar with a new, improved fitting on the left- and right-hand sides of the airplane, which would terminate repetitive inspections currently required by AD 2001–08–23.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. The FAA has duly considered the single comment received.

Request To Clarify Required Actions

The commenter states that the Accomplishment Instructions of Boeing Service Bulletin 767–54–0081, Revision 1, dated February 7, 2002, specify installing a new pitch load fitting with a new part number. The commenter states that the Accomplishment Instructions do not specify reworking the aft load pitch fitting, as stated in the "Differences Between Proposed AD and Service Bulletins" section of the proposed AD. The commenter requests that we revise the proposed AD to clarify that any operator that has accomplished the strut improvement modification per the original issue of Boeing Service Bulletin 767–54–0081, dated July 29, 1999, must accomplish the additional rework in Boeing Service Bulletin 767–54–0081, Revision 1. The commenter notes that this is supported by "Note 7 (1)" of the proposed AD, which indicates that no further action is needed if aft pitch load fittings with certain part numbers are installed.

We do not agree with the commenter's statement that the Accomplishment Instructions in Revision 1 of the service bulletin do not specify reworking the aft load pitch fitting. The commenter is correct that the Accomplishment Instructions do specify installing a new pitch load fitting with a new part number for airplanes not modified per the original issue of the service bulletin. However, Paragraph CB. under "Additional Work Required—Group 3 through 12 Airplanes" in the Accomplishment Instructions of the service bulletin specifies reworking the affected aft pitch load fitting and installing the diagonal brace with a new fuse pin for airplanes with an aft pitch load fitting with certain part numbers.

However, we agree that clarifying paragraph (l) of this AD would be helpful. (We note that the paragraph that the commenter identifies as "Note 7 (1)" is actually paragraph (l) of this AD—with a (lower-case) letter "L," not with a number "1." Paragraph (l) is independent from Note 7.) Paragraph (d) of this AD requires that strut modifications performed after the effective date of this AD be done per Revision 1 of that service bulletin. The requirements of paragraph (l) of this AD should apply only to airplanes that have been modified before the effective date of this AD per the original issue of Boeing Service Bulletin 767–54–0081. We recognize that the wording in paragraph (l) of the proposed AD could inadvertently require extra work for any operator who accomplished Revision 1 of the service bulletin before the effective date of this AD. This was not our intent. Therefore, for clarification, we have revised paragraph (l) of this AD to apply only to subject airplanes "on which the modification required by paragraph (d) of this AD has been accomplished per the original issue of Boeing Service Bulletin 767–54–0081. * * *"

Conclusion

After careful review of the available data, including the comment noted above, we have determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 619 airplanes of the affected design in the worldwide fleet. We estimate that 255 airplanes of U.S. registry will be affected by this AD.

The following table shows the estimated costs associated with the actions currently required by ADs 2001–02–07, 2001–06–12, and 2001–08–23, at an average labor rate of $65 per work hour:

ESTIMATED COST IMPACT—ACTIONS CURRENTLY REQUIRED

Actions in Boeing service bulletin	Number of affected U.S.-registered airplanes	Work hours	Parts cost	Cost per airplane	Fleet cost
76–54–0080	86	[1]1,423–1,519	Free	$92,495–$98,735	$7,954,570–$8,491,210
767–54–0081	169	[1]1,474	Free	95,810	16,191,890
767–54–0069	249	106	Free	6,890	1,715,610
767–54–0083	228	1	Free	65	14,820
767–54–0088	255	2	Free	130	33,150
767–54A0094	117	20	Free	1,300	152,100
767–57–0053	255	5	None	325	82,875
767–29–0057	200	16	Free	1,040	208,000
767–57A0070	67	4	None	[2]260	[2]17,420

[1] Including time for gaining access and closing up.)
[2] Per inspection cycle.

For affected airplanes, the new inspection to determine the part number of the aft load pitch fittings that is required by this AD will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of this

requirement is estimated to be $65 per airplane.

For affected airplanes, the new replacement of the outboard pitch load fittings that is required by this AD takes approximately 14 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts cost approximately $14,438 per airplane. Based on these figures, the cost impact of this requirement is estimated to be $15,348 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions; however, as noted previously, time to gain access and close up has been included for certain actions in this AD.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendments 39–12091 (66 FR 8085, January 29, 2001), 39–12159 (66 FR 17492, April 2, 2001), and 39–12200 (66 FR 21069, April 27, 2001); and by adding a new airworthiness directive (AD), amendment 39–13768, to read as follows:

2004–16–12 Boeing: Amendment 39–13768. Docket 2002–NM–186–AD. Supersedes AD 2001–02–07, Amendment 39–12091; AD 2001–06–12, Amendment 39–12159; and AD 2001–08–23, Amendment 39–12200.

Applicability: Model 767–200, –300, and –300F series airplanes; certificated in any category; line numbers (L/Ns) 1 through 663 inclusive; powered by Pratt & Whitney or General Electric engines.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure, which could result in separation of the strut and engine from the airplane, accomplish the following:

Requirements of AD 2001–02–07

Modifications

(a) For Model 767–200, –300, and –300F series airplanes powered by Pratt & Whitney engines, L/Ns 1 through 663 inclusive: When the airplane has reached the flight cycle threshold as defined by the flight cycle threshold formula described in Figure 1 of Boeing Service Bulletin 767–54–0080, dated October 7, 1999, or Revision 1, dated May 9, 2002; or within 20 years since the date of manufacture; whichever occurs first; modify the nacelle strut and wing structure on both the left-hand and right-hand sides of the airplane, in accordance with the service bulletin. Use of the flight cycle threshold formula described in Figure 1 of the service bulletin is an acceptable alternative to the 20-year threshold, provided the corrosion prevention and control program inspections, as described in paragraphs 1 and 2 of Figure 1, have been met. As of the effective date of this AD, only Revision 1 of the service bulletin may be used.

(b) For Model 767–200, –300, and –300F series airplanes powered by Pratt & Whitney engines, L/Ns 1 through 663 inclusive: Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (a) of this AD; as specified in paragraph 1.D., Table 2, of Boeing Service Bulletin 767–54–0080, dated October 7, 1999, or Revision 1, dated May 9, 2002; accomplish the actions specified in Boeing Service Bulletins 767–54–0069, Revision 1, dated January 29, 1998, or Revision 2, dated August 31, 2000; 767–54–0083, dated September 17, 1998; 767–54–0088, Revision 1, dated July 29, 1999; 767–54A0094, Revision 1, dated September 16, 1999, or Revision 2, dated February 7, 2002; 767–57–0053, Revision 2, dated September 23, 1999; and 767–29–0057, dated December 16, 1993, including Notice of Status Change NSC 1, dated November 23, 1994; or Revision 1, dated August 14, 2003; as applicable; in accordance with those service bulletins. Accomplishment of this paragraph constitutes terminating action for the repetitive inspections required by AD 94–11–02, amendment 39–8918; AD 2000–07–05, amendment 39–11659; and AD 2000–12–17, amendment 39–11795.

Note 1: Paragraph (b) of this AD specifies prior or concurrent accomplishment of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999; however, Table 2 of Boeing Service Bulletin 767–54–0080, dated October 7, 1999, specifies prior or concurrent accomplishment of the original issue of the service bulletin. Therefore, accomplishment of the applicable actions specified in Boeing Service Bulletin 767–57–0053, dated June 27, 1996, or Revision 1, dated October 31, 1996, prior to the effective date of this AD, is considered acceptable for compliance with the actions in Boeing Service Bulletin 767–57–0053 required by paragraph (b) of this AD.

Repair

(c) For Model 767–200, –300, and –300F series airplanes powered by Pratt & Whitney engines, L/Ns 1 through 663 inclusive: If any damage (corrosion or cracking) to the airplane structure is found during the accomplishment of the modification required by paragraph (a) of this AD; and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Requirements of AD 2001–06–12

Modification

(d) For Model 767–200, –300, and –300F series airplanes powered by General Electric engines, L/Ns 1 through 663 inclusive: Modify the nacelle strut and wing structure on both the left-hand and right-hand sides of the airplane, in accordance with Boeing Service Bulletin 767–54–0081, dated July 29, 1999; or Revision 1, dated February 7, 2002; at the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD. After the effective date of this AD, only Revision 1 may be used.

(1) Prior to the accumulation of 37,500 total flight cycles, or within 20 years since date of manufacture, whichever occurs first. Use of the optional threshold formula described in Figure 1 of the service bulletin is an acceptable alternative to the 20-year threshold provided that the conditions specified in Figure 1 of the service bulletin are met. For the optional threshold formula in Figure 1 to be used, actions in the service bulletins listed in Item 2 of Figure 1 must be accomplished no later than 20 years since the airplane's date of manufacture.

(2) Within 3,000 flight cycles after May 7, 2001 (the effective date of AD 2001–06–12).

(e) For Model 767–200, –300, and –300F series airplanes powered by General Electric engines, L/Ns 1 through 663 inclusive: Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (d) of this AD; as specified in paragraph 1.D., Table 2, "Prior or Concurrent Service Bulletins," of Boeing Service Bulletin 767–54–0081, dated July 29, 1999; or Revision 1, dated February 7, 2002; accomplish the actions specified in Boeing Service Bulletin 767–29–0057, dated December 16, 1993, or Revision 1, dated August 14, 2003; Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998, or Revision 2, dated August 31, 2000; Boeing Service Bulletin 767–54–0083, dated September 17, 1998; Boeing Service Bulletin 767–54–0088, Revision 1, dated July 29, 1999; Boeing Service Bulletin 767–54A0094, Revision 1, dated September 16, 1999, or Revision 2, dated February 7, 2002; and Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999; as applicable, in accordance with those service bulletins.

Note 2: AD 2000–12–17, amendment 39–11795, requires accomplishment of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999. However, inspections and rework accomplished in accordance with Boeing Service Bulletin 767–57–0053, Revision 1, dated October 31, 1996, are acceptable for compliance with the applicable actions required by paragraph (e) of this AD.

Note 3: AD 2000–07–05, amendment 39–11659, requires accomplishment of Boeing Service Bulletin 767–54A0094, dated May 22, 1998. Inspections and rework accomplished in accordance with Boeing Service Bulletin 767–54A0094, dated May 22, 1998, are acceptable for compliance with the applicable actions required by paragraph (e) of this AD.

Note 4: AD 2001–02–07, amendment 39–12091, requires accomplishment of Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998, or Revision 2, dated August 31, 2000. Inspections and rework accomplished in accordance with those service bulletins are acceptable for compliance with the applicable actions required by paragraph (e) of this AD.

Repairs

(f) For Model 767–200, –300 and –300F series airplanes powered by General Electric engines, L/Ns 1 through 663 inclusive: If any damage to the airplane structure is found during the accomplishment of the modification required by paragraph (d) of this AD, and the service bulletin specifies to contact Boeing for appropriate action, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO, or a Boeing Company DER who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Requirements of AD 2001–08–23

Initial and Repetitive Inspections

(g) For Model 767–200 series airplanes, as listed in Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000: Within 30 days after May 14, 2001 (the effective date of AD 2001–08–23, amendment 39–12200), perform a high frequency eddy current (HFEC) inspection for cracking of the outboard pitch load fitting of the wing front spar, on the left-hand and right-hand sides of the airplane, according to Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000; Revision 2, dated August 2, 2001; or Revision 3, dated November 8, 2001. If no cracking is found, repeat the inspection at intervals not to exceed 3,000 flight cycles or 18 months, whichever occurs first, until paragraph (i) or (m) of this AD is done.

Note 5: Inspections done prior to the effective date of this AD, in accordance with Boeing Service Bulletin 767–57A0070, dated March 2, 2000, as revised by Information Notice 767–57A0070 IN 01, dated March 23, 2000, are considered acceptable for compliance with paragraph (g) of this AD.

Corrective Action

(h) For Model 767–200 series airplanes, as listed in Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000: If any cracking is found during any inspection per paragraph (g) of this AD, prior to further flight, do paragraph (h)(1) or (h)(2) of this AD.

(1) Rework the cracked outboard pitch load fitting according to a method approved by the Manager, Seattle ACO, or according to data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a rework method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(2) Replace the cracked outboard pitch load fitting with a new, improved fitting (including removing the existing fittings, performing an HFEC inspection for damage of fastener holes, repairing damaged fastener holes, and installing new fittings of improved design), according to Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000; Revision 2, dated August 2, 2001; or Revision 3, dated November 8, 2001. Such replacement terminates the repetitive inspections required by paragraph (g) of this AD for the replaced fitting.

Note 6: Boeing Service Bulletin 767–57A0070, Revision 1, refers to Boeing Service Bulletin 767–57–0053 as an additional source of service information for accomplishment of the replacement of the outboard pitch load fitting on Model 767–200 series airplanes.

Optional Terminating Action

(i) For Model 767–200 series airplanes, as listed in Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000: Replacement of the outboard pitch load fitting of the wing front spar with a new, improved fitting, according to Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000; Revision 2, dated August 2, 2001; or Revision 3, dated November 8, 2001; terminates the repetitive inspections required by paragraph (g) of this AD for the replaced fitting.

Spares

(j) For Model 767–200 series airplanes, as listed in Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000: As of May 14, 2001, no one may install on any airplane an outboard pitch load fitting that has a part number listed in the "Existing Part Number" column of Paragraph 2.E. of Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000.

New Requirements of This AD

Boeing Service Bulletin 767–54–0080, Revision 1, Groups 4 Through 10: Inspection and Additional Work, if Necessary

(k) For airplanes listed in Groups 4 through 10 of Boeing Service Bulletin 767–54–0080, Revision 1, dated May 9, 2002, on which the modification required by paragraph (a) of this AD has been accomplished prior to the effective date of this AD: Within 18 months after the effective date of this AD, perform an inspection of the aft pitch load fitting of the wing front spar to determine the part number (P/N) of the fitting.

(1) If the aft pitch load fitting on the left-hand side of the airplane has P/N 112T7005–57 and the aft pitch load fitting on the right-hand side of the airplane has P/N 112T7005–58: No further action is required by this paragraph.

(2) If the aft pitch load fitting on the left-hand side of the airplane has P/N 112T7005–53 or the aft pitch load fitting on the right-hand side of the airplane has P/N 112T7005–54: Within 18 months after the effective date of this AD, rework the affected aft pitch load fitting and install the diagonal brace with a new fuse pin, in accordance with Steps E. and F. under the heading "Additional Work Required—Group 4 through 10 Airplanes" in the Accomplishment Instructions of the service bulletin.

Note 7: This AD does not require the installation of new markers that is specified under the heading "Additional Work Required—Group 4 through 10 Airplanes" in the Accomplishment Instructions of Boeing Service Bulletin 767–54–0080, Revision 1, dated May 9, 2002.

Boeing Service Bulletin 767–54–0081, Revision 1, Groups 3 Through 12: Inspection and Additional Work, if Necessary

(l) For airplanes listed in Groups 3 through 12 of Boeing Service Bulletin 767–54–0081,

Revision 1, dated February 7, 2002, on which the modification required by paragraph (d) of this AD has been accomplished per the original issue of Boeing Service Bulletin 767–54–0081, dated July 29, 1999: Within 18 months after the effective date of this AD, perform an inspection of the aft pitch load fitting of the wing front spar to determine the P/N of the fitting.

(1) If the aft pitch load fitting on the left-hand side of the airplane has P/N 112T7005–57 and the aft pitch load fitting on the right-hand side of the airplane has P/N 112T7005–58: No further action is required by this paragraph.

(2) If the aft pitch load fitting on the left-hand side of the airplane has P/N 112T7005–53 or the aft pitch load fitting on the right-hand side of the airplane has P/N 112T7005–54: Within 18 months after the effective date of this AD, rework the affected aft pitch load fitting and install the diagonal brace with a new fuse pin, in accordance with Steps CB. and CC. under the heading "Additional Work Required—Group 3 through 12 Airplanes" in the Accomplishment Instructions of the service bulletin.

Note 8: This AD does not require the installation of new markers that is specified under the heading "Additional Work Required—Group 3 through 12 Airplanes" in the Accomplishment Instructions of Boeing Service Bulletin 767–54–0081, Revision 1, dated February 7, 2002.

L/Ns 1–101 Inclusive: Replacement of Outboard Pitch Load Fitting

(m) For Model 767–200 series airplanes having L/Ns 1 through 101 inclusive: At the applicable time specified in paragraph (m)(1) or (m)(2) of this AD, replace the outboard pitch load fitting of the wing front spar, on the left- and right-hand sides of the airplane, with a new, improved fitting, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000; Revision 2, dated August 2, 2001; or Revision 3, dated November 8, 2001. Accomplishment of this replacement constitutes terminating action for the repetitive inspections required by paragraph (g) of this AD.

(1) For airplanes on which the modification required by paragraph (a) or (d) of this AD, as applicable, has not been accomplished before the effective date of this AD: Do the replacement prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (a) of this AD, as specified in paragraph 1.D., Table 2, of Boeing Service Bulletin 767–54–0080, Revision 1, dated May 9, 2002.

(2) For airplanes on which the modification required by paragraph (a) or (d) of this AD, as applicable, has been accomplished before the effective date of this AD: Do the replacement within 48 months after the effective date of this AD.

Alternative Methods of Compliance

(n)(1) In accordance with 14 CFR 39.19, the Manager, Seattle ACO, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for a repair required by this AD, if it is approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings.

(3) AMOCs approved previously per AD 2001–02–07, amendment 39–12091, are approved as alternative methods of compliance with the applicable actions in paragraphs (a), (b), and (c) of this AD.

(4) AMOCs approved previously per AD 2001–06–12, amendment 39–12159, are approved as alternative methods of compliance with the applicable actions in paragraphs (d), (e), and (f) of this AD.

(5) AMOCs approved previously in accordance with AD 2000–12–17, amendment 39–11795; AD 2000–07–05, amendment 39–11659; AD 2001–02–07, amendment 39–12091; and AD 94–11–02, amendment 39–8918; are approved as alternative methods of compliance with the applicable actions in paragraph (e) of this AD.

(6) AMOCs approved previously per AD 2001–08–23, amendment 39–12200, are approved as alternative methods of compliance with the applicable actions in paragraphs (g), (h), and (i) of this AD.

Incorporation by Reference

(o) Unless otherwise specified in this AD, the actions shall be done in accordance with the Boeing Service Bulletins listed in Table 1 of this AD, as applicable.

TABLE 1.—BOEING SERVICE BULLETINS INCORPORATED BY REFERENCE

Service bulletin	Revision	Date
767–29–0057	Original	December 16, 1993.
767–29–0057 NSC 1	Original	November 23, 1994.
767–29–0057	1	August 14, 2003.
767–54–0069	1	January 29, 1998.
767–54–0069	2	August 31, 2000.
767–54–0080	Original	October 7, 1999.
767–54–0080, Including Appendices A, B, and C	1	May 9, 2002.
767–54–0081	Original	July 29, 1999.
767–54–0081, Including Appendices A, B, C, and D	1	February 7, 2002.
767–54–0083	Original	September 17, 1998.
767–54–0088	1	July 29, 1999.
767–54A0094	1	September 16, 1999.
767–54A0094	2	February 7, 2002.
767–57–0053	2	September 23, 1999.
767–57A0070	1	November 16, 2000.
767–57A0070	2	August 2, 2001.
767–57A0070	3	November 8, 2001.

(1) The incorporation by reference of the Boeing Service Bulletins in Table 2 of this AD is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51:

TABLE 2.—NEW BOEING SERVICE BULLETINS INCORPORATED BY REFERENCE

Service bulletin	Revision	Date
767–29–0057	1	August 14, 2003.
767–54–0080, Including Appendices A, B, and C	1	May 9, 2002.
767–54–0081, Including Appendices A, B, C, and D	1	February 7, 2002.
767–54A0094	2	February 7, 2002.
767–57A0070	2	August 2, 2001.

TABLE 2.—NEW BOEING SERVICE BULLETINS INCORPORATED BY REFERENCE—Continued

Service bulletin	Revision	Date
767–57A0070	3	November 8, 2001.

(2) The incorporation by reference of Boeing Service Bulletin 767–57A0070, Revision 1, dated November 16, 2000, was approved previously by the Director of the Federal Register as of May 14, 2001 (66 FR 21069), April 27, 2001).

(3) The incorporation by reference of Boeing Service Bulletin 767–54–0081, dated July 29, 1999, was approved previously by the Director of the Federal Register as of May 7, 2001 (66 FR 17492, April 2, 2001).

(4) The incorporation by reference of the Boeing Service Bulletins in Table 3 of this AD was approved previously by the Director of the Federal Register as of March 5, 2001 (66 FR 8085, January 29, 2001).

TABLE 3.—BOEING SERVICE BULLETINS PREVIOUSLY INCORPORATED BY REFERENCE

Service bulletin	Revision	Date
767–29–0057 NSC 1	Original	November 23, 1994.
767–54–0080	Original	October 7, 1999.
767–54–0069	2	August 31, 2000.
767–54A0094	1	September 16, 1999.

(5) The incorporation by reference of the Boeing Service Bulletins in Table 4 of this AD was approved previously by the Director of the Federal Register as of October 17, 2000 (65 FR 58641, October 2, 2000).

TABLE 4.—BOEING SERVICE BULLETINS PREVIOUSLY INCORPORATED BY REFERENCE

Service bulletin	Revision	Date
767–29–0057	Original	December 16, 1993.
767–54–0069	1	January 29, 1998.
767–54–0083	Original	September 17, 1998.
767–54–0088	1	July 29, 1999.

(6) The incorporation by reference of Boeing Service Bulletin 767–57–0053, Revision 2, dated September 23, 1999, was approved previously by the Director of the Federal Register as of July 24, 2000 (65 FR 37843, June 19, 2000).

(7) Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_lacatians.html.*

Effective Date

(p) This amendment becomes effective on September 21, 2004.

Issued in Renton, Washington, on July 29, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certificatian Service.

[FR Doc. 04–17984 Filed 8–16–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

19 CFR Part 123

Required Advance Electronic Presentation of Cargo Information: Compliance Dates for Truck Carriers

AGENCY: Customs and Border Protection, DHS.

ACTION: Announcement of compliance dates.

SUMMARY: This document informs truck carriers when they will be required to transmit advance electronic cargo information to Customs and Border Protection regarding cargo they are bringing into the United States, as mandated by section 343(a) of the Trade Act of 2002 and the implementing regulations. The dates when truck carriers will be required to comply vary depending on the port of entry at which the truck carrier will be arriving in the United States.

DATES: The implementation schedule set forth in the **SUPPLEMENTARY INFORMATION** discussion specifies three compliance dates, depending on the location of the port of entry.

FOR FURTHER INFORMATION CONTACT: For questions concerning Inbound Truck Cargo: James Swanson, Field Operations, (202) 344–2576.

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002, as amended (the Act; 19 U.S.C. 2071 note), required that Customs and Border Protection (CBP) promulgate regulations providing for the mandatory collection of electronic cargo information, by way of a CBP-approved electronic data interchange system, before the cargo is brought into or departs the United States by any mode of commercial transportation (sea, air, rail or truck). The cargo information required is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security and preventing smuggling pursuant to the laws enforced and administered by CBP.

On December 5, 2003, CBP published in the **Federal Register** (68 FR 68140) a final rule intended to effectuate the provisions of the Act. In particular, a new § 123.92 (19 CFR 123.92) was

added to the CBP Regulations to implement the inbound truck cargo provisions of the Act's provisions. Section 123.92 describes the general requirement that for any inbound truck required to report its arrival under § 123.1(b), that will have commercial cargo aboard, CBP must electronically receive certain information regarding that cargo through a CBP-approved electronic data interchange (EDI) system no later than 1 hour prior to the carrier's reaching the first port of arrival in the United States. For truck carriers arriving with shipments qualified for clearance under the FAST (Free and Secure Trade) program, CBP must electronically receive such cargo information through the CBP-approved EDI system no later than 30 minutes prior to the carrier's reaching the first port of arrival in the United States.

To effect the advance electronic transmission of the required truck cargo information to CBP, CBP has approved two interim EDI systems, for use until the Automated Commercial Environment Truck Manifest becomes fully operational. The two systems are the Pre-Arrival Processing System (PAPS) and QP/WP (an Automated Broker Interface (ABI) in-bond processing system that allows ABI filers to create and process in-bond shipments).

Truck carriers bringing commercial cargo subject to advance cargo information requirements into the United States must use one of the two interim EDI systems described above, with the two exceptions set forth below in the CAFES AND BRASS EXCEPTION portion of this document.

All commercial cargo is subject to advance cargo information requirements, pursuant to § 123.92(b), except for the following:

(1) Cargo in transit from point to point in the United States. Domestic cargo transported by truck and arriving at one port from another in the United States after transiting Canada or Mexico (§ 123.21; § 123.41); and

(2) Certain informal entries:

(i) Merchandise which is informally entered on Customs Form (CF) 368 or CF 368 A (cash collection or receipt);

(ii) Merchandise unconditionally or conditionally free, not exceeding $2000 in value, eligible for entry on CF 7523: and

(iii) Products of the United States being returned, for which entry is prescribed on CF 3311.

It should be noted that upon final implementation of the Truck Manifest module of the Automated Commercial Environment, the exempted information described in (2) above will be transmitted electronically in advance of cargo arrival in order to expedite release and processing.

It is further noted that § 123.92(c)(2) allows a United States importer, or its customs broker, to elect to present to CBP a portion of the required information that it possesses in relation to the cargo. Under such circumstance, the truck carrier is responsible for presenting to CBP the remainder of the required cargo information.

CAFES and BRASS Exceptions

As a temporary accommodation, CBP will not require either of the CBP-approved EDI systems to be used if the merchandise transported by the truck carrier is currently approved for processing under the Customs Automated Forms Entry System (CAFES) or the Border Release Advanced Screening and Selectivity (BRASS) programs. Under the BRASS program, the following conditions must be met:

(1) The importer and shipper involved in the transaction are current BRASS participants (as of the date of publication of this notice);

(2) The importer and shipper have engaged in a minimum number of BRASS import transactions during the previous calendar year. The minimum number is currently 50, but CBP retains the right to change this number as a matter of policy. Any policy changes regarding the minimum number of BRASS transactions will be communicated by the CBP BRASS Processing Center or through Port Information Notices;

(3) The truck carrier carrying the merchandise only utilizes drivers who are registered under the Free and Secure Trade (FAST) program and carrying a FAST Driver Card. This requirement does not apply at the ports of Eastport, Idaho; International Falls, Minnesota; Grand Portage, Minnesota; and Jackman, Maine, where FAST Driver Cards are not available. This requirement will apply at these ports when CBP publishes a **Federal Register** notice announcing that CBP is ready to register FAST drivers at these geographic locations; and

(4) For processing along the southern border, the truck carrier participates in an approved industry partnership program, such as C–TPAT (Customs-Trade Partnership Against Terrorism).

Implementation of Advance Electronic Information Requirements

Section 123.92(e) requires CBP, 90 days prior to mandating advance electronic information at a port of entry, to publish notice in the **Federal Register** informing affected carriers that the EDI system is in place and fully operational. Accordingly, in this document, CBP is notifying truck carriers when they will be required to present advance electronic cargo information regarding cargo arriving at particular ports of entry in the United States through a CBP-approved EDI system. The implementation schedule will be staggered in three phases.

The above-described interchange systems are now in place and operational at the forty ports of entry listed in the "Compliance Dates" section of this document, under the caption *"First Implementation"*. Truck carriers, which will first arrive in the United States at these ports, will be required, 90 days from the date of publication of this notice in the **Federal Register**, to comply with the advance electronic transmission requirements set forth in § 123.92, CBP Regulations.

Two additional implementations are scheduled for the remaining ports. Consistent with the provision in § 123.92(e) that requires CBP to announce when ports are fully operational, CBP is announcing by this document that the remaining fifty-nine ports listed in the second and third phases of implementation will become fully operational at least 90 days before truck carriers are required to transmit advance electronic information to CBP at those ports. The schedule for implementing the advance electronic transmission requirements at all ninety-nine ports is summarized below in the "Compliance Dates" section.

Compliance Dates

First Implementation

Effective November 15, 2004, truck carriers must commence the advance electronic transmission to CBP of required cargo information for inbound cargo at the following forty ports of entry (corresponding port code and field office location appear in parenthesis next to port location):

(1) Buffalo, NY (0901, Buffalo);
(2) Alexandria Bay, NY (0708, Buffalo);
(3) Ogdensburg, NY (0701, Buffalo);
(4) Massena, NY (0704, Buffalo);
(5) Detroit, MI (3801, Detroit);
(6) Port Huron, MI (3802, Detroit);
(7) Sault Ste. Marie, MI (3803, Detroit);
(8) Algonac, MI (3814, Detroit);
(9) Blaine, WA (3004, Seattle);
(10) Sumas, WA (3009, Seattle);
(11) Lynden, WA (3023, Seattle);
(12) Oroville, WA (3019, Seattle);
(13) Frontier, WA (3020, Seattle);
(14) Laurier, WA (3016, Seattle);
(15) Point Roberts, WA (3017, Seattle);
(16) Danville, WA (3012, Seattle);

(17) Ferry, WA (3013, Seattle);
(18) Metaline Falls, WA (3025, Seattle);
(19) Laredo, TX (2304, Laredo);
(20) Eagle Pass, TX (2303, Laredo);
(21) Brownsville, TX (2301, Laredo);
(22) Progresso, TX (2309, Laredo);
(23) Del Rio, TX (2302, Laredo);
(24) Hidalgo/Pharr, TX (2305, Laredo);
(25) Roma, TX (2310, Laredo);
(26) Rio Grande City, TX (2307, Laredo);
(27) El Paso, TX (2402, El Paso);
(28) Presidio, TX (2403, El Paso);
(29) Fabens, TX (2404, El Paso);
(30) Columbus, NM (2406, El Paso);
(31) Santa Teresa, NM (2408, El Paso);
(32) Douglas, AZ (2601, Tucson);
(33) Lukeville, AZ (2602, Tucson);
(34) Naco, AZ (2603, Tucson);
(35) Nogales, AZ (2604, Tucson);
(36) Sasabe, AZ (2606, Tucson);
(37) San Luis, AZ (2608, Tucson);
(38) Tecate, CA (2505, San Diego);
(39) Calexico, CA (2507, San Diego);
(40) Otay Mesa, CA (2506, San Diego).

Second Implementation

Effective December 15, 2004, truck carriers must commence the advance electronic transmission to CBP of required cargo information for inbound cargo at the following forty-three ports of entry:

(41) Champlain, NY (0712, Buffalo);
(42) Trout River, NY (0715, Buffalo);
(43) Pembina, ND (3401, Seattle);
(44) Noyes, MN (3402, Seattle);
(45) Portal, ND (3403, Seattle);
(46) Neche, ND (3404, Seattle);
(47) St. John, ND (3405, Seattle);
(48) Northgate, ND (3406, Seattle);
(49) Walhalla, ND (3407, Seattle);
(50) Hannah, ND (3408, Seattle);
(51) Sarles, ND (3409, Seattle);
(52) Ambrose, ND (3410, Seattle);
(53) Antler, ND (3413, Seattle);
(54) Sherwood, ND (3414, Seattle);
(55) Hansboro, ND (3415, Seattle);
(56) Maida, ND (3416, Seattle);
(57) Fortuna, ND (3417, Seattle);
(58) Westhope, ND (3419, Seattle);
(59) Noonan, ND (3420, Seattle);
(60) Carbury, ND (3421, Seattle);
(61) Dunseith, ND (3422, Seattle);
(62) Warroad, MN (3423, Seattle);
(63) Baudette, MN (3424, Seattle);
(64) Pine Creek, MN (3425, Seattle);
(65) Roseau, MN (3426, Seattle);
(66) International Falls, MN (3604, Seattle);
(67) Grand Portage, MN (3613, Seattle);
(68) Richford, VT (0203, Boston);
(69) Derby Line, VT (0209, Boston);
(70) Norton, VT (0211, Boston);
(71) Beecher Falls, VT (0206, Boston);
(72) Highgate Springs, VT (0212, Boston);
(73) Houlton, ME (0106, Boston);
(74) Bridgewater, ME (0127, Boston);
(75) Fort Fairfield, ME (0107, Boston);
(76) Limestone, ME (0118, Boston);
(77) Van Buren, ME (0108, Boston);
(78) Madawaska, ME (0109, Boston);
(79) Fort Kent, ME (0110, Boston);
(80) Calais, ME (0115, Boston);
(81) Vanceboro, ME (0105, Boston);
(82) Eastport/Lubec, ME (0103, Boston);
(83) Jackman, ME (0104, Boston).

Third Implementation

Effective January 14, 2005, truck carriers must commence the advance electronic transmission to CBP of required cargo information for inbound cargo at the following sixteen ports of entry:

(84) Eastport, ID (3302, Seattle);
(85) Porthill, ID (3308, Seattle);
(86) Sweetgrass, MT (3310, Seattle);
(87) Raymond, MT (3301, Seattle);
(88) Turner, MT (3306, Seattle);
(89) Scobey, MT (3309, Seattle);
(90) Whitetail, MT (3312, Seattle);
(91) Piegan, MT (3316, Seattle);
(92) Opheim, MT (3317, Seattle);
(93) Roosville, MT (3318, Seattle);
(94) Morgan, MT (3319, Seattle);
(95) Whitlash, MT (3321, Seattle);
(96) Del Bonita, MT (3322, Seattle);
(97) Alcan, AK (3104, Portland);
(98) Skagway, AK (3103, Portland);
(99) Dalton Cache, AK (3106, Portland).

Dated: August 12, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04–18818 Filed 8–16–04; 8:45 am]

BILLING CODE 4820–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–2463; MB Docket No. 03–57; RM–10565]

Radio Broadcasting Services; Creede, Fort Collins, Westcliffe and Wheat Ridge, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration and Motion to Consolidate filed by Meadowlark Group, Inc. directed to the *Report and Order* in this proceeding. *See* 69 FR 17070, April 1, 2004. 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 *Memorandum Opinion and Order* in MM Docket No. 03–57 adopted August 4, 2004, and released August 9, 2004. 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*. 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) since this Petition for Reconsideration of the Report and Order was denied, herein.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–18805 Filed 8–16–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[Docket No. OST–1999–6189]

RIN 9991–AA41

Secretarial Delegations

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Transportation (OST) is amending its regulations to reflect a change in Secretarial delegations. The Secretary is transferring responsibility for the Motor Carrier Financial and Operating Statistics Program from the Bureau of Transportation Statistics (BTS) to the Federal Motor Carrier Safety Administration (FMCSA). The transfer will take effect on September 29, 2004. This rule is necessary so that the delegations appearing in the Code of Federal Regulations reflect these changed responsibilities.

EFFECTIVE DATE: September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Robert Monniere, Bureau of Transportation Statistics, Department of Transportation, 400 7th Street SW., Room 3103, Washington, DC 20590, (202) 366–5498 or Joy Dunlap, Federal Motor Carrier Administration, Department of Transportation, 400 7th Street SW., Room 8214, Washington, DC 20590, 202–493–0219.

SUPPLEMENTARY INFORMATION:

Background

The Interstate Commerce Commission (ICC) collected financial and operating statistics from regulated motor carriers from the 1930s until the end of 1995, when the ICC was abolished and data collection was transferred to DOT. (*See* 49 U.S.C. 11145 and implementing regulations at 49 CFR part 1420.) Following the transfer from the ICC, the Secretary delegated the functions and responsibilities to BTS (*see* 61 FR 68162). Recently, the Department conducted a comprehensive review of all major BTS programs and activities. One recommendation was that BTS should focus its resources on its core statistical programs. Based on the fact that this mandatory reporting program is regulatory in nature and requires the release of information concerning individually identifiable respondents, OST and BTS identified this program as a candidate re-delegation. Thus, based on the above, the Secretary has decided to change the Department delegations and transfer this reporting function to the FMCSA, in the belief that this program is more closely aligned with the FMCSA's safety mission and its other motor carrier responsibilities.

The Department publishes this rule as a final rule, effective on September 29, 2004, because these amendments relate to departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b) and the Department finds good cause under 5 U.S.C. 5539d)(3) for the final rule to be effective on September 29, 2004.

Regulatory Analyses and Notices

OST has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. There are no costs associated with this rule. Because this rule will only apply to internal DOT operations, OST certifies that this rule will not have a significant economic impact on a substantial number of small entities. Moreover, any impact should be positive. OST also has determined that there are not sufficient federalism implications to warrant preparation of a federalism statement.

Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Unfunded Mandates Reform Act of 1995

OST has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations, Organizations and functions.

■ For the reasons set forth in the preamble, the Office of the Secretary amends 49 CFR Part 1 as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597, Pub.L.

§ 1.71 [Amended]

■ 2. In § 1.71, remove paragraph (b) and redesignate paragraph (c) as paragraph (b).

■ 3. In § 1.73, add paragraph (p) to read as follows:

§ 1.73 Delegation to the Administrator of the Federal Motor Carrier Safety Administration.

* * * * *

(p) Carry out the functions vested in the Secretary by 49 U.S.C. 14123, relating to the collection and dissemination of information on motor carriers.

Issued in Washington, DC on this 20th day of August, 2004.

Norman Y. Mineta,

Secretary.

[FR Doc. 04–18822 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 040504142–4142–01; I.D. 042204B]

RIN 0648–AS07

Atlantic Highly Migratory Species (HMS) Fisheries; Vessel Monitoring System (VMS) Requirement; Effective Date for Atlantic Shark Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS is establishing effective dates for the requirement to have a NOAA-approved VMS unit installed and operating on vessels with directed shark limited access permits (LAPs) and with gillnet or bottom longline gear on board. VMS will aid in the enforcement of time/area closures.

DATES: Final rule will become effective September 16, 2004.

ADDRESSES: To obtain copies of the list of NMFS-approved VMSmobile transmitting and communications service providers contact the National Marine Fisheries Service, Office for Law Enforcement (OLE):

•Mail: 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

For copies of Amendment 1 to the Fisheries Management Plan for Atlantic Tunas, Swordfish, and Sharks or its implementing regulations contact the National Marine Fisheries Service, Office of Sustainable Fisheries, Highly Migratory Species (HMS) Management Division (F/SF1):

•Mail: 1315 East-West Highway, Silver Spring, MD 20910

•Internet: *http://www.nmfs.noaa.gov/sfa/hms/*

•Phone: 301–713–2347

•Fax: 301–713–1917.

For information or comments regarding the collection of information requirements contained in this rule contact the HMS Management Division at the address noted above and the Office of Management and Budget (OMB):

•Email: David__Rostker@omb.eop.govFax: 202–395–7285.

FOR FURTHER INFORMATION CONTACT: For additional information regarding the effective dates specified in this document, contact Mike Clark, Chris Rilling, or Karyl Brewster-Geisz, phone 301-713–2347 or fax 301–713–1917.

For a current listing of NOAA-approved VMS units, contact Mark Oswell, phone 301–427–2300, fax 301–427–2055.

For questions regarding VMS installation and activation checklists, contact Jonathan Pinkerton, phone 301–427–2300, fax 301–427–2055.

An installation checklist, and relevant updates are available at the OLE website:*http://www.nmfs.noaa.gov/ole/vms.html.*

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Fishery Management Plan for

Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and Amendment 1 to the HMS FMP are implemented by regulations at 50 CFR part 635.

On December 24, 2003, NMFS issued a final rule (68 FR 74746) requiring the installation of a NOAA-approved VMS unit on: (1) all commercial vessels issued a directed shark LAP with bottom longline gear on board that are located between 33° 00′ and 36° 30′ N. latitudes between January 1 and July 31 and (2) all commercial vessels issued a directed shark LAP with gillnet gear on board during the right whale calving season (November 15 - March 31), regardless of location. As specified in the final rule, the requirement to have VMS on board coincides with the start of time/area closures for the right whale calving season (effective as of November 15, 2004, for § 635.69(a)(3)) and the mid-Atlantic time/area closure (effective as of January 1, 2005. for § 635.69(a)(2)) for shark gillnet and bottom longline vessels, respectively.

The December 24, 2003, (68 FR 74746) VMS requirements were stayed pending the publication of a type-approval notice which was published in the **Federal Register** on April 15, 2004 (69 FR 19979). The type-approval notice describes the relevant features of each unit for use by vessels engaged in HMS fisheries. The units may be used by vessels participating in any HMS fishery including vessels with pelagic longline gear on board. This final rule does not revise any other requirement or management measure published in the December 24, 2003, final rule, but would establish the effective date for the VMS requirement as 30 days after publication of this final rule.

The proposed rule establishing the VMS effective dates published on May 18, 2004, (69 FR 28106). One comment was received and is summarized below.

Response to Comment

Comment: One written comment was received by an individual who believes that longlines and gillnets should be banned and that NMFS is allowing the commercial fishing industry to do whatever it desires, no matter how rapacious.

Response. While this comment does not specifically address the VMS requirement or effective dates, it is important to note that NMFS adheres to the Magnuson-Stevens Act, which requires among other things that the agency halt overfishing and rebuild overfished stocks, reduce bycatch, and identify and protect essential fish habitat. The purpose of this rule is to set effective dates for the use of VMS by directed shark vessels fishing in the vicinity of time/area closures. VMS will assist enforcement officials in preventing fishing in these time/area closures. The time/area closures were created to reduce interactions with endangered species of marine mammals, andreduce mortality of reproductive and juvenile sandbar and prohibited dusky sharks in a identified Habitat Area of Particular Concern. Banning gillnets and longlines entirely would also conflict with National Standards 5 and 7 of the Magnuson-Stevens Act by preventing efficient utilization of theresource and causing excessive economic burdens to fishery participants.

Classification

This action is published under the authority of the Magnuson-Stevens Act. The Assistant Administrator for Fisheries previously determined that the implementation of a VMS program in the shark gillnet and bottom longline fisheries is necessary to monitor and enforce closed areas implemented to reduce bycatch.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities. This rule would impact approximately 13 vessels, all of which are considered small entities. As required under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) for the VMS requirement in draft Amendment 1 and its proposed rule (68 FR 45196, August 1, 2003) and prepared a Final RegulatoryFlexibility Analysis (FRFA) for the final rule, (68 FR 74746, December 24, 2003). Economic impacts of the VMS requirement were addressed in those analyses. Establishing an effective date will not result in any further economic impacts. NMFS received no comments on the economic impact of this rule. As a result, a FRFA was not required and was not prepared.

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this final rule is not significant.

NMFS notified all states, consistent with the Coastal Zone Management Act, of the VMS requirement during the rulemaking for Amendment 1 of the HMS FMP. No states indicated that the VMS requirement is inconsistent with their coastal zone management programs. Thus, this final action is consistent to the maximum extent practicable with the enforceable policies of those Atlantic, Gulf of Mexico, and Caribbean states and territories that have approved coastal zone management programs.

VMS are intended to aid in the enforcement of time/area closures and thereby reduce interactions with endangered, overfished, and prohibited species. The environmental impacts of the VMS requirement were analyzed during the development of Amendment 1 to the HMS FMP and the December 24, 2003 (68 FR74746) final rule. Establishing an effective date for this requirement is not expected to increase endangered species or marine mammal interaction rates beyond those considered in the October 29, 2003, Biological Opinion on the continued operation of Atlantic shark fisheries under the FMP and Draft Amendment 1 to the HMS FMP issued by NMFS Office of Protected Resources.This final rule establishing the effective date on the VMS requirement refers to collection-of-information requirements subject to the Paperwork Reduction Act (PRA) which have been approved by OMB under control number 0648–0483. The public's reporting burden for this collection of information is estimatedat: 4 hours for the installation of a VMS, 5 minutes for the completion of a VMS certification statement, 2 hours per year for VMS maintenance, and < 1 second for an automated position report from a VMS.

These estimates include the time for: reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information requirements. Written comments regarding these burden estimates or any other aspect of these data collection requirements, including suggestions for reducing the burden must be sent to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with a collection of information requirement of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: August 11, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for 50 CFR part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.69, paragraphs (a)(2) and (a)(3) are revised to read as follows:

§ 635.69 Vessel monitoring systems.

(a) * * *

(2) As of January 1, 2005, whenever a vessel issued a directed shark LAP, is away from port with bottom longline gear on board, is located between 33°00′ N. lat. and 36°30′ N. lat., and the mid-Atlantic shark closed area is closed as specified in § 635.21(d)(1); or

(3) As of November 15, 2004, whenever a vessel, issued a directed shark LAP, is away from port with a gillnet on board during the right whale calving season specified in the Atlantic Large Whale Take Reduction Plan in § 229.32(f) of this title.

* * * * * *

[FR Doc. 04–18825 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 031216314–4118–03; I.D. 081104I]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 2004 primary season for the Pacific whiting (whiting) shore-based sector at 1600 local time (l.t.) August 14, 2004, because the allocation is projected to be reached. This action is intended to keep the harvest of whiting at the 2004 allocation levels.

DATES: Effective from 1600 l.t. August 14, 2004, until the effective date of the 2005–2006 specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**, unless modified, superseded or rescinded. Comments will be accepted through September 1, 2004.

ADDRESSES: You may submit comments, identified by 031216314–4118–03, by any of the following methods:

- E-mail: *WhitingSBclosure.nwr@noaa.gov* Include 031216314–4118–03 in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Becky Renko.
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Becky Renko.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California.

The 2004 non-tribal commercial optimum yield (OY) for whiting is 215,500 mt (this is calculated by deducting the 32,500 mt tribal allocation and 2,000 mt for research catch and bycatch in non-groundfish fisheries from the 250,000 mt total catch OY). Regulations at 50 CFR 660.323(a) divide the commercial whiting OY into separate allocations for the catcher-processor, mothership, and shore-based sectors. The catcher-processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shore-based sector is composed of vessels that harvest whiting for delivery to land-based processors. Each commercial sector receives a portion of the commercial OY. For 2004 the catcher-processors received 34 percent (73,270 mt), motherships received 24 percent (51,720 mt), and the shore-based sector received 42 percent (90,510 mt).

Regulations at 50 CFR 660.373(b) describe the primary season for each sector. The primary season for the shore-based sector is the period(s) when the large-scale target fishery is conducted, and when "per trip" limits are not in effect. Before and after the primary season, per-trip limits are in effect for whiting.

The best available information on August 11, 2004, indicates that 79,399 mt had been taken through August 8, 2004, and that the 90,510–mt shore-based allocation would be reached by 1600 l.t. August 14, 2004. This **Federal Register** document announces that the primary season for the shore-based sector ends on August 14, 2004, and a 10,000–lb (4,536 kg) trip limit is imposed as of August 14, 2004. Per-trip limits are intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries. To minimize incidental catch of chinook salmon by vessels fishing shoreward of the 100–fm (183–m) contour in the Eureka area, at any time during a fishing trip, a limit of 10,000 lb (4,536 kg) of whiting is in effect year-round, except when landings of whiting are prohibited.

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323(b), NMFS herein announces: Effective 1600 l.t. August 14, 2004, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed or landed by any vessel participating in the shore-based sector of the whiting fishery, unless otherwise announced in the **Federal Register**. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43° - 40°30′ N. lat.) at any time during a fishing trip, the 10,000–lb (4,536–kg) trip limit applies, as announced in the annual management measures at paragraph IV, B (3)(c)(ii), except when the whiting fishery is closed.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The Assistant Administrator for fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity would be impracticable. It would be impracticable because if this closure were delayed in order to provide notice and comment, the fishery would be expected to greatly exceed the sector allocation. This would either result in the entire whiting optimum yield being exceeded, or in the allocations for the other sectors being

reduced. Therefore, good cause also exists to waive the 30–day delay in effectiveness requirement of 5 U.S.C. 553(d)(3). The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours.

This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(A) and is exempt from review under Executive Order 12866.

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

Dated: August 12, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18797 Filed 8–12–04; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 081004E]

Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole in the Bering Sea and Aleutian Islands

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of rock sole in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of rock sole in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2004 total allowable catch (TAC) of rock sole in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 14, 2004, until 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2004 TAC of rock sole in the BSAI was established as 37,925 metric tons by the final 2004 harvest specifications for groundfish in the BSAI (69 FR 9242, February 27, 2004) and by the apportionment of the unspecified reserve for rock sole (69 FR 29670, May 25, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the rock sole TAC in the BSAI has been reached. Therefore, NMFS is requiring that further catches of rock sole in the BSAI be treated as a prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of rock sole in the BSAI.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 11, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18798 Filed 8–12–04; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031124287–4060–02; I.D. 081004F]

Fisheries of the Exclusive Economic Zone Off Alaska; "Other Flatfish" in the Bering Sea and Aleutian Islands

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of "other flatfish" in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of "other flatfish" in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2004 total allowable catch (TAC) of "other flatfish" in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 14, 2004, until 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2004 TAC of "other flatfish" in the BSAI was established as 2,775 metric tons by the final 2004 harvest specifications for groundfish in the BSAI (69 FR 9242, February 27, 2004).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the "other flatfish" TAC in the BSAI has been reached. Therefore, NMFS is requiring that further catches of "other flatfish" in the BSAI be treated as a prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA,

(AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of "other flatfish" in the BSAI.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 11, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18799 Filed 8–12–04; 3:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031126295–3295–01; I.D. 081104A]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543

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

ACTION: Notification of fishery assignments.

SUMMARY: NMFS is notifying the owners and operators of registered vessels of their assignments for the B season Atka mackerel fishery in harvest limit area (HLA) 542 and/or 543 of the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of the B season HLA limits established for area 542 and area 543 pursuant to the 2004 harvest specifications for groundfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 16, 2004, until 1200 hrs, A.l.t., November 1, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(8)(iii)(A), owners and operators of vessels using trawl gear for directed fishing for Atka mackerel in the HLA are required to register with NMFS. Nine vessels have registered with NMFS to fish in the B season HLA fisheries in areas 542 and/or 543. In order to reduce the amount of daily catch in the HLA by about half and to disperse the fishery over time and in accordance with § 679.20(a)(8)(iii)(B), the Administrator, Alaska Region, NMFS, has randomly assigned each vessel to the HLA directed fishery for Atka mackerel for which they have registered and is now notifying each vessel of its assignment.

Vessels authorized to participate in the first HLA directed fishery in area 542 in accordance with 50 CFR 679.20(a)(8)(iii) are as follows: Federal Fishery Permit number (FFP) 4093 Alaska Victory, FFP 3835 Seafisher, FFP 2134 Ocean Peace, FFP 2443 Alaska Juris, and FFP 1879 American No. 1.

Vessels authorized to participate in the second HLA directed fishery in area 543 in accordance with 50 CFR 679.20(a)(8)(iii) are as follows: FFP 4093 Alaska Victory, FFP 3835 Seafisher, FFP 2134 Ocean Peace, and FFP 2443 Alaska Juris.

Vessels authorized to participate in the first HLA directed fishery in area 543 and/or the second HLA directed fishery in area 542 in accordance with § 679.20(a)(8)(iii) are as follows: FFP 3819 Alaska Spirit, FFP 2733 Seafreeze Alaska, FFP 3423 Alaska Warrior, and FFP 3400 Alaska Ranger.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is unnecessary. This notice merely advises the owners of these vessels of the results of a random assignment required by regulation. The notice needs to occur immediately to notify the owner of each vessel of its assignment to allow these vessel owners to plan for participation in the B season HLA fisheries in area 542 and area 543.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and 679.22 and is exempt from review under Executive Order 12866.

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

Dated: August 11, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18832 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 69, No. 158
Tuesday, August 17, 2004

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

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18876; Directorate Identifier 2003–NM–254–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 757–200 and –200PF series airplanes. This proposed AD would require repetitive inspections and audible tap tests of the upper and lower skins of the trailing edge wedges on certain slats, and related investigative and corrective actions if necessary. This proposed AD also provides an optional terminating action for the repetitive inspections and audible tap tests. This proposed AD is prompted by a report of damage to the No. 4 leading edge slat. We are proposing this AD to prevent delamination of the leading edge slats, possible loss of pieces of the trailing edge wedge assembly during flight, reduction of the reduced maneuver and stall margins, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by October 1, 2004.

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

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

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or 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: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6450; fax (425) 914–6590.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

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

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–2004–18876; Directorate Identifier 2003–NM–254–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the Docket

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

Discussion

We have received a report of damage to the No. 4 leading edge slat on a Boeing Model 757–200 series airplane. The affected airplane had 54,000 total flight hours and 24,000 total flight cycles. Investigation revealed that a large piece of the trailing edge wedge broke away from the slat during flight. The crew was not aware that the piece had broken away until a post-flight walk around inspection. Further investigation revealed that during the assembly of the affected trailing edge wedge, BMS 5–104 adhesive was used to bond the skins to the honeycomb core material. Analysis

showed that moisture entered the internal structure of the wedge assembly, resulting in a decrease in the strength of the trailing edge wedge skin-to-core bond and corrosion of the aluminum honeycomb core. This condition eventually caused an area of the skin to delaminate from the honeycomb core material. The intensity of the flight loads on the affected airplane was sufficient to cause pieces of the skin to break away during flight. This condition, if not corrected, could result in reduced maneuver and stall margins, and consequent reduced controllability of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. The alert service bulletin describes procedures for a detailed inspection and an audible tap test of the upper and lower skins of the trailing edge wedge on slats No. 2 through No. 4 inclusive and No. 7 through No. 9 inclusive, for evidence of damage and cracking on the trailing edge wedge assembly, and related investigative and corrective actions. Evidence of damage to the wedge assembly skin includes cracking in the skin; delamination of the skin and the chord, the doublers, and the honeycomb core; separation between those components; or bulges in the skin or areas where the skin has broken off from the wedge. Evidence of damage to the inboard and outboard ends of the wedge assembly includes cracking in the sealant and end potting, and pieces of end potting that have broken off from the wedge.

If there is an indication of delamination during the audible tap test, the related investigative action is doing the "Bondline Delamination Inspection in Honeycomb Structure" described in the Boeing 757 Nondestructive Test Manual.

The corrective actions include repairing affected trailing edge wedge assemblies, or replacing the trailing edge wedge assemblies with new, improved wedge assemblies. The service bulletin states that replacement of trailing edge wedge assemblies with new, improved trailing edge wedge assemblies eliminates the need for the repetitive detailed inspection and audible tap test.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require repetitive inspections and audible tap tests of the upper and lower skins of the trailing edge wedges on certain slats, and related investigative and corrective actions if necessary. The proposed AD would require you to use the service information described previously to perform these actions. The proposed AD provides an optional terminating action for the repetitive inspections and audible tap tests.

Costs of Compliance

This proposed AD would affect about 139 airplanes worldwide. 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/ test, per inspection cycle	[1] 6	$65	None	[2] $390	97	[2] $37,830

[1] One work hour per slat, six slats per airplane.
[2] Per inspection/test cycle.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2004–18876; Directorate Identifier 2003–NM–254–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by October 1, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–200 and -200PF series airplanes listed in Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003; certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of damage to the No. 4 leading edge slat. We are issuing this AD to prevent delamination of the leading edge slats, possible loss of pieces of the trailing edge wedge assembly during flight, reduction of the reduced maneuver and stall margins, 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.

Repetitive Inspections and Tests

(f) Within 18 months after the effective date of this AD: Do a detailed inspection and an audible tap test of the upper and lower skins of the trailing edge wedges on slats No. 2 through No. 4 inclusive and No. 7 through No. 9 inclusive, for evidence of damage or cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. Repeat the detailed inspection and audible tap test thereafter at intervals not to exceed 18 months.

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."

Related Investigative and Corrective Actions

(g) If any damage or cracking is found during any inspection or audible tap test required by paragraph (a) of this AD: Before further flight, do the related investigative action, if applicable, and replace the affected part with a new trailing edge wedge assembly or repair the affected part, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003. Accomplishing the replacement terminates the repetitive inspections and audible tap tests required by paragraph (f) of this AD for that wedge assembly only.

Parts Installation

(h) As of the effective date of this AD, no trailing edge wedge assembly having a part number listed in the "Existing Part Number" column of the table in paragraph 2.C.3. of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003, can be installed on any airplane unless it has been inspected, tested, and any necessary corrective actions accomplished in accordance with this AD.

Optional Terminating Action

(i) Replacing all trailing edge wedge assemblies with new, improved wedge assemblies in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757–57A0063, dated June 26, 2003, terminates the requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically refer to this AD.

Issued in Renton, Washington, on August 9, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–18745 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18877; Directorate Identifier 2002–NM–340–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 737–100, –200, –200C, and –300 series airplanes. This proposed AD would require repetitive detailed inspections to detect discrepancies of the retaining pin lugs on the support fitting of the main landing gear (MLG) beam, and rework of the support fitting, or replacement of the fitting if necessary. This proposed AD is prompted by reports of discrepancies of the lugs. We are proposing this AD to prevent separation of the support beam of the MLG from the rear spar, which could cause cracking of the MLG support fitting and a consequent leak in the wing fuel tank or collapse of the MLG.

DATES: We must receive comments on this proposed AD by October 1, 2004.

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

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

You can get the service information identified in this proposed AD from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You may examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or 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:

Technical Information: Robert C. Hardwick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6457; fax (425) 917–6590.

Plain Language Information: Marcia Walters, *marcia.walters@faa.gov.*

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

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

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include "Docket No. FAA–2004–18877; Directorate Identifier 2002–NM–340–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD.

Using the search function of that website, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, *etc.*). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the Docket

You can examine the AD docket 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

We have received a report indicating that broken or cracked retaining pin lugs have occurred on the support fitting of the main landing gear (MLG) beam, on certain Boeing Model 737–100 and –200 series airplanes. There was also a report of an elongated bolt hole in the lug. There were no reports of the fuse pin migrating out of the fitting. Cracked lugs can result from excessive clamp-up of the lugs, excessive grease pressure during routine lubrication of the fuse pin, migration of the fuse pin, or a combination of those factors. Fracture of the lugs, if not corrected, could result in the loss of the retaining pin and migration of the fuse pin, and consequent leak in the wing fuel tank or collapse of the MLG.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–57–1267, dated August 8, 2002. The service bulletin describes procedures for repetitive detailed inspections of the retaining pin lugs on the support fitting of the MLG beam for discrepancies, and rework of the support fitting if necessary. The rework includes performing a penetrant inspection of the fitting, and cutting off the support beam fitting lugs and installing a new fitting that replaces the removed lugs. Reworking the fitting would eliminate the need for the repetitive inspections.

Boeing has also issued Service Bulletin 737–57–1216, Revision 2, dated May 6, 1999, which, among other things, describes procedures for replacing the support fitting of the MLG beam with a new fitting. For certain airplanes, the service bulletin describes procedures for installing a special bushing to prevent damage to the retainer bolt under certain circumstances. Replacing the support fitting would eliminate the need for the repetitive inspections.

We have determined that accomplishment of the actions specified in the service bulletins will adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require repetitive detailed inspections to detect discrepancies of the retaining pin lugs on the support fitting of the MLG beam, and rework of the support fitting, or replacement of the fitting if necessary. The proposed AD would require you to use the service information described previously to perform these actions, except as discussed under "Differences Between the Proposed AD and the Service Bulletin."

Differences Between the Proposed AD and the Service Bulletin

Boeing Service Bulletin 737–57–1216, Revision 2, specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the type certification basis of the airplane, and that have been approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Costs of Compliance

This proposed AD would affect about 1,670 airplanes worldwide and 668 airplanes of U.S. registry. The proposed actions would take about 2 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $86,840, or $130 per airplane.

The rework, if accomplished, would take approximately 24 work hours per airplane to accomplish at an average labor rate of $65 per work hour. Required parts would cost approximately $1,006 per airplane. Based on these figures, the cost impact of the rework provided by this AD is estimated to be $2,566 per airplane.

The replacement of the support fitting of the MLG beam, if accomplished, would take approximately 128 work hours per airplane to accomplish at an average labor rate of $65 per work hour. Required parts would cost approximately between $4,540 and $5,271 per airplane. Based on these figures, the cost impact of the replacement provided by this AD is estimated to be between $12,860 and $13,591 per airplane.

The replacement of the support fitting and installation of a special bushing of the MLG beam (for Group 9 and Group 10 airplanes), if accomplished, would take approximately 144 work hours per airplane to accomplish at an average labor rate of $65 per work hour. Required parts would cost approximately $5,081 per airplane. Based on these figures, the cost impact of this action is estimated to be $14,441 per airplane.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2004–18877; Directorate Identifier 2002–NM–340–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by October 1, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, –200C, and –300 series airplanes, certificated in any category; line numbers 1 through 1670 inclusive.

Unsafe Condition

(d) This AD was prompted by reports of discrepancies of the lugs on the support fitting of the main landing gear (MLG) beam. We are issuing this AD to prevent separation of the support beam of the MLG from the rear spar, which could cause cracking of the MLG support fitting and a consequent leak in the wing fuel tank or collapse of the MLG.

Compliance

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

Inspection

(f) Prior to the accumulation of 15,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection to detect cracking of the retaining pin lugs of the support fitting of the MLG beam, or elongation of a bolt hole in a lug, per the Accomplishment Instructions, Part I: Inspection, of Boeing Special Attention Service Bulletin 737–57–1267, dated August 8, 2002. If no cracked lug or elongated bolt hole is found, repeat the inspection at intervals not to exceed 12,000 flight cycles, until the actions specified in paragraph (h) of this AD are accomplished.

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 mirrors magnifying lenses, *etc.* may be necessary. Surface cleaning and elaborate procedures may be required."

Corrective Action

(g) If any cracked lug or elongated bolt hole is found during any inspection required by paragraph (f) of this AD, before further flight, do paragraph (g)(1) or (g)(2) of this AD.

(1) Rework the fitting per the Accomplishment Instructions, Part II: Rework, of Boeing Special Attention Service Bulletin 737–57–1267, dated August 8, 2002.

(2) Replace the fitting per the Accomplishment Instructions, Part III—Fitting Replacement, of Boeing Service Bulletin 737–57–1216, Revision 2, dated May 6, 1999.

Optional Terminating Action

(h) Reworking or replacing the fitting per paragraph (g)(1) or (g)(2) of this AD constitutes terminating action for the inspections required by paragraph (f) of this AD.

Repair

(i) If any cracking is found during any inspection required by this AD, and the bulletin specifies to contact Boeing for appropriate action: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Parts Installation

(j) As of the effective date of this AD: With the exception of a new lug, all lugs must be inspected or reworked, as applicable, in accordance with this AD before being installed on any airplane.

Alternative Methods of Compliance (AMOCs)

(k)(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) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings.

Issued in Renton, Washington, on August 9, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–18744 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–18697; Airspace Docket No. 04–AWP–4]

Proposed Establishment of Class E Airspace; Napa, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area to support instrument operations into Napa County Airport for Aircraft transitioning from Sausalito VORTAC to the final approach course for the VOR RWY 6 Instrument Approach Procedure. Oakland Air Route Traffic Control Center has identified an operational necessity for additional controlled airspace to enable operations at 4000 feet above Mean Sea Level (MSL) along the Sausalito transition. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain these aircraft. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations.

DATE: Comments must be received on or before October 1, 2004.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–18697/ Airspace Docket No. 04–AWP–4, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final dispositions in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of Western Terminal Operations, Federal Aviation Administration, at 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Branch, Western Terminal Operations, at (310) 725–6611.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–18697/Airspace Docket No. 04–AWP–4." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov* or the Superintendent of Documents web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both document numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by establishing a Class E airspace area at Napa, CA. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the VOR RWY 6 IAP into Napa County Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing this instrument procedure. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

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

* * * * *

AWP CA E5 Napa, CA [New]

Napa County Airport, CA
(Lat. 38°12′47″ N, long. 122°16′50″ W)

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Napa County Airport, and that airspace bounded by a line beginning at lat. 38°02′07″ N, long. 122°39′41″ W; to lat. 37°55′05″ N, long. 122°30′56″ W; to lat. 37°51′19″ N, long. 122°31′22″ W; to lat. 37°50′26″ N, long. 122°36′17″ W; to the point of beginning.

* * * * *

Issued in Los Angeles, California, on July 30, 2004.

John Clancy,

Area Director, Western Terminal Operations.

[FR Doc. 04–18821 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 040805231–4231–01]

RIN 0691–AA52

Direct Investment Surveys: BE–10, Benchmark Survey of U.S. Direct Investment Abroad—2004

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule amends regulations of the Bureau of Economic Analysis, Department of Commerce (BEA) to set forth the reporting requirements for the BE–10, Benchmark Survey of U.S. Direct Investment Abroad. The BE–10 survey is conducted once every 5 years and covers virtually the entire universe of U.S. direct investment abroad in terms of value. The benchmark survey will be conducted for 2004. To address the current needs of data users while at the same time keeping the respondent burden as low as possible, BEA proposes modification, addition, or deletion of several items on the survey forms and in the reporting criteria. Changes are proposed to make the survey more consistent with the surveys of direct investment in the United States and more consistent with its annual and quarterly counterparts.

Changes proposed by BEA in the reporting requirements to be implemented in this proposed rule are: (a) Increasing the exemption level for reporting on the BE–10B(SF) short form from $7 million to $25 million and on the BE–10B Bank form from $7 million to $10 million; (b) increasing the exemption level for reporting on the BE–10B(LF) long form from $100 million to $150 million; and (c) increasing the exemption level for reporting only selected items on the BE–10A form from $100 million to $150 million. In conjunction with these

increases in exemption levels, BEA proposes to introduce an abbreviated short form, Form BE–10B Mini, for reporting nonbank foreign affiliates with assets, sales or gross operating revenues, and net income (loss) less than or equal to $25 million but greater than $10 million.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before October 18, 2004.

ADDRESSES: You may submit comments, identified by RIN 0691–AA52, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *Obie.Whichard@bea.gov*.
- Fax: Office of the Chief, International Investment Division, (202) 606–5318.
- Mail: Office of the Chief, International Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Washington, DC 20230.
- Hand Delivery/Courier: Office of the Chief, International Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Shipping and Receiving, Section M100, 1441 L Street, NW., Washington, DC 20005.

Public Inspection: Comments may be inspected at BEA's offices, 1441 L Street, NW., Room 7006, between 8:30 a.m. and 4:30 p.m., eastern time Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Obie G. Whichard, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9890.

SUPPLEMENTARY INFORMATION: These proposed rules amend 15 CFR 806.16 to set forth the reporting requirements for the BE–10, Benchmark Survey of U.S. Direct Investment Abroad—2004. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

Description of Changes

The BE–10 survey is a mandatory survey and is conducted once every 5 years by BEA under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, "the Act." BEA will send the survey to potential respondents in March 2005; responses will be due by May 31, 2005 for respondents required to file fewer than 50 foreign affiliate report forms and by June 30, 2005 for those required to file 50 or more forms.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users, to ensure that, as much as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed. In designing the survey, BEA contacted data users and survey respondents to obtain their views on the proposed benchmark survey. The list of proposed changes reflects users' and respondents' comments. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely responses (*e.g.*, whether the data are readily available on respondents' books), and BEA's experience in previous benchmark and related annual surveys.

To reduce respondent burden, particularly for small companies, BEA proposes the following changes to the Code of Federal Regulations: (1) Increase the exemption level for reporting on the BE–10B(SF) short form from $7 million to $25 million and on the BE–10B Bank form from $7 million to $10 million; (2) increase the exemption level for reporting on the BE–10B(LF) long form from $100 million to $150 million; and (3) increase the exemption level for reporting only selected items on the BE–10A form from $100 million to $150 million. In conjunction with these increases in exemption levels, BEA proposes to introduce an abbreviated short form for reporting nonbank foreign affiliates with assets, sales or gross operating revenues, and net income (loss) less than or equal to $25 million but greater than $10 million.

In addition to the changes in the reporting criteria mentioned above, BEA proposes to expand reporting requirements on the BE–10B(SF) so that certain items that previously had been reportable only for majority-owned affiliates with assets, sales or gross operating revenues, or net income (loss) over $50 million will now be reportable for all majority-owned affiliates being filed on the BE–10B(SF).

On the BE–11 Annual Survey of U.S. Direct Investment Abroad, these items are filed for affiliates with assets, sales or gross operating revenues, or net income (loss) over $30 million. Also, several of the items are on the abbreviated short form and would be filed for affiliates with exemption-level-item values between $10 million and $25 million.

BEA proposes to add questions to the BE–10A form and BE–10B(LF) long form to collect detail on: (1) The broad occupational structure of employment; (2) premiums earned and claims paid for U.S. Reporters and foreign affiliates operating in the insurance industry; (3) finished goods purchased for resale for U.S. Reporters and foreign affiliates operating in the wholesale and retail trade industries; and (4) research and development performed for affiliated persons or for others. BEA proposes to add an item to the BE–10A form to help address questions on outsourcing by U.S. businesses to foreign countries. In addition, BEA proposes to expand the income statement on the BE–10B(SF) short form to include items on the long form and to add questions to the BE–10A Bank and BE–10B Bank forms to collect information on sales of services and on interest received and paid.

To offset the burden imposed by these additional questions, BEA proposes to remove questions on: (1) U.S. trade in goods by product; (2) U.S. Reporter exports to unaffiliated foreign persons by country of destination; and (3) composition of external finances for the U.S. Reporter. BEA also proposes to replace sales by country of destination on the BE–10B(LF) with sales by major countries/regions.

Survey Background

The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, "the Act." Section 4(b) of the Act provides that with respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter. In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) Identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and

feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA.

The benchmark surveys are BEA's censuses, intended to cover the universe of U.S. direct investment abroad in terms of value. U.S. direct investment abroad is defined as the ownership or control, directly or indirectly, by one U.S. person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. parent companies and their foreign affiliates. The data are needed to measure the size and economic significance of U.S. direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. The data are used to derive current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the U.S. direct investment position abroad and of the operations of U.S. parent companies and their foreign affiliates.

As proposed, the survey will consist of an instruction booklet, a claim for not filing the BE–10, and a number of report forms. The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, whether they are banks or nonbanks and, for foreign affiliates, whether or not they are majority-owned by U.S. direct investors. For purposes of the BE–10 survey, a "bank" is a business entity engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, foreign branches and agencies of U.S. banks whether or not they accept deposits abroad, savings and loans, savings banks, bank holding companies, and financial holding companies. If this proposed rule is adopted, the report forms that would be used in the survey consist of the following:

1. Form BE–10A—Report for nonbank U.S. Reporters;

2. Form BE–10A BANK—Report for U.S. Reporters that are banks;

3. Form BE–10B(LF) (Long Form)—Report for majority-owned nonbank foreign affiliates of nonbank U.S. parents with assets, sales, or net income greater than $150 million (positive or negative);

4. Form BE–10B(SF) (Short Form)—Report for majority-owned nonbank foreign affiliates of nonbank U.S. parents with assets, sales, or net income greater than $25 million but not greater than $150 million (positive or negative); minority-owned nonbank foreign affiliates of nonbank U.S. parents with assets, sales, or net income greater than $25 million (positive or negative); and nonbank affiliates of U.S. bank parents with assets, sales, or net income greater than $25 million (positive or negative);

5. Form BE–10B Mini—Report for nonbank foreign affiliates with assets, sales, or net income greater than $10 million but not greater than $25 million (positive or negative); and

6. Form BE–10B BANK—Report for foreign affiliates that are banks.

Although the proposed survey is intended to cover the universe of U.S. direct investment abroad, to reduce respondent burden, foreign affiliates with assets, sales, and net income each equal to or less than $10 million (positive or negative) are exempt from being reported on Form BE–10B(SF), BE–10B Mini, or BE–10B BANK (but must be listed, along with selected identification information and data, on Form BE–10A SUPPLEMENT A or BE–10A BANK SUPPLEMENT A).

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O.12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The requirement has been submitted to OMB for approval as a reinstatement, with change, of a previously approved collection for which approval has expired under OMB control number 0608–0049.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

The survey, as proposed, is expected to result in the filing of reports from approximately 3,875 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 110 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden for the 2004 survey is estimated at 428,750 hours, compared to 458,000 hours estimated for the previous, 1999, survey. The decrease in burden is largely attributable to the proposed changes in reporting criteria.

Comments are requested concerning: (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 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. Comments should be addressed to: Director, Bureau of Economic Analysis

(BE–1), U.S. Department of Commerce, Washington, DC 20230 (FAX: 202–606–5311); and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0049, Attention PRA Desk Officer for BEA, via the Internet at *pbugg@omb.eop.gov,* or by FAX at 202–395–7245.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. A BE–10 report is required of any U.S. company that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the U.S. company's 2004 fiscal year. Companies that have direct investments abroad tend to be quite large. To reduce the reporting burden on smaller U.S. companies, U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $150 million (positive or negative) are required to report only selected items on the BE–10A form for U.S. Reporters in addition to forms they may be required to file for their foreign affiliates.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements, United States investments abroad.

Dated: July 30, 2004.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 is revised to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173); E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.16 is revised to read as follows:

§ 806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad—2004.

A BE–10, Benchmark Survey of U.S. Direct Investment Abroad will be conducted covering 2004. All legal authorities, provisions, definitions, and requirements contained in § 806.1 through § 806.13 and § 806.14(a) through (d) are applicable to this survey. Specific additional rules and regulations for the BE–10 survey are given in paragraphs (a) through (e) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE–10, Benchmark Survey of U.S. Direct Investment Abroad—2004, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, that is contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by:

(1) Certifying in writing, by the due date of the survey, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE–10 survey;

(2) Completing and returning the "BE–10 Claim for Not Filing" by the due date of the survey; or

(3) Filing the properly completed BE–10 report (comprising Form BE–10A or BE–10A BANK and Forms BE–10B(LF), BE–10B(SF), BE–10B Mini and/or BE–10B BANK) by May 31, 2005, or June 30, 2005, as required.

(b) *Who must report.* (1) A BE–10 report is required of any U.S. person that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the U.S. person's 2004 fiscal year.

(2) If the U.S. person had no foreign affiliates during its 2004 fiscal year, a "BE–10 Claim for Not Filing" must be filed by the due date of the survey; no other forms in the survey are required. If the U.S. person had any foreign affiliates during its 2004 fiscal year, a BE–10 report is required and the U.S. person is a U.S. Reporter in this survey.

(3) Reports are required even if the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the U.S. person's 2004 fiscal year.

(4) The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, whether they are banks or nonbanks; and, for foreign affiliates, whether they are majority-owned or minority-owned by U.S. direct investors. For purposes of the BE–10 survey, a "majority-owned" foreign affiliate is one in which the combined direct and indirect ownership interest of all U.S. parents of the foreign affiliate exceeds 50 percent; all other affiliates are referred to as "minority-owned" affiliates. In addition, a "bank" is a business entity engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations, foreign branches and agencies of U.S. banks whether or not they accept deposits abroad, savings and loans, savings banks, bank holding companies, and financial holding companies. Elsewhere in this section, when "bank" is used, it refers to all such organizations.

(c) *Forms for nonbank U.S. Reporters and foreign affiliates.*—(1) *Form BE–10A (Report for nonbank U.S. Reporter).* A BE–10A report must be completed by a U.S. Reporter that is not a bank. If the U.S. Reporter is a corporation, Form BE–10A is required to cover the fully consolidated U.S. domestic business enterprise. However, where a U.S. Reporter's primary line of business is not in banking (or related financial activities), but the Reporter also has ownership in a bank, the bank, including all of its domestic subsidiaries or units, must file on the BE–10A BANK form and the nonbanking U.S. operations not owned by the bank must file on the BE–10A.

(i) If for a nonbank U.S. Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than $150 million (positive or negative) at any time during the Reporter's 2004 fiscal year, the U.S. Reporter must file a complete Form BE–10A and, as applicable, a BE–10A SUPPLEMENT A listing each, if any, foreign affiliate that is exempt from being reported on Form BE–10B(LF), BE–10B(SF), BE–10B Mini, or BE–10B BANK. It must also file a Form BE–10B(LF), BE–10B(SF), BE–10B Mini, or BE–10B BANK, as appropriate, for each nonexempt foreign affiliate.

(ii) If for a nonbank U.S. Reporter none of the three items listed in paragraph (c)(1)(i) of this section was greater than $150 million (positive or negative) at any time during the Reporter's 2004 fiscal year, the U.S. Reporter is required to file on Form BE–

10A only certain items as designated on the form and, as applicable, a BE–10A SUPPLEMENT A listing each, if any, foreign affiliate that is exempt from being reported on Form BE–10B(LF), BE–10B(SF), BE–10B Mini, or BE–10B BANK. It must also file a Form BE–10B(LF), BE–10B(SF), BE–10B Mini, or BE–10B BANK, as appropriate, for each nonexempt foreign affiliate.

(2) *Form BE–10B(LF), (SF), or Mini (Report for nonbank foreign affiliate).*

(i) A BE–10B(LF) (Long Form) must be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $150 million (positive or negative) at any time during the affiliate's 2004 fiscal year.

(ii) A BE–10B(SF) (Short Form) must be filed:

(A) For each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $25 million but for which none of these items was greater than $150 million (positive or negative), at any time during the affiliate's 2004 fiscal year, and

(B) For each minority-owned nonbank foreign affiliate of a nonbank U.S. Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $25 million (positive or negative), at any time during the affiliate's 2004 fiscal year, and

(C) For each nonbank foreign affiliate of a U.S. bank Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $25 million (positive or negative), at any time during the affiliate's 2004 fiscal year.

(iii) A BE–10B Mini must be filed for each nonbank foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $10 million but for which none of these items was greater than $25 million (positive or negative), at any time during the affiliate's 2004 fiscal year.

(iv) Notwithstanding paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this section, a Form BE–10B(LF), (SF), or Mini must be filed for a foreign affiliate of the U.S. Reporter that owns another nonexempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt, *i.e.*, a Form BE–10B(LF), (SF), Mini, or BANK must be filed for all affiliates upward in a chain of ownership.

(d) *Forms for U.S. Reporters and foreign affiliates that are banks, bank holding companies, or financial holding companies.* (1) *Form BE–10A BANK (Report for a U.S. Reporter that is a bank).* A BE–10A BANK report must be completed by a U.S. Reporter that is a bank. For purposes of filing Form BE–10A BANK, the U.S. Reporter is deemed to be the fully consolidated U.S. domestic business enterprise and all required data on the form shall be for the fully consolidated domestic entity.

(i) If a U.S. bank had any foreign affiliates at any time during its 2004 fiscal year, whether a bank or nonbank and whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $10 million (positive or negative) at any time during the affiliate's 2004 fiscal year, the U.S. Reporter must file a Form BE–10A BANK and, as applicable, a BE–10A BANK SUPPLEMENT A listing each, if any, foreign affiliate, whether bank or nonbank, that is exempt from being reported on Form BE–10B(SF), BE–10B Mini, or BE–10B BANK. It must also file a Form BE–10B(SF) or BE–10B Mini for each nonexempt nonbank foreign affiliate and a Form BE–10B BANK for each nonexempt bank foreign affiliate.

(ii) If the U.S. bank Reporter had no foreign affiliates for which any one of the three items listed in paragraph (d)(2)(i) of this section was greater than $10 million (positive or negative) at any time during the affiliate's 2004 fiscal year, the U.S. Reporter must file a Form BE–10A BANK and a BE–10A BANK SUPPLEMENT A, listing all foreign affiliates exempt from being reported on Form BE–10B(SF), BE–10B Mini, or BE–10B BANK.

(2) *Form BE–10B BANK (Report for a foreign affiliate that is a bank).* (i) A BE–10B BANK report must be filed for each foreign bank affiliate of a bank or nonbank U.S. Reporter, whether directly or indirectly held, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $10 million (positive or negative) at any time during the affiliate's 2004 fiscal year.

(ii) Notwithstanding paragraph (d)(3)(i) of this section, a Form BE–10B BANK must be filed for a foreign bank affiliate of the U.S. Reporter that owns another nonexempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt, *i.e.*, a Form BE–10B(LF), (SF), Mini, or BANK must be filed for all affiliates upward in a chain of ownership. However, a Form BE–10B BANK is not required to be filed for a foreign bank affiliate in which the U.S. Reporter holds only an indirect ownership interest of 50 percent or less and that does not own a reportable nonbank foreign affiliate, but the indirectly-owned bank affiliate must be listed on the BE–10A BANK SUPPLEMENT A.

(e) *Due date.* A fully completed and certified BE–10 report comprising Form BE–10A or 10A BANK and Form(s) BE–10B(LF), (SF), Mini, or BANK (as required) is due to be filed with BEA not later than May 31, 2005 for those U.S. Reporters filing fewer than 50, and June 30, 2005 for those U.S. Reporters filing 50 or more, Forms BE–10B(LF), (SF), Mini, or BANK.

[FR Doc. 04–18640 Filed 8–16–04; 8:45 am]
BILLING CODE 3510–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR part 35

[Docket No. RM02–12–000]

Standardization of Small Generator Interconnection Agreements and Procedures

August 12, 2004.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request for supplemental comments.

SUMMARY: On July 24, 2003, the Commission issued a Notice of Proposed Rulemaking in this docket, with comments due on or before October 3, 2003.[1] Since we first requested comments, the small generator industry has continued to evolve. Moreover, several states have adopted new guidelines for small generator interconnections and the various stakeholders who participated in the Commission's Advance Notice of Proposed Rulemaking consensus

[1] Standardization of Small Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking, 60 FR 49974 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 32,572 (2003).

process have continued working toward resolving various issues.[2]

This notice gives interested parties the opportunity to share with the Commission meaningful progress that has been made by groups of stakeholders in resolving issues such as the appropriate technical standards for screens, the necessity for certain interconnection studies, and other modifications to proposed provisions. Commenters are invited to file joint supplemental comments with the Commission on or before October 1, 2004. The Commission will consider any new consensus proposals in the formulation of the Final Rule. However, the Commission will not consider comments that simply repeat prior arguments.

DATES: Comments are due October 1, 2004. Comments should be double spaced and include an executive summary. In order to facilitate the evaluation of comments, commenters are encouraged to file their comments electronically in WordPerfect, MS Word, Portable Document Format (PDF), or ASCII format.

ADDRESSES: Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov* . Commenters unable to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC, 20426. Comments should reference Docket No. RM02–12–000.

FOR FURTHER INFORMATION CONTACT:

Kirk F. Randall (Technical Information), Office of Market, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8092.

Abraham Silverman (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6444.

SUPPLEMENTARY INFORMATION:

On July 24, 2003, the Commission issued a Notice of Proposed Rulemaking in this docket, with comments due on or before October 3, 2003.[3] Since we first requested comments, the small generator industry has continued to evolve. Moreover, several states have adopted new guidelines for small generator interconnections and the various stakeholders who participated in the Commission's Advance Notice of Proposed Rulemaking consensus process have continued working toward resolving various issues.[4]

This notice gives interested parties the opportunity to share with the Commission meaningful progress that has been made by groups of stakeholders in resolving issues such as the appropriate technical standards for screens, the necessity for certain interconnection studies, and other modifications to proposed provisions. Commenters are invited to file joint supplemental comments with the Commission on or before October 1, 2004. The Commission will consider any new consensus proposals in the formulation of the Final Rule. However, the Commission will not consider comments that simply repeat prior arguments.

Linda Mitry,

Acting Secretary.

[FR Doc. 04–18892 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

[2] Standardization of Small Generator Interconnection Agreements and Procedures; Advance Notice of Proposed Rulemaking, 67 FR 54749 (Aug. 26, 2002), FERC Stats. & Regs. ¶ 35,544 (2002).

[3] Standardization of Small Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking, 60 FR 49974 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 32,572 (2003).

[4] Standardization of Small Generator Interconnection Agreements and Procedures; Advance Notice of Proposed Rulemaking, 67 FR 54749 (Aug. 26, 2002), FERC Stats. & Regs. ¶ 35,544 (2002).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–208254–90 and REG–136481–04]

RIN 1545–AO72 and RIN 1545–BD62

Source of Compensation for Labor or Personal Services; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to withdrawal of notice of proposed rulemaking and notice of proposed rulemaking.

SUMMARY: This document corrects a withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–208254–90 and REG–136481–04) that was published in the **Federal Register** on Friday, August 6, 2004 (69 FR 47816), that contains new proposed rules that describe the proper basis for determining the source of compensation from labor or personal services performed partly within and partly without the United States.

FOR FURTHER INFORMATION CONTACT: David Bergkuist at (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–208254–90 and REG–136481–04) that is the subject of this correction is under section 861 of the Internal Revenue Code.

Need for Correction

As published, REG–208254–90 and REG–136481–04, contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the withdrawal of notice of proposed rulemaking and notice of proposed rulemaking (REG–208254–90 and REG–136481–04) which is the subject of FR. Doc. 04–17813 is corrected as follows:

1. On page 47816, column 2, in the preamble, the paragraph heading **ADDRESSES**, is corrected in its entirety, to read as follows "Send submissions to: CC:PA:LPD:PR (REG–136481–04), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–136481–04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington DC or sent electronically, via the IRS Internet site at: *http://www.irs.gov/regs* or Federal eRulemaking Portal at *http://www.regulations.gov* (IRS and REG–136481–04)."

§ 1.861–4 [Corrected]

2. On page 47819, column 3, § 1.861–4, paragraph (b)(2)(ii)(C)(2), line 1 through 3, the language "Ruling or other administrative pronouncement with respect to groups of taxpayers. The Commissioner may, by" is corrected to read "*Ruling or other administrative pronouncement with respect to groups of taxpayers.* The Commissioner may, by".

LaNita Van Dyke,

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

[FR Doc. 04–18835 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–165579–02]

RIN 1545–BB81

Withdrawal of Proposed Regulations Relating to Corporate Reorganizations; Transfers of Assets or Stock Following a Reorganization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking regarding the effect of certain transfers of assets or stock on the qualification of certain transactions as reorganizations under section 368(a). The proposed regulations were published on March 2, 2004. After consideration of additional issues related to the effect of transfers of assets or stock on the qualification of a transaction as a reorganization, the IRS and Treasury Department have decided to withdraw the proposed regulations and issue new proposed regulations that provide a more complete set of rules addressing such transfers.

DATES: These proposed regulations are withdrawn August 17, 2004.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Fienberg (202) 622–7770 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2004, the IRS and Treasury Department issued proposed regulations regarding the effect of certain transfers of assets or stock on the qualification of certain transactions as reorganizations under section 368(a) (69 FR 9771) (hereinafter the March 2004 proposed regulations). After consideration of additional issues related to the effect of transfers of assets or stock on the qualification of a transaction as a reorganization, including distributions of assets or stock after purported reorganizations, the IRS and Treasury Department have decided to withdraw the March 2004 proposed regulations and issue new proposed regulations that provide a more complete set of rules addressing such transfers. Accordingly, the March 2004 proposed regulations are withdrawn.

Drafting Information

The principal author of this withdrawal notice is Jeffrey B. Fienberg of the Office of Associate Chief Counsel (Corporate).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG–165579–02) published in the **Federal Register** on March 2, 2004 (69 FR 9771) is hereby withdrawn.

Deborah M. Nolan,

Acting Deputy Commissioner for Services and Enforcement.

[FR Doc. 04–18791 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[WY–032–FOR]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposes revisions to rules about highwalls and coal exploration. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Wyoming program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., m.d.t. September 16, 2004. If requested, we will hold a public hearing on the amendment on September 13, 2004. We will accept requests to speak until 4 p.m., m.d.t. on September 1, 2004.

ADDRESSES: You may submit comments, identified by "WY–032–FOR," by any of the following methods:

- *E-mail: JFulton@osmre.gov.* Include "WY–032–FOR" in the subject line of the message.
- *Hand Delivery/Courier:* James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway (33rd floor), Suite 3320, Denver, CO 80202.
- *Mail:* James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, PO Box 46667, Denver, CO 80201.
- *Fax:* 303/844–1545.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: Access to the docket to review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document is at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Office of Surface Mining Reclamation and Enforcement's (OSM) Denver Field Division. In addition, you may review a copy of the amendment during regular business hours at the following locations:

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway (33rd floor), Suite 3320, Denver, CO 80202. 303/844–1400, ext. 1424; *JFulton@osmre.gov.*

Richard A. Chancellor, Administrator, Land Quality Division, Department of Environmental Quality, Herschler Building—3rd Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. 307/777–7046; *rchanc@state.wy.us.*

FOR FURTHER INFORMATION CONTACT: James F. Fulton, telephone: 303/844–1400, ext. 1424. Internet: *JFulton@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the

regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

II. Description of the Proposed Amendment

By letter dated May 21, 2004, Wyoming sent us a proposed amendment to its program (Rule Package 1R, administrative record No. WY–37–1) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a February 21, 1990, letter (administrative record No. WY–37–7) that we sent to Wyoming in accordance with 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 950.16(a), (w), and (ll). The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

The provisions of its Coal Rules that Wyoming proposes to revise are: (1) Chapter 1, Section 2, repeal of definition of soft rock surface mining; (2) Chapter 4, Section 2, rule language addition; (3) Chapter 4, Section 2, repeal of highwall addition; (4) Chapter 4, Section 2, rule language addition; (5) Chapter 10, Sections 1, 2, 3, 4, & 8 and Chapter 1, Section 2, coal exploration; and (6) Chapter 1, Section 2 and Chapter 10, Section 8, coal exploration.

Specifically, (1) Wyoming's Coal Rules only pertain to coal so even though coal is a "soft rock" there is no reason to maintain a definition that includes other minerals; (2) to revise the State reference to be the same as the Federal reference within the coal exploration regulations to be "250 tons or less" rather than "less than 250 tons;" (3) to specify that an application for a coal exploration permit also include a narrative in addition to a map; (4) to add that highwall retention may be considered on a case-by-case basis to enhance wildlife habitat "as replacement for natural features that were eliminated by mining;" (5) to add language to clarify application requirements for coal exploration; and (6) to add definitions and authorities for coal exploration.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Wyoming program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to anyone other than James Fulton at the Denver Field Division may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. WY–032–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Denver Field Division at 303/844–1400, ext. 1424.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on September 1, 2004. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the

actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. The rule does not involve or affect Indian tribes in any way.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 22, 2004.

Allen D. Klein,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 04–18775 Filed 8–16–04; 8:45 am]

BILLING CODE 4310–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 97

[WT Docket No. 04–140; FCC 04–79]

Amateur Service Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to revise operating privileges for amateur radio service licensees as well as to eliminate obsolete and duplicative rules in the Amateur Radio Service. We believe that these proposals will promote the development of the amateur radio service by providing licensees greater flexibility in the utilization of amateur service frequencies; eliminate unduly burdensome or duplicative requirements that may discourage individuals from becoming amateur radio service licensees; and promote efficient use of spectrum allocated to the Amateur Radio Service.

DATES: Submit comments on or before September 16, 2004, and reply comments are due on or before October 1, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: William T. Cross,

William.Cross@fcc.gov, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418–0680, TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), WT Docket No. 04–140, FCC 04–79, adopted March 31, 2004, and released April 15, 2004. The full text of this document is available for inspection and copying during normal business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, Suite CY–B402, Washington, DC 20554. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426, or TTY (202) 418–7365, or at *brian.millin@fcc.gov.*

1. The Commission initiated this proceeding to revise operating privileges for amateur radio service licensees as well as to eliminate obsolete and duplicative rules in the Amateur Radio Service. These proposals to amend the part 97 Amateur Radio Service rules were made in response to the filing of nineteen petitions for rulemaking and one informal request. The Commission found that because some of the petitions have presented sufficient evidence to warrant proposing rule changes, and in the interest of administrative efficiency, it consolidated these matters in the Order. Specifically, the Commission proposed to revise the operating privileges of amateur radio operators in four high frequency bands; permit auxiliary stations to transmit on the 2 m amateur service band; permit amateur stations to transmit spread spectrum communications on the 1.25 m band; permit amateur stations to re-transmit communications from the International Space Station; allow amateur service licensees to designate the amateur radio club to receive their call sign, in memoriam; prohibit an applicant from filing more than one application for a specific vanity call sign; eliminate unnecessary restrictions imposed on certain equipment manufacturers; allow amateur radio stations in or near Alaska more flexibility in providing emergency communications; and eliminate unnecessary rules in the amateur radio operator license examination system.

I. Procedural Matters

A. Ex Parte Rules—Permit-but-Disclose Proceeding

2. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Comment Dates

3. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 16, 2004, and reply comments on or before October 1, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

4. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

5. Parties who chose to file by paper must file an original and four copies of each filing. The docket number appearing in the caption of this proceeding must appear in each comment or filing. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554.

6. For further information, contact William T. Cross, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233.

C. Paperwork Reduction Act

7. This *NPRM* does not contain either a proposed or modified information collection requirement.

II. Initial Regulatory Flexibility Analysis

8. The Regulatory Flexibility Act of 1980, as amended (RFA), requires an initial regulatory flexibility analysis to be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which is independently owned and operated, is not dominant in its field of operation, and satisfies any additional criteria established by the Small Business Administration (SBA).

A. Need for, and Objectives of, the Proposed Rules

9. In the *NPRM,* we propose to amend the rules that apply to how an individual who has qualified for an amateur service operator license and is the control operator of an amateur radio station can use an amateur radio station to pursue the basis and purpose of the amateur service. The proposed rules apply exclusively to individuals who are licensees in the amateur radio service and to individuals who are control operators of amateur radio stations. Such amendments would be in the public interest because they would allow more flexibility in the way an amateur radio station can be used by a licensee, would allow the control operator of an amateur radio station additional flexibility in the operation of the station, and would take advantage of technological developments in equipment and communication techniques that have occurred since the Commission last considered operating privileges in the amateur radio service.

B. Legal Basis for Proposed Rules

10. The proposed action is authorized under sections 4(i), 4(j), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

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

11. The Regulatory Flexibility Act of 1980, as amended (RFA), requires an initial regulatory flexibility analysis to be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small

organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the Small Business Administration (SBA).

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

12. None.

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

13. The rules proposed in the *NPRM,* potentially could affect manufactures of amateur radio equipment. Based on requests from manufactures for certification of amateur radio transmitters and receivers, we believe that there are between five and ten manufactures of amateur radio equipment and that none of these manufactures are small entities. The proposed rule changes, if adopted, would apply to the control operator of an amateur radio station and would not result in a mandatory change in manufactured amateur radio equipment. Therefore, we certify that the proposals in this *NPRM,* if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the *NPRM,* including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register.**

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

14. None.

III. Ordering Clauses

15. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking and Order,* including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Parts 1 and 2

Radio.

47 CFR Part 97

Radio, Volunteers.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Proposed Rules

For reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, and 97 as follows:

PART 1—APPLICATION REQUIREMENTS AND PROCEDURES

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

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

2. Section 1.934 is amended by redesignating paragraphs (d)(3) and (d)(4), as (d)(4) and (d)(5), and adding a new paragraph (d)(3) to read as follows:

§ 1.934 Defective applications and dismissal.

* * * * *

(d) * * *

(3) It includes a list of amateur station vanity call signs in order of preference and requests, as the first preferred call sign, the same call sign requested on another application filed on the same day by the same applicant.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

4. Section 2.106 is amended by revising United States footnote US267 to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

US267 In the band 902–928 MHz, amateur radio stations shall transmit on the frequency segments 902.0–902.4, 902.6–904.3, 904.7–925.3, 925.7–927.3, and 927.7–928.0 MHz within the states of Colorado and Wyoming, bounded by the area of latitude 39° N. to 42° N. and longitude 103° W. to 108° W.

* * * * *

5. Section 2.815 is amended by revising paragraphs (b) and (c) and by removing paragraphs (d) and (e) to read as follows:

§ 2.815 External radio frequency power amplifiers.

* * * * *

(b) After April 27, 1978, no person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier unless the amplifier has been approved in accordance with subpart J of this part and other relevant parts of this chapter. This proscription shall not apply to the marketing to an amateur radio operator of an external radio frequency power amplifier provided the amplifier is for use at an amateur radio station and the requirements of §§ 97.315 and 97.317 of this chapter are met.

(c) No person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier unless the amplifier has received a grant of certification in accordance with subpart J of this part and other relevant parts of this chapter. No more than 10 external radio frequency power amplifiers may be constructed for evaluation purposes in preparation for the submission of an application for a grant of certification. This proscription shall not apply to the marketing to a licensed amateur radio operator of an external radio frequency power amplifier provided the amplifier is for use at an amateur radio station and the requirements of §§ 97.315 and 97.317 of this chapter are met.

6. Section 2.1060 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c) and revising newly designated paragraph (c) to read as follows:

§ 2.1060 Equipment for use in the amateur radio service.

* * * * *

(c) Certification of external radio frequency power amplifiers may be denied when denial would prevent the use of these amplifiers in services other than the Amateur Radio Service.

PART 97—AMATEUR RADIO SERVICE

7. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

8. Section 97.3 is amended by removing and reserving paragraph (a)(19) and revising paragraph (c)(2) to read as follows:

§ 97.3 Definitions.

* * * * *

(c) * * *

(2) *Data.* Telemetry, telecommand and computer communications emissions

having designators with A, C, D, F, G, H, J or R as the first symbol; 1 as the second symbol; D as the third symbol; emissions A1C and F2C having an occupied bandwidth of 500 Hz or less, and J2D. Only a digital code of a type specifically authorized in this part may be transmitted.

* * * * *

9. Section 97.19 is amended by revising paragraphs (c)(3) and (d)(1) to read as follows:

§ 97.19 Application for a vanity call sign.

* * * * *

(c) * * *

(3) Except for an applicant who is the spouse, child, grandchild, stepchild, parent, grandparent, step-parent, brother, sister, stepbrother, stepsister, aunt, uncle, niece, nephew, or in-law, and except for an applicant who is a club station license trustee acting with a statement of consent signed by the person ante mortem or the written consent of at least one relative, as listed above, of a person now deceased, the call sign shown on the license of a person now deceased is not available to the vanity call sign system for 2 years following the person's death, or for 2 years following the expiration of the license grant, whichever is sooner.

(d) * * *

(1) The applicant must request that the call sign shown on the license grant be vacated and provide a list of up to 25 call signs in order of preference. In the event that an applicant requests the same call sign as their first preferred call sign in more than one application on the same receipt day, only the first processable application received by the Commission will be considered.

* * * * *

10. Section 97.111 is amended by redesignating paragraphs (a)(2) through (a)(4) as (a)(3) through (a)(5), respectively, and adding a new paragraph (a)(2) to read as follows:

§ 97.111 Authorized transmissions.

(a) * * *

(2) Transmissions necessary to meet essential communication needs and to facilitate relief actions.

* * * * *

11. Section 97.113 is amended by revising paragraph (e) to read as follows:

§ 97.113 Prohibited transmissions.

* * * * *

(e) No station shall retransmit programs or signals emanating from any type of radio station other than an amateur station, except propagation and weather forecast information intended for use by the general public and originated from United States Government stations, and communications, including incidental music, originating on United States Government frequencies between a manned spacecraft and its associated Earth stations. Prior approval for manned spacecraft communications retransmissions must be obtained from the National Aeronautics and Space Administration. Such retransmissions must be for the exclusive use of amateur radio operators. Propagation, weather forecasts, and manned spacecraft communications retransmissions may not be conducted on a regular basis, but only occasionally, as an incident of normal amateur radio communications.

* * * * *

12. Section 97.115 is amended by revising paragraph (b)(2), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c), to read as follows:

§ 97.115 Third party communications.

* * * * *

(b) * * *

(2) The third party is not a prior amateur service licensee whose license was revoked or not renewed after hearing and re-licensing has not taken place; suspended for less than the balance of the license term and the suspension is still in effect; suspended for the balance of the license term and re-licensing has not taken place; or surrendered for cancellation following notice of revocation, suspension or monetary forfeiture proceedings. The third party may not be the subject of a cease and desist order which relates to amateur service operation and which is still in effect.

(c) No station may transmit third party communications while being automatically controlled except a station transmitting a RTTY or data emission.

* * * * *

13. Section 97.201 is amended by revising paragraph (b) to read as follows:

§ 97.201 Auxiliary station.

* * * * *

(b) An auxiliary station may transmit only on the 2 m and shorter wavelength bands, except the 144.0–144.5 MHz, 145.8–146.0 MHz, 219–220 MHz, 222.00–222.15 MHz, 431–433 MHz, and 435–438 MHz segments.

* * * * *

14. Section 97.207 is amended by revising paragraphs (g) introductory text, (g)(1), and (g)(2), by adding (g)(3) and by removing paragraphs (h) and (i) to read as follows:

§ 97.207 Space station.

* * * * *

(g) The license grantee of each space station must file the following notification with the International Bureau, FCC, Washington, DC 20554.

(1) A pre-space notification within 30 days after launch vehicle determination, but no later than 90 days before integration of the space station into the launch vehicle. This notification shall include an electronic file containing the information required by Appendix 4 of the ITU Radio Regulations in the format consistent with ITU requirements. With that notification, the license grantee of the space station shall include a description of the design and operational strategies the space station will use to mitigate orbital debris, including a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the spacecraft. The description must include an analysis demonstrating that debris generation will not result from the conversion of chemical, pressure, or kinetic energy sources on board the spacecraft into energy that fragments the spacecraft. This demonstration should address whether stored energy will be removed at the spacecraft's end-of-life, by depleting residual fuel and leaving all fuel line valves open, venting any pressurized system, leaving all batteries in a permanent discharge state, and removing any remaining source of stored energy, or through other equivalent procedures. If any material item described in the notification changes before launch, a replacement pre-space notification shall be filed with the International Bureau. The replacement notification shall be filed no later than 90 days before integration of the space station into the launch vehicle.

(2) An in-space station notification no later than 7 days following initiation of space station transmissions. This notification must update the information contained in the pre-space notification.

(3) A post-space station notification no later than 3 months after termination of the space station transmissions. When termination of transmissions is ordered by the FCC, the notification is required no later than 24 hours after termination of transmissions.

15. Section 97.301 is amended by:

a. Revising the second and third entries to the table following paragraph (b),

b. Revising the second, third, ninth, and tenth entries to the table following paragraph (c),

c. Revising the second, third, fourth, fifth, tenth, and eleventh entries to the table following paragraph (d), and by

d. Revising the first, second, third, and fourth entries to the table following paragraph (e).

The revisions read as follows:

§ 97.301 Authorized frequency bands.

The following transmitting frequency bands are available to an amateur station located within 50 km of the Earth's surface, within the specified ITU Region, and outside any area where the amateur service is regulated by any authority other than the FCC.

* * * * *

(b) * * *

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
MF	kHz	kHz	kHz	
* * * *	*	*	*	*
HF	MHz	MHz	MHz	
80 m	3.50–3.725	3.50–3.725	3.50–3.725	(a).
75 m	3.725–3.80	3.725–4.00	3.725–3.90	(a).
* * * *	*	*	*	*

(c) * * *

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
MF	kHz	kHz	kHz	
* * * *	*	*	*	*
HF	MHz	MHz	MHz	
80 m	3.525–3.725	3.525–3.725	3.525–3.725	(a).
75 m	3.750–3.800	3.750–4.000	3.750–3.900	(a).
* * * *	*	*	*	*
15 m	21.025–21.200	21.025–21.200	21.025–21.200	
Do	21.225–21.450	21.225–21.450	21.225–21.450	
* * * *	*	*	*	*

(d) * * *

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
MF	kHz	kHz	kHz	
* * * *	*	*	*	*
HF	MHz	MHz	MHz	
80 m	3.525–3.725	3.525–3.725	3.525–3.725	(a).
75 m	.....	3.800–4.000	3.800–3.900	(a).
40 m	7.025–7.125	7.025–7.125	7.025–7.125	(a).
Do	.....	7.175–7.300	.....	(a).
* * * *	*	*	*	*
15 m	21.025–21.200	21.025–21.200	21.025–21.200	
Do	21.275–21.450	21.275–21.450	21.275–21.450	
* * * *	*	*	*	*

(e) * * *

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
HF	MHz	MHz	MHz	
80 m	3.525–3.725	3.525–3.725	3.525–3.725	(a).

Wavelength band	ITU—Region 1	ITU—Region 2	ITU—Region 3	Sharing requirements see § 97.303 (paragraph)
40 m	7.025–7.075	7.025–7.125	7.025–7.075	(a).
15 m	21.025–21.2	21.025–21.2	21.025–21.2	
10 m	28.0–28.5	28.0–28.5	28.0–28.5	
* * * * * * * *				

16. Section 97.303 is amended by revising paragraph (g)(1) to read as follows:

§ 97.303 Frequency sharing requirements.

* * * * *

(g) * * *

(1) In the States of Colorado and Wyoming, bounded by the area of latitude 39° N. to 42° N. and longitude 103° W. to 108° W., an amateur station may transmit on the frequency segments 902.0–902.4, 902.6–904.3, 904.7–925.3, 925.7–927.3, and 927.7–928.0 MHz. This band is allocated on a secondary basis to the amateur service subject to not causing harmful interference to, and not receiving any interference protection from, the operation of industrial, scientific and medical devices, automatic vehicle monitoring systems, or Government stations authorized in this band.

* * * * *

17. Section 97.305 is amended by revising the fifth, sixth, seventh, eighth, and twenty-sixth entries to the table following paragraph (c) to read as follows:

§ 97.305 Authorized emission types.

* * * * *

(c) * * *

Wavelength	Frequencies band	Emission types authorized	Standards see § 97.307(f), (paragraph)
40 m	7.000–7.075 MHz	RTTY, data	(3), (9).
Do	7.075–7.100 MHz	Phone, image	(1), (2), (9), (11).
Do	7.100–7.125 MHz	RTTY, data	(1), (9).
Do	7.125–7.300 MHz	Phone, image	(1), (2).
* * * * * * * *			
Do	222–225 MHz	RTTY, data, test MCW, phone, SS, image	(2), (6), (8).
* * * * * * * *			

18. Section 97.313 is amended by revising paragraph (c) introductory text, (c)(1) and (c)(2) to read as follows:

§ 97.313 Transmitter power standards.

* * * * *

(c) No station may transmit with a transmitter power exceeding 200 W PEP:

(1) On the 10.10–10.15 MHz segment;

(2) When the control operator is a Novice Class operator or a Technician Class operator who has received credit for proficiency in telegraphy in accordance with the international requirements; or

* * * * *

19. Section 97.315 is revised to read as follows:

§ 97.315 Certification of external RF power amplifiers.

(a) Any external RF power amplifier (see § 2.815 of the FCC Rules) manufactured or imported for use at an amateur radio station must be certificated for use in the amateur service in accordance with subpart J of part 2 of the FCC Rules. No amplifier capable of operation below 144 MHz may be constructed or modified by a non-amateur service licensee without a grant of certification from the FCC.

(b) The requirement of paragraph (a) of this section does not apply if one or more of the following conditions are met:

(1) The amplifier is constructed or modified by an amateur radio operator for use at an amateur station.

(2) The amplifier was manufactured before April 28, 1978, and has been issued a marketing waiver by the FCC, or the amplifier was purchased before April 28, 1978, by an amateur radio operator for use at that operator's station.

(3) The amplifier is sold to an amateur radio operator or to a dealer, the amplifier is purchased in used condition by a dealer, or the amplifier is sold to an amateur radio operator for use at that operator's station.

(c) Any external RF power amplifier appearing in the Commission's database as certificated for use in the amateur service may be marketed for use in the amateur service.

20. Section 97.317 is revised to read as follows:

§ 97.317 Standards for certification of external RF power amplifiers.

(a) To receive a grant of certification, the amplifier must:

(1) Satisfy the spurious emission standards of § 97.307(d) or (e) of this part, as applicable, when the amplifier is operated at the lesser of 1.5 kW PEP or its full output power and when the amplifier is placed in the "standby" or "off" positions while connected to the transmitter.

(2) Not be capable of amplifying the input RF power (driving signal) by more than 15 dB gain. Gain is defined as the ratio of the input RF power to the output RF power of the amplifier where both power measurements are expressed in peak envelope power or mean power.

(b) Certification may be denied when the Commission determines the amplifier can be used in services other than the Amateur Radio Service.

21. Section 97.401 is revised to read as follows:

§ 97.401 Operation during a disaster.

A station in, or within 92.6 km of, Alaska may transmit emissions J3E and R3E on the channel at 5.1675 MHz for emergency communications. The

channel must be shared with stations licensed in the Alaska private fixed service. The transmitter power must not exceed 150 W. A station in, or within 92.6 km of, Alaska may transmit communications for tests and training drills necessary to ensure the establishment, operation, and maintenance of emergency communication systems.

22. Section 97.407 is amended by revising paragraph (b) to read as follows:

§ 97.407 Radio amateur civil emergency service.

* * * * *

(b) The frequency bands, segments, and emissions authorized to the control operator are available to stations transmitting communications in RACES on a shared basis with the amateur service. In the event of an emergency which necessitates the invoking of the President's War Emergency Powers under the provisions of section 706 of the Communications Act of 1934, as amended, 47 U.S.C. 606, RACES stations and amateur stations participating in RACES may only transmit on the frequency segments authorized pursuant to part 214 of this chapter.

* * * * *

23. Section 97.505 is amended by adding paragraph (a)(10) to read as follows:

§ 97.505 Element credit.

(a) * * *

(10) An expired FCC–issued Technician Class license document and a CSCE indicating the examinee has passed a telegraphy examination: Element 1.

* * * * *

24. Section 97.509 is amended by revising paragraphs (a) and (m) to read as follows:

§ 97.509 Administering VE requirements.

(a) Each examination for an amateur operator license must be administered by a team of at least 3 VEs at an examination session coordinated by a VEC. The number of examinees at the session may be limited.

* * * * *

(m) After the administration of a successful examination for an amateur service operator license, the administering VEs or the VE session manager must submit the application document to the coordinating VEC according to the coordinating VEC's instructions.

25. Section 97.519 is amended by revising paragraph (b) introductory text to read as follows:

§ 97.519 Coordinating examination sessions.

* * * * *

(b) At the completion of each examination session, the coordinating VEC must collect applicant information and test results from the administering VEs. The coordinating VEC must:

* * * * *

[FR Doc. 04–18718 Filed 8–16–04; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–2461; MB Docket No. 04–300, RM–11022; MB Docket No. 04–301, RM–10969; MB Docket No. 04–302, RM–11020; MB Docket No. 04–303, RM–11025; MB Docket No. 04–304, RM–11021; MB Docket No. 04–305, RM–10980; MB Docket No. 04–306, RM–10754; MB Docket No. 04–307, RM–10982; MB Docket No. 04–308, RM–10973; MB Docket No. 04–309, RM–10974]

Radio Broadcasting Services; Fruita, CO, Kerman, CA, Lockney, TX, Lone Wolf, OK, Quanah, TX, Oak Harbor, WA, Orchard Mesa, CO, Rising Star, TX, Twenty-nine Palms, CA, Waterford, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes ten new allotments in Fruita, Colorado, Kerman, California, Lockney, Texas, Lone Wolf, Oklahoma, Quanah, Texas, Oak Harbor, Washington, Orchard Mesa, Colorado, Rising Star, Texas, Twentynine Palms, California, Waterford, California. The Audio Division requests comment on a petition filed by Dana J. Puopolo proposing the allotment of Channel 255C3 at Fruita, Colorado, as the community's second local aural transmission service. Channel 255C3 can be allotted to Fruita in compliance with the Commission's minimum distance separation requirements with a site restriction of 14 kilometers (8.7 miles) northeast to avoid a short-spacing to the vacant allotment site of Channel 253C3 at Palisade, Colorado. The reference coordinates for Channel 255C3 at Fruita are 39–15–05 North Latitude and 108–50–16 West Longitude. *See* Supplementary Information, *infra*.

DATES: Comments must be filed on or before September 30, 2004, and reply comments on or before October 15, 2004.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Dana J. Puopolo, 2134 Oak Street, Unit C, Santa Monica, California 90405; Linda A. Davidson, 2134 Oak Street, Unit C, Santa Monica, California 90405 and Charles Crawford, 4553 Bordeaux Avenue, Dallas, TX 75205.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 04–300, 04–301, 04–302, 04–303, 04–304, 04–305, 04–306, 04–307, 04–308, 04–309, adopted August 4, 2004 and released August 9, 2004. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20054, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

The Audio Division requests comments on a petition filed by Linda A. Davidson proposing the allotment of Channel 224A at Kerman, California, as the community's third local aural transmission service. Channel 224A can be allotted to Kerman in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.8 kilometers (8.6 miles) west to avoid a short-spacing to the license sites of FM Station KZFO, Channel 224B, Clovis, California and FM Station KMJO, Channel 224B1, Marina, California. The reference coordinates for Channel 224A at Kerman are 36–40–37 North Latitude and 120–12–08 West Longitude.

The Audio Division requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 271C2 at Lockney, Texas, as the community's first local aural transmission service. Channel 271C2 can be allotted to Lockney in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.7 kilometers (4.2 miles) southeast to avoid a short-spacing to the vacant allotment site of Channel 269A at Turkey, Texas and the license site of FM Station KATP, Channel 270C1, Amarillo, Texas and Station KZII–FM, Channel 273C3, Clovis, New Mexico.

The reference coordinates for Channel 271C3 at Lockney are 34–05–00 North Latitude and 101–23–15 West Longitude.

The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 224A at Lone Wolf, Oklahoma, as the community's first local aural transmission service. Channel 224A can be allotted to Lone Wolf in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.8 kilometers (4.8 miles) east to avoid a short-spacing to the license sites of Station KOMA–FM, Channel 223C, Oklahoma, Oklahoma, Station KNIN–FM, Channel 225C1, Wichita Falls, Texas and FM Station KBKH, Channel 225C2, Shamrock, Texas. The reference coordinates for Channel 224A at Lone Wolf are 34–58–53 North Latitude and 99–09–53 West Longitude.

The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 255C3 at Quanah, Texas, as the community's second local aural transmission service. Channel 255C3 can be allotted to Quanah in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.9 kilometers (9.3 miles) south to avoid a short-spacing to the vacant allotment site of Channel 254A at Seymour, Texas and the license site of FM Station KRIJ, Channel 253C, Elk City, Oklahoma. The reference coordinates for Channel 255C3 at Quanah are 34–10–04 North Latitude and 99–46–49 West Longitude.

The Audio Division requests comment on a petition filed by Dana J. Puopolo proposing the allotment of Channel 289A at Oak Harbor, Washington, as the community's first local aural transmission service. Channel 289A can be allotted to Oak Harbor in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 289A at Oak Harbor are 48–17–36 North Latitude and 122–38–31 West Longitude.

The Audio Division requests comment on a petition filed by Dana J. Puopolo proposing the allotment of Channel 249C3 at Orchard Mesa, as the community's first local aural transmission service. Channel 249C3 can be allotted to Orchard Mesa in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.8 kilometers (3.6 miles) northwest to avoid a short-spacing to the vacant allotment site of Channel 249C3 at Aspen, Colorado. The reference coordinates for Channel 249C3 at Orchard Mesa are 39–04–47 North Latitude and 108–36–00 West Longitude.

The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 290C3 at Rising Star, Texas, as the community's first local aural transmission service. Channel 290C3 can be allotted to Rising Star in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 290C3 at Rising Star are 32–05–54 North Latitude and 98–58–00 West Longitude.

The Audio Division requests comment on a petition filed by Dana J. Puopolo proposing the allotment of Channel 270A at Twentynine Palms, California, as the community's third local aural transmission service. Channel 270A can be allotted to Twentynine Palms in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.5 kilometers (2.2 miles) north to avoid a short-spacing to the license site of FM Station KWID, Channel 270C, Las Vegas, Nevada and Mexican Station XHPF-FM, Channel 270B, Mexicali, BN. Mexican concurrence has been requested since Twentynine Palms is located within 320 kilometers (199 miles) of the US-Mexican border. The reference coordinates for Channel 270A at Twentynine Palms are 34–09–41 North Latitude and 116–03–47 West Longitude.

The Audio Division requests comment on a petition filed by Linda A. Davidson proposing the allotment of Channel 294A at Waterford, California, as the community's first local aural transmission service. Channel 294A can be allotted to Waterford in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.1 kilometers (6.9 miles) east to avoid a short-spacing to the license site of FM Station KEZR, Channel 293B, San Jose,California. The reference coordinates for Channel 294A at Waterford are 37–40–21 North Latitude and 120–38–26 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 224A at Kerman, by adding Channel 270A at Twentynine Palms, and by adding Waterford, Channel 294A.

3. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 255C3 at Fruita and by adding Orchard Mesa, Channel 249C3.

4. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Lone Wolf, Channel 224A.

5. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Lockney, Channel 271C3, by adding Channel 255C3 at Quanah, and by adding Rising Star, Channel 290C3.

6. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Oak Harbor, Channel 289A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–18830 Filed 8–16–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT53

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004–05 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) proposes special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2004–05 migratory bird hunting season.

DATES: We will accept all comments on the proposed regulations that are postmarked or received in our office by August 27, 2004.

ADDRESSES: Send your comments on these proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240 or fax comments to (703) 358–2272. All comments received will become part of the public record. You may inspect comments during normal business hours in room 4107, 4501 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION: In the March 22, 2004, **Federal Register** (69 FR 13440), we requested proposals from Indian Tribes wishing to establish special migratory bird hunting regulations for the 2004–05 hunting season, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). In this supplemental proposed rule, we propose special migratory bird hunting regulations for 28 Indian Tribes, based on the input we received in response to the March 22, 2004, proposed rule. As described in that rule, the promulgation of annual migratory bird hunting regulations involves a series of rulemaking actions each year. This proposed rule is part of that series.

We developed the guidelines for establishing special migratory bird hunting regulations for Indian Tribes in response to tribal requests for recognition of their reserved hunting rights and, for some Tribes, recognition of their authority to regulate hunting by both tribal and nontribal members on their reservations. The guidelines include possibilities for: (1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of the usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10 to September 1 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Treaty). The guidelines apply to those Tribes having recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where Tribes have full wildlife management authority over such hunting or where the Tribes and affected States otherwise have reached agreement over hunting by nontribal members on lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, we encourage the Tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a Tribe and State with the aim of facilitating an accord. We also will consult jointly with tribal and State officials in the affected States where Tribes wish to establish special hunting regulations for tribal members on ceded lands.

Because of past questions regarding interpretation of what events trigger the consultation process, as well as who initiates it, we provide the following clarification. We routinely provide copies of **Federal Register** publications pertaining to migratory bird management to all State Directors, Tribes, and other interested parties. It is the responsibility of the States, Tribes, and others to notify us of any concern regarding any feature(s) of any regulations. When we receive such notification, we will initiate consultation.

Our guidelines provide for the continued harvest of waterfowl and other migratory game birds by tribal members on reservations where such harvest has been a customary practice. We do not oppose this harvest, provided it does not take place during the closed season defined by the Treaty, and does not adversely affect the status of the migratory bird resource. Before developing the guidelines, we reviewed available information on the current status of migratory bird populations; reviewed the current status of migratory bird hunting on Federal Indian reservations; and evaluated the potential impact of such guidelines on migratory birds. We concluded that the impact of migratory bird harvest by tribal members hunting on their reservations is minimal.

One area of interest in Indian migratory bird hunting regulations relates to hunting seasons for nontribal members on dates that are within Federal frameworks, but which are different from those established by the State(s) where the reservation is located. A large influx of nontribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse population impacts on one or more migratory bird species. The guidelines make this unlikely, however, because tribal proposals must include: (a) Harvest anticipated under the requested regulations; (b) methods that will be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.); (c) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and (d) tribal capabilities to establish and enforce migratory bird hunting regulations. We may modify regulations or establish experimental special hunts, after evaluation and confirmation of harvest information obtained by the Tribes.

We believe the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian Tribes while ensuring that the migratory bird resource receives

necessary protection. The conservation of this important international resource is paramount. The guidelines should not be viewed as inflexible. In this regard, we note that they have been employed successfully since 1985. We believe they have been tested adequately and, therefore, made them final beginning with the 1988–89 hunting season. We should stress here, however, that use of the guidelines is not mandatory and no action is required if a Tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

Population Status

The following paragraphs provide preliminary information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds.

May Breeding Waterfowl and Habitat Survey

Most of the U.S. and Canadian prairies were much drier in May of 2004 than they were in May of 2003. The return of water to short-grass prairies of southern Alberta and Saskatchewan we saw last year did not continue, and habitat in these areas went from good last year to fair or poor this year. The Manitoba survey area ranges from poor in the east to good in the west, similar to conditions observed last year. The Dakotas have continued the slow drying trend that we have seen over the past few years, and much of eastern South Dakota is in poor condition. Conditions in the Dakotas improve to the north. Eastern Montana is a mosaic of habitat conditions ranging from poor to good, and production potential is thought to be only fair in this region. Although many areas received considerable moisture in the form of over-winter snow, with even a late snowstorm in the southern portions in middle May, the snow melted and went right into the parched ground. Snow and cold during the May storm probably adversely impacted early nesters and young broods. Water received after the May surveys likely did not alleviate dry conditions, because much of it soaked into the grounds. Therefore, waterfowl production in the prairies is only poor to fair this year.

When there are dry conditions in the prairies, many prairie nesting ducks will typically over-fly these areas into the bush. This year, the Canadian Bush (Northwest Territories, Northern Alberta, Northern Saskatchewan and Northern Manitoba) was exceptionally late in thawing so the birds that did over-fly the dry prairies encountered winter-like conditions and will be even less successful than in a normal over-flight year. This is especially true for mallard and pintails; late nesters will have better success. Overall, the bush, including the parklands and boreal forest, will be only fair to marginally good for production because of the latest spring thaw in at least 20 years. However, Alaska birds should produce well because of excellent habitat conditions. Areas south of Alaska's Brooks Range experienced a widespread, record-setting early spring breakup, and flooding due to rapid thaw was minor.

Breeding habitat conditions were generally good to excellent in the eastern U.S. and Canada. Although spring was late in most areas, it is thought that nesting was not significantly affected because of abundant spring rain and mild temperatures. Production in the East is expected to be better this year than last year.

We will have no traditional July Production Survey this year to verify the early predictions of our biologists in the field. However, the pilot-biologists responsible for several survey areas (Southern Alberta, Southern Saskatchewan, the Dakotas, and Montana) will return in early July for a brief over-flight of a representative portion of their areas to assess significant habitat changes since May and provide a snapshot of production. This information and reports from local biologists in the field will help us with our overall perspective on duck production this year.

Status of Teal

The preliminary estimate of blue-winged teal numbers from the Traditional Survey Area is 4.07 million. This represents a 26.2 percent decline from 2003 and 9.6 percent below the long-term average. A population size in this range suggests that a 9-day September teal season is appropriate in 2004.

Sandhill Cranes

The Mid-Continent Population of Sandhill Cranes has generally stabilized at comparatively high levels, following increases in the 1970s. The Central Platte River Valley, Nebraska, spring index for 2004, uncorrected for visibility, was 356,850 cranes. The most recent photo-corrected 3-year average (for 2001–2003) was 370,300, which is within the established population-objective range of 343,000–465,000 cranes. All Central Flyway States, except Nebraska, allowed crane hunting in portions of their respective States in 2003–04. About 7,700 hunters participated in these seasons, which is similar to the number that participated during the previous year. An estimated 18,527 cranes were harvested in the Central Flyway during 2003–04 seasons, which was 42% higher than the previous year's estimate. Retrieved harvests in the Pacific Flyway, Canada, and Mexico were estimated to be about 13,109 cranes for the 2003–04 period. The total North American sport harvest, including crippling losses, was estimated at 35,706, which is similar to the previous year's estimate. The long-term trend analysis for the Mid-Continent Population during 1982–2000 indicates that harvests have been increasing at a higher rate than the trend in population growth over the same period.

The fall 2003 pre-migration survey estimate for the Rocky Mountain Population of sandhill cranes was 19,523, which was similar to the previous year's estimate of 18,803. Limited special seasons were held during 2003 in portions of Arizona, Idaho, Montana, New Mexico, Utah, and Wyoming, resulting in a harvest of 528 cranes, which was 17% below the previous year's harvest of 639 cranes.

Woodcock

Singing-ground and Wing-collection Surveys were conducted to assess the population status of the American woodcock (*Scolopax minor*). Singing-ground Survey data for 2004 indicate that the numbers of displaying woodcock in the Eastern and Central Regions were unchanged from 2003 ($P>0.10$). There was no significant trend in woodcock heard on the Singing-ground Survey in either the Eastern or Central Regions during the 10 years between 1995 and 2004 ($P>0.10$). This represents the first time since 1992 that the 10-year trend estimate for either region was not a significant decline. There were long-term (1968–2004) declines ($P<0.01$) of 2.1 percent per year in the Eastern Region and 1.8 percent per year in the Central Region. Wing-collection survey data indicate that the 2003 recruitment index for the U.S. portion of the Eastern Region (1.5 immatures per adult female) was slightly higher than the 2002 index, but was 12 percent below the long-term average. The recruitment index for the U.S. portion of the Central Region (1.4 immatures per adult female) was 19 percent below the 2002 index and 16 percent below the long-term average.

Band-tailed Pigeons and Doves

A significant decline in the Coastal population of band-tailed pigeons occurred during 1968–2003, as

indicated by the Breeding Bird Survey (BBS); however, no trend was noted over the most recent 10 years. Additionally, mineral-site counts at 10 selected sites in Oregon indicate a general increase since the late 1980s. Numbers have declined the past 4 years, but the count of 3,195 in 2003 is still well above the total of 1,462 in 1986. Call-count surveys conducted in Washington showed no significant trends during 1975–2003 or between 1999–2003. A rangewide (British Columbia, Washington, Oregon, and California) mineral-site survey for the Coastal Population was established in 2003, but it will be several years before trend information will be available. The Interior band-tailed pigeon population is stable, with no trend indicated by the BBS over the short- or long-term periods.

Analyses of Mourning Dove Call-count Survey data indicated no significant trend in doves heard in any management unit over the most recent 10 years. Between 1966 and 2004, all three units exhibited significant declines ($P<0.05$). In contrast, for doves seen over the 10-year period, a significant increase was found in the Eastern Unit ($P<0.05$), while no trends were found in the Central and Western Units. Over 39 years, no trend was found for doves seen in the Eastern and Central Units, while a decline was indicated in the Western Unit ($P<0.05$). A project is under way to develop mourning dove population models for each unit to provide guidance for improving our decision-making process with respect to harvest management. Additionally, a small-scale banding study was initiated in 2003 to obtain additional information.

In Arizona, the white-winged dove population has shown a significant decline between 1962 and 2004. However, the number of whitewings has been fairly stable since the 1970s. Estimated harvests in recent years (145,000 in 2003) are low compared to those occurring several decades ago. In Texas, white-winged doves are now found throughout most of the State. In 2004, the whitewing population in Texas was estimated to be 2,387,000 birds, a decrease of 5.5 percent from 2003. A more inclusive count in San Antonio documented more than 1.3 million birds. An estimated 130,900 whitewings were taken during the special whitewing season in south Texas, with an additional 1,224,000 birds taken statewide during the regular mourning dove season. The expansion of whitewings northward and eastward from Texas has led to whitewings being sighted in most of the Great Plains and Midwestern States and as far north as Ontario. Nesting has been reported in Louisiana, Arkansas, Oklahoma, Kansas, and Missouri. They have been sighted in Colorado, Montana, Nebraska, Iowa, and Minnesota. Additionally, whitewings are believed to be expanding northward from Florida and have been seen along the eastern seaboard as far north as Newfoundland.

White-tipped doves are maintaining a relatively stable population in the Lower Rio Grande Valley of Texas. They are most abundant in cities and, for the most part, are not available to hunting because of their urban location. The count in 2004 averaged 0.84 birds per stop, an 11.6 percent decrease over the count in 2003. The estimated harvest during the special 4-day whitewing season is less than 3,000 birds.

Hunting Season Proposals From Indian Tribes and Organizations

For the 2004–05 hunting season, we received requests from 26 Tribes and Indian organizations. We actively solicit regulatory proposals from other tribal groups that are interested in working cooperatively for the benefit of waterfowl and other migratory game birds. We encourage Tribes to work with us to develop agreements for management of migratory bird resources on tribal lands. It should be noted that this proposed rule includes generalized regulations for both early- and late-season hunting. A final rule will be published in a mid-August 2004 **Federal Register** that will include tribal regulations for the early-hunting season.

The early season generally begins on September 1 each year and most commonly includes such species as American woodcock, sandhill cranes, mourning doves, and white-winged doves. A final rule will also be published in a September 2004 **Federal Register** that will include regulations for late-season hunting. The late season begins on or around September 24 and most commonly includes waterfowl species.

In this current rulemaking, because of the compressed timeframe for establishing regulations for Indian Tribes and because final frameworks dates and other specific information are not available, the regulations for many tribal hunting seasons are described in relation to the season dates, season length, and limits that will be permitted when final Federal frameworks are announced for early- and late-season regulations. For example, daily bag and possession limits for ducks on some areas are shown as the same as permitted in Pacific Flyway States under final Federal frameworks, and limits for geese will be shown as the same permitted by the State(s) in which the tribal hunting area is located.

The proposed frameworks for early-season regulations were published in the **Federal Register** on July 17, 2004 (68 FR 42546); early-season final frameworks will be published in mid-August. Proposed late-season frameworks for waterfowl and coots will be published in mid-August, and the final frameworks for the late seasons will be published in mid-September. We will notify affected Tribes of season dates, bag limits, etc., as soon as final frameworks are established. As previously discussed, no action is required by Tribes wishing to observe migratory bird hunting regulations established by the State(s) where they are located. The proposed regulations for the 26 Tribes that have submitted proposals that meet the established criteria and an additional 4 Tribes from whom we expect to receive proposals are shown below.

(a) Bois Forte Band of Chippewa, Nett Lake, Minnesota (Tribal Members and Non-Tribal Hunters)

The Bois Forte Band of Chippewa is located in northern Minnesota. Bois Forte is a 103,000-acre land area, home to 800 Band members. The reservation includes Nett Lake, a 7,400-acre wild rice lake.

In their 2004–05 proposal, dated June 9, 2004, Bois Forte requested the authority to establish a waterfowl season on their reservation. The season would be the same as that established by the State of Minnesota, except that shooting hours on opening and every hunting day of the State official season would be one-half hour before sunrise to sunset. Harvest under their proposal would not alter possession limits or species allowances already in place in Minnesota.

Bag limits for non-tribal hunters will not be changed from current, State of Minnesota established levels. Bois Forte requires non-tribal persons hunting on Nett Lake on the first day of the season to complete a survey upon completion of the days hunting requesting: (1) Name and contact information; (2) hunting permit number (State and tribal); (3) number of hours hunted; (4) location of hunting site; (5) tribal guide name; (6) number and species of waterfowl harvested in possession; and (7) number and species of waterfowl shot but not recovered. Bois Forte will collect the results and compare to previous seasons data.

Harvest information from the 2002–03 migratory bird season included harvest of 1,100 ducks. Of these 1,100 taken,

850 were ring-neck ducks, 100 were blue/green-winged teal, and 150 were mallards. They had 371 non-tribal hunters, similar to levels in the past.

The Bands Conservation Department regulates non-tribal harvest limits under the following regulations: (1) Non-tribal hunters must be accompanied at all times by a Band Member guide; (2) non-tribal hunters must have in their possession a valid small game hunting license, a Federal migratory waterfowl stamp, and a Minnesota State waterfowl stamp; (3) non-tribal hunters and Band Members must have only Service-approved non-toxic shot in possession at all times; (4) non-tribal hunters must conform to possession limits established and regulated by the State of Minnesota and the Bois Forte Band.

We propose to approve the Bois Forte Band of Chippewa regulations for the 2004–05 hunting season.

(b) Colorado River Indian Tribes, Colorado River Indian Reservation, Parker, Arizona (Tribal Members and Nontribal Hunters)

The Colorado River Indian Reservation is located in Arizona and California. The Tribes own almost all lands on the reservation, and have full wildlife management authority.

In their 2004–05 proposal, the Colorado River Indian Tribes requested split dove seasons. They propose their early season begin September 1 and end September 15, 2004. Daily bag limits would be 10 mourning or 10 white-winged doves either singly or in the aggregate. The late season for doves is proposed to open November 12, 2004, and close December 26, 2004. The daily bag limit would be 10 mourning doves. The possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to noon in the early season and until sunset in the late season. Other special tribally set regulations would apply.

The Tribes also propose duck hunting seasons. The season would likely open October 16, 2004, and run until January 30, 2005. The Tribes propose the same season dates for mergansers, coots, and common moorhens. The daily bag limit for ducks, including mergansers, would be seven, except that the daily bag limits could contain no more than two hen mallards, two redheads, two Mexican ducks, two goldeneye, and two cinnamon teal. The seasons on canvasback and pintail are closed. The possession limit would be twice the daily bag limit. The daily bag and possession limit for coots and common moorhens would be 25, singly or in the aggregate.

For geese, the Colorado River Indian Tribes propose a season of October 23, 2004, through January 30, 2005. The daily bag limit for geese would be three light geese and three dark geese. The possession limit would be six light geese and six dark geese.

In 1996, the Tribe conducted a detailed assessment of dove hunting. Results showed approximately 16,100 mourning doves and 13,600 white-winged doves were harvested by approximately 2,660 hunters who averaged 1.45 hunter-days. Field observations and permit sales indicate that fewer than 200 hunters participate in waterfowl seasons. Under the proposed regulations described here and, based upon past seasons, we and the Tribes estimate harvest will be similar.

Hunters must have a valid Colorado River Indian Reservation hunting permit in their possession while hunting. As in the past, the regulations would apply both to tribal and non-tribal hunters, and nontoxic shot is required for waterfowl hunting.

We propose to approve the Colorado River Indian Tribes regulations for the 2004–05 hunting season.

(c) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal and Nontribal Hunters)

For the past several years, the Confederated Salish and Kootenai Tribes and the State of Montana have entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. The State and the Tribes are currently operating under a cooperative agreement signed in 1990 that addresses fishing and hunting management and regulation issues of mutual concern. This agreement enables all hunters to utilize waterfowl hunting opportunities on the reservation.

As in the past, tribal regulations for nontribal members would be at least as restrictive as those established for the Pacific Flyway portion of Montana. Goose season dates would also be at least as restrictive as those established for the Pacific Flyway portion of Montana. Shooting hours for waterfowl hunting on the Flathead Reservation are sunrise to sunset. Steel shot or other federally-approved nontoxic shots are the only legal shotgun loads on the reservation for waterfowl or other game birds.

The requested season dates and bag limits are similar to past regulations. Harvest levels are not expected to change significantly. Standardized check station data from the 1993–94 and 1994–95 hunting seasons indicated no significant changes in harvest levels and that the large majority of the harvest is by non-tribal hunters.

We propose to approve the Tribes' request for special migratory bird regulations for the 2004–05 hunting season.

(d) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nontribal Hunters)

The Crow Creek Indian Reservation has a checkerboard pattern of land ownership, with much of the land owned by non-Indians. Since the 1993–94 season, the Tribe has selected special waterfowl hunting regulations independent of the State of South Dakota. The Tribe observes migratory bird hunting regulations contained in 50 CFR part 20.

In their 2004 proposal, the Tribe requested a duck and merganser season of October 2 to December 14, 2004, with a daily bag limit of six ducks, including no more that five mallards (only two of which may be hens), two redheads, two wood ducks, and three scaup. The merganser daily bag limit would be five and include no more than one hooded merganser. The daily bag limit for coots would be 15. The pintail season would run from October 2 to November 30, 2004, with a daily bag limit of one pintail.

For Canada geese, the Tribe proposes an October 16, 2004, to January 18, 2005, season with a three-bird daily bag limit. For white-fronted geese, the Tribe proposes a September 25 to December 19, 2004, season with a daily bag limit of two. For snow geese, the Tribe proposes a September 25, 2004, to December 30, 2004, season with a daily bag limit of 20.

Similar to the last several years, the Tribe also requests a sandhill crane season from September 11 to October 17, 2004, with a daily bag limit of three. The Tribe proposes a mourning dove season from September 1 to October 30, 2004, with a daily bag limit of 15.

In all cases, except snow geese, the possession limits would be twice the daily bag limit. There would be no possession limit for snow geese. Shooting hours would be from one-half hour before sunrise to sunset.

The season and bag limits would be essentially the same as last year and as such, the Tribe expects similar harvest. In 1994–95, duck harvest was 48 birds, down from 67 in 1993–94. Goose harvest during recent past seasons has been less than 100 geese. Total harvest on the reservation in 2000 was estimated to be 179 ducks and 868 geese.

We propose to approve the Tribes requested seasons. We also remind the Tribe that all sandhill crane hunters are required to obtain a Federal sandhill crane permit. As such, the Tribe should contact us for further information on obtaining the needed permits. In addition, as with all other groups, we request the Tribe continue to survey and report harvest.

(e) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

Since 1996, the Service and the Fond du Lac Band of Lake Superior Chippewa Indians have cooperated to establish special migratory bird hunting regulations for tribal members. The Fond du Lac's May 29, 2004, proposal covers land set apart for the band under the Treaties of 1837 and 1854 in northeast and east-central Minnesota.

The band's proposal for 2004–05 is essentially the same as that approved last year. Specifically, the Fond du Lac Band proposes a September 18 to December 1, 2004, season on ducks, mergansers, coots, and moorhens, and a September 1 to December 1, 2004, season for geese. For sora and Virginia rails, snipe, and woodcock, the Fond du Lac Band proposes a September 1 to December 1, 2004, season. Proposed daily bag limits would consist of the following:

Ducks: 18 ducks, including no more than 12 mallards (only 6 of which may be hens), 3 black ducks, 9 scaup, 6 wood ducks, 6 redheads, 3 pintails, and 3 canvasbacks.

Mergansers: 15 mergansers, including no more than 3 hooded mergansers.

Geese: 12 geese.

Coots and Common Moorhens (Common Gallinules): 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe: Eight common snipe.

Woodcock: Three woodcock.

The following general conditions apply:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid Ceded Territory License.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

The Band anticipates harvest will be fewer than 500 ducks and geese.

We propose to approve the request for special migratory bird hunting regulations for the Fond du Lac Band of Lake Superior Chippewas.

(f) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

In the 1995–96 migratory bird seasons, the Grand Traverse Band of Ottawa and Chippewa Indians and the Service first cooperated to establish special regulations for waterfowl. The Grand Traverse Band is a self-governing, federally recognized Tribe located on the west arm of Grand Traverse Bay in Leelanau County, Michigan. The Grand Traverse Band is a signatory Tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory Tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 2004–05 season, the Tribe requests that the tribal member duck season run from September 15, 2004, through January 15, 2005. A daily bag limit of 12 would include no more than 2 pintail, 2 canvasback, 1 hooded merganser, 3 black ducks, 3 wood ducks, 3 redheads, and 6 mallards (only 3 of which may be hens).

For Canada geese, the Tribe proposes a September 1 through November 30, 2004, and a January 1 through February 8, 2005, season. For white-fronted geese, brant, and snow geese, the Tribe proposes a September 20 through November 30, 2004, season. The daily bag limit for all geese (including brant) would be five birds. Based on our information, it is unlikely that any Canada geese from the Southern James Bay Population will be harvested by the Tribe.

For woodcock, the Tribe proposes a September 1 to November 14, 2004, season. The daily bag limit will not exceed five birds. For mourning doves, snipe and rails, the Tribe proposes a September 1 to November 14, 2004, season. The daily bag limit would be 10 per species.

All other Federal regulations contained in 50 CFR part 20 would apply. The Tribe proposes to monitor harvest closely through game bag checks, patrols, and mail surveys. Harvest surveys from the 2002–03 hunting season indicated that approximately 34 tribal hunters harvested an estimated 200 ducks and 30 Canada geese.

We propose to approve the Grand Traverse Band of Ottawa and Chippewa Indians requested 2004–05 special migratory bird hunting regulations.

(g) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judicially recognized off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC, which represents the various bands). Beginning in 1986, a tribal season on ceded lands in the western portion of the State's Upper Peninsula was developed in coordination with the Michigan Department of Natural Resources, and we have approved special regulations for tribal members in both Michigan and Wisconsin since the 1986–87 hunting season. In 1987, the GLIFWC requested, and we approved, special regulations to permit tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin concurred with the regulations, although Wisconsin has raised some concerns each year. Minnesota did not concur with the regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. We acknowledge the State's concern, but point out that the U.S. Government has recognized the Indian hunting rights decided in the Lac Courte Oreilles v. State of Wisconsin (Voigt) case, and that acceptable hunting regulations have been negotiated successfully in both Michigan and Wisconsin even though the Voigt decision did not specifically address ceded land outside Wisconsin. We believe this is appropriate because the

treaties in question cover ceded lands in Michigan (and Minnesota), as well as in Wisconsin. Consequently, in view of the above, we have approved special regulations since the 1987–88 hunting season on ceded lands in all three States. In fact, this recognition of the principle of reserved treaty rights for band members to hunt and fish was pivotal in our decision to approve a special 1991–92 season for the 1836 ceded area in Michigan.

The GLIFWC proposed off-reservation special migratory bird hunting regulations for the 2004–05 seasons on behalf of the member Tribes of the Voigt Intertribal Task Force of the GLIFWC (for the 1837 and 1842 Treaty areas) and the Bay Mills Indian Community (for the 1836 Treaty area). Member Tribes of the Task Force are: the Bad River Band of the Lake Superior Tribe of Chippewa Indians, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, the Lac du Flambeau Band of Lake Superior Chippewa Indians, the Red Cliff Band of Lake Superior Chippewa Indians, the St. Croix Chippewa Indians of Wisconsin, the Sokaogon Chippewa Community (Mole Lake Band), all in Wisconsin; the Mille Lacs Band of Chippewa Indians in Minnesota; the Lac Vieux Desert Band of Chippewa Indians and the Keweenaw Bay Indian Community in Michigan. Details of the proposed regulations are shown below. In general, the proposal is essentially the same as the regulations approved for the 2002–03 season.

Results of 1987–98 hunter surveys on off-reservation tribal duck harvest in the Wisconsin/Michigan entire ceded territory ranged from 1,022 to 2,374 with an average of 1,422. Estimated goose harvest has ranged from 72 to 586, with an average of 310. Harvest from 2001 was estimated at 1,014 ducks, 81 geese, and 146 coots. Under the proposed regulations, harvest is expected to remain within these ranges. Tribal harvest in the Minnesota ceded territory is anticipated to be much smaller than in the Wisconsin/Michigan area since waterfowl hunting has been limited to 10 individuals thus far. Due to the limited distribution of doves and dove habitat in the ceded territory, and the relatively small number of tribal off-reservation migratory bird hunters, harvest is expected to be negligible.

We believe that regulations advanced by the GLIFWC for the 2004–05 hunting season are biologically acceptable, and we recommend approval. If the regulations are finalized as proposed, we would request that the GLIFWC closely monitor the member bands duck harvest and take any actions necessary to reduce harvest if locally nesting populations are being significantly impacted.

The Commission and the Service are parties to a Memorandum of Agreement (MOA) designed to facilitate the ongoing enforcement of Service-approved tribal migratory bird regulations. Its intent is to provide long-term cooperative application.

Also, as in recent seasons, the proposal contains references to chapter 10 of the Migratory Bird Harvesting Regulations of the Model Off-Reservation Conservation Code. Chapter 10 regulations parallel State and Federal regulations and, in effect, are not changed by this proposal.

The GLIFWC's proposed 2004–05 waterfowl hunting season regulations are as follows:

Ducks

A. *Wisconsin and Minnesota 1837 and 1842 Zones:*

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasback.

Mergansers: All Ceded Areas.

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: Five mergansers.

Geese: All Ceded Areas.

Season Dates: Begin September 1 and end December 1, 2004. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting after December 1 will also be open concurrently for tribal members.

Daily Bag Limit: 10 geese in aggregate.

Other Migratory Birds: All Ceded Areas.

A. Coots and Common Moorhens (Common Gallinules)

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Sora and Virginia Rails

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Possession Limit: 25.

C. Common Snipe

Season Dates: Begin September 15 and end December 1, 2004.

Daily Bag Limit: Eight common snipe.

D. Woodcock

Season Dates: Begin September 7 and end December 1, 2004.

Daily Bag Limit: Five woodcock.

E. Mourning Dove: 1837 and 1842 Ceded Territories

Season Dates: Begin September 1 and end October 30, 2004.

Daily Bag Limit: 15 mourning dove.

General Conditions

A. All tribal members will be required to obtain a valid tribal waterfowl hunting permit.

B. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Voigt and Mille Lacs Band* v. *State of Minnesota* cases. The respective Chapters 10 of these model codes regulate ceded territory migratory bird hunting. They parallel Federal requirements as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations adopted in response to this proposal.

C. Particular regulations of note include:

1. Nontoxic shot will be required for all off-reservation waterfowl hunting by tribal members.

2. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

3. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

Possession limits are applicable only to transportation and do not include birds that are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession and custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands will not

count as part of any off-reservation bag or possession limit.

4. The baiting restrictions included in the respective sections 10.05 (2)(h) of the model ceded territory conservation codes will be amended to include language which parallels that in place for non-tribal members as published in 64 FR 29799, June 3, 1999. This language is also included in Appendix 1.

5. The shell limit restrictions included in the respective sections 10.05 (2)(b) of the model ceded territory conservation codes will be removed.

D. Michigan—Duck Blinds and Decoys. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

(h) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

The Jicarilla Apache Tribe has had special migratory bird hunting regulations for tribal members and nonmembers since the 1986–87 hunting season. The Tribe owns all lands on the reservation and has recognized full wildlife management authority. In general, the proposed seasons would be more conservative than allowed by the Federal frameworks of last season and by States in the Pacific Flyway.

The Tribe proposed a 2004–05 waterfowl season beginning with the earliest possible opening date in the Pacific Flyway States and a closing date of November 30, 2004. Daily bag and possession limits for waterfowl would be the same as Pacific Flyway States. The Tribe proposes a season on Canada geese with a two-bird daily bag limit. Other regulations specific to the Pacific Flyway guidelines for New Mexico would be in effect.

During the Jicarilla Game and Fish Department's 2002–03 season, estimated duck harvest was 288, which is within the historical harvest range. The species composition in the past has included mainly mallards, gadwall, wigeon, and teal. Northern pintail comprised 2 percent of the total harvest in 2002. The estimated harvest of geese was three birds.

The proposed regulations are essentially the same as were established last year. The Tribe anticipates the maximum 2004–05 waterfowl harvest would be around 250–700 ducks and 20–30 geese.

We propose to approve the Tribe's requested 2004–05 hunting seasons.

(i) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters)

The Kalispel Reservation was established by Executive Order in 1914, and currently comprises approximately 4,600 acres. The Tribe owns all Reservation land and has full management authority. The Kalispel Tribe has a fully developed wildlife program with hunting and fishing codes. The Tribe enjoys excellent wildlife management relations with the State. The Tribe and the State have an operational Memorandum of Understanding with emphasis on fisheries but also for wildlife. The nontribal member seasons described below pertain to a 176-acre waterfowl management unit. The Tribe is utilizing this opportunity to rehabilitate an area that needs protection because of past land use practices, as well as to provide additional waterfowl hunting in the area. Beginning in 1996, the requested regulations also included a proposal for Kalispel-member-only migratory bird hunting on Kalispel-ceded lands within Washington, Montana, and Idaho.

For the 2004–05 migratory bird hunting seasons, the Kalispel Tribe proposed tribal and nontribal member waterfowl seasons. The Tribe requests that both duck and goose seasons open at the earliest possible date and close on the latest date under Federal frameworks. For nontribal members, the Tribe requests that the season for ducks begin September 17, 2004, and end January 31, 2005. In that period, nontribal hunters would be allowed to hunt approximately 101 days. Hunters should obtain further information on specific hunt days from the Kalispel Tribe.

The Tribe also requests the season for geese run from September 1 to September 15, 2004, and from October 1, 2004, to January 31, 2005. Total number of days would not exceed 107. Nontribal members should obtain further information on specific hunt days from the Tribe. Daily bag and possession limits would be the same as those for the State of Washington.

The Tribe reports a 2002–03 nontribal harvest of 30 ducks and 0 geese. Under the proposal, the Tribe expects harvest to be similar to last year and less than 100 geese and 200 ducks.

All other State and Federal regulations contained in 50 CFR part 20, such as use of non-toxic shot and possession of a signed migratory bird hunting stamp, would be required.

For tribal members on Kalispel-ceded lands, the Kalispel propose outside frameworks for ducks and geese of September 1, 2004, through January 31, 2005. The Tribe requests that both duck and goose seasons open at the earliest possible date and close on the latest date under Federal frameworks. However, during that period, the Tribe proposes that the season run continuously. Daily bag and possession limits would be concurrent with the Federal rule.

The Tribe reports that there was no 2002–03 tribal harvest. Under the proposal, the Tribe expects harvest to be less than 500 birds for the season with less than 200 geese. Tribal members would be required to possess a signed Federal migratory bird stamp and a tribal ceded lands permit.

We propose to approve the regulations requested by the Kalispel Tribe provided that the nontribal seasons conform to Treaty limitations and final Federal frameworks for the Pacific Flyway. All seasons for nontribal hunters must conform with the 107-day maximum season length established by the Treaty.

(j) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

The Klamath Tribe currently has no reservation, per se. However, the Klamath Tribe has reserved hunting, fishing, and gathering rights within its former reservation boundary. This area of former reservation, granted to the Klamaths by the Treaty of 1864, is over 1 million acres. Tribal natural resource management authority is derived from the Treaty of 1864, and carried out cooperatively under the judicially enforced Consent Decree of 1981. The parties to this Consent Decree are the Federal Government, the State of Oregon, and the Klamaths. The Klamath Indian Game Commission sets the seasons. The tribal biological staff and tribal Regulatory Enforcement Officers monitor tribal harvest by frequent bag checks and hunter interviews.

For the 2004–05 season, we have not yet heard from the Tribe regarding this seasons proposal. Based on last year, we assume the Tribe would request proposed season dates of October 1, 2004, through January 28, 2005. Daily bag limits would be nine for ducks and six for geese, with possession limits twice the daily bag limit. The daily bag and possession limit for coots would be 25. Shooting hours would be one-half hour before sunrise to one-half hour after sunset. Steel shot is required.

Based on the number of birds produced in the Klamath Basin, this year's harvest would be similar to last year's. Information on tribal harvest suggests that more than 70 percent of

the annual goose harvest is local birds produced in the Klamath Basin.

We propose to approve the Klamath Tribe's requested 2004–05 special migratory bird hunting regulations upon receipt of their proposal and confirmation that the Tribe would like to have a special season.

(k) Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only)

The Leech Lake Band of Ojibwe is a federally recognized Tribe located in Cass Lake, Minnesota. The reservation employs conservation officers to enforce conservation regulations. The Service and the Tribe have cooperatively established migratory bird hunting regulations since 2000.

For the 2004–05 season, we have not yet heard from the Tribe regarding this seasons proposal. Based on last year, we assume the Tribe would request a duck season starting on September 15 and ending December 31, 2004, and a goose season to run from September 1 through December 31, 2004. Daily bag limits for both ducks and geese would be 10. Possession limits would be twice the daily bag limit. Shooting hours are one-half hour before sunrise to one-half hour after sunset.

The annual harvest by tribal members on the Leech Lake Reservation is estimated at 1,000–2,000 birds.

We propose to approve the Leech Lake Band of Ojibwe's upon receipt of their proposal and confirmation that the Tribe would like to have a special season.

(l) Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only)

The Little River Band of Ottawa Indians is a self-governing, federally recognized Tribe located in Manistee, Michigan, and a signatory Tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory Tribes on ceded lands in Michigan since the 1986–87 hunting season. Ceded lands are located in Lake, Mason, Manistee, and Wexford Counties.

For the 2004–05 season, we have not yet heard from the Tribe regarding this seasons proposal. Based on last year, we assume the Little River Band of Ottawa Indians would propose a duck, merganser, coot, and common moorhen seasons from September 29 through December 5, 2004. A daily bag limit of eight ducks would include no more than one pintail, one canvasback, one black duck, two wood ducks, two redheads, three scaup, and five mallards (only one of which may be a hen). The daily bag limit for mergansers would be five, of which only one could be a hooded merganser. The possession limit for mergansers is 10, only 2 of which may be hooded mergansers. The daily bag limit for coots and common moorhens would be 12. Possession limits would be twice the daily bag limit.

For Canada geese, white-fronted geese, snow geese, Ross geese, and brant, we assume the Tribe would propose a September 1 through November 30, 2004, season. Daily bag limits would be 5 Canada geese and a combination of 10 of all other species. For Canada geese only, the Tribe proposes a January 1, 2005, through February 7, 2005, season with a daily bag limit of five Canada geese. The possession limit would be twice the daily bag limit.

For snipe, woodcock, and rails, we assume the Tribe would propose a September 1 to November 14, 2004, season. The daily bag limit would be 10 common snipe, 5 woodcock, and 10 rails. Possession limits for all species would be twice the daily bag limit. For mourning dove, the Tribe proposes a September 15 to November 14, 2004, season. The daily bag limit would be 10 and possession limit of 20.

The Tribe monitored harvest through mail surveys. General Conditions were as follows:

A. All tribal members will be required to obtain a valid tribal resource card and 2004–05 hunting license.

B. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel all Federal regulations contained in 50 CFR part 20.

C. Particular regulations of note include:

(1) Nontoxic shot will be required for all waterfowl hunting by tribal members.

(2) Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

(3) Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above.

D. Tribal members hunting in Michigan will comply with tribal codes that contain provisions parallel to Michigan law regarding duck blinds and decoys.

We propose to approve Little River Band of Ottawa Indians upon receipt of their proposal and confirmation that the Tribe would like to have a special season.

(m) The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only)

The Little Traverse Bay Bands of Odawa Indians is a self-governing, federally recognized Tribe located in Petoskey, Michigan, and a signatory Tribe of the Treaty of 1836. We have approved special regulations for tribal members of the 1836 treaty's signatory Tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 2004–05 season, the Little Traverse Bay Bands of Odawa Indians propose regulations similar to other Tribes in the 1836 treaty area. The tribal member duck season would run from September 15, 2004, through January 20, 2005. A daily bag limit of 12 would include no more than 2 pintail, 2 canvasback, 1 hooded merganser, 3 black ducks, 3 wood ducks, 2 redheads, and 6 mallards (only 3 of which may be hens). For Canada geese, the Tribe proposes a September 1, 2004, through February 8, 2005, season. For white-fronted geese, brant, and snow geese, the Tribe proposes a September 1 through November 30, 2004, season. The daily bag limit for Canada geese would be 5 birds, and for snow geese, brant, and white-fronted geese, 10 birds. Based on our information, it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the Tribe. Possession limits are twice the daily bag limit.

For woodcock, the Tribe proposes a September 1, 2004, to November 14, 2004, season. The daily bag limit will not exceed five birds. For snipe, mourning doves, and sora rail, the Tribe proposes a September 1 to November 14, 2004, season. The daily bag limit will not exceed 10 birds per species. The possession limit will not exceed two days bag limit for all birds. All other Federal regulations contained in 50 CFR part 20 would apply. The Tribe proposes to monitor harvest closely through game bag checks, patrols, and mail surveys. In particular, the Tribe proposes monitoring the harvest of Southern James Bay Canada geese to assess any impacts of tribal hunting on the population.

We propose to approve the Little Traverse Bay Bands of Odawa Indians' requested 2004–05 special migratory bird hunting regulations.

(n) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

The Lower Brule Sioux Tribe first established tribal migratory bird hunting regulations for the Lower Brule

Reservation in 1994. The Lower Brule Reservation is about 214,000 acres in size and is located on and adjacent to the Missouri River, south of Pierre. Land ownership on the reservation is mixed, and until recently, the Lower Brule Tribe had full management authority over fish and wildlife via an MOA with the State of South Dakota. The MOA provided the Tribe jurisdiction over fish and wildlife on reservation lands, including deeded and Corps of Engineers taken lands. For the 2004–05 season, the two parties have come to an agreement that provides the public a clear understanding of the Lower Brule Sioux Wildlife Department license requirements and hunting season regulations. The Lower Brule Reservation waterfowl season is open to tribal and non-tribal hunters.

For the 2004–05 migratory bird hunting season, the Lower Brule Sioux Tribe proposes a nontribal member duck, merganser, and coot season length of 97 days, the same number of days tentatively allowed under the liberal regulatory alternative in the High Plains Management Unit for this season. The Tribe's proposed season would run from October 2, 2004, through January 6, 2005. The daily bag limit would be six birds, including no more than five mallards (only one of which may be a hen), one pintail, two redheads, two wood ducks, three scaup, and one mottled duck. The canvasback season for nontribal members is closed. The daily bag limit for mergansers would be five, only one of which could be a hooded merganser. The daily bag limit for coots would be 15. Possession limits would be twice the daily bag limits. The Tribe also proposes a youth waterfowl hunt on September 25–26, 2004.

The Tribe's proposed nontribal member Canada goose season would run from October 16, 2004, through January 18, 2005, with a daily bag limit of three Canada geese. The Tribe's proposed nontribal member white-fronted goose season would run from October 16, 2004, through January 9, 2005, with a daily bag limit of two white-fronted geese. The Tribe's proposed nontribal member light goose season would run from October 16, 2004, through January 15, 2005, and February 26 through March 10, 2005. The light goose daily bag limit would be 20. Possession limits would be twice the daily bag limits.

For tribal members, the Lower Brule Sioux Tribe proposes a duck, merganser, and coot season from October 2, 2004, through March 7, 2005. The daily bag limit would be six birds, including no more than five mallards (only one of which may be a hen), one pintail, two redheads, one canvasback, two wood ducks, three scaup, and one mottled duck. The daily bag limit for mergansers would be five, only one of which could be a hooded merganser. The daily bag limit for coots would be 15. Possession limits would be twice the daily bag limits. The Tribe also proposes a youth waterfowl hunt on September 25–26, 2004.

The Tribe's proposed Canada goose season for tribal members would run from October 16, 2004, through March 7, 2005, with a daily bag limit of three Canada geese. The Tribe's proposed white-fronted goose tribal season would run from October 16, 2004, through March 7, 2005, with a daily bag limit of two white-fronted geese. The Tribe's proposed light goose tribal season would run from October 16, 2004, through March 7, 2005. The light goose daily bag limit would be 20. Possession limits would be twice the daily bag limits.

In the 2002–03 season, hunters harvested an estimated 3,554 geese and 768 ducks. In the 2002–03 season, duck harvest species composition was primarily mallard (79 percent), green-winged teal (4 percent), gadwall (8 percent), and blue-winged teal, wood duck, scaup, pintail, and wigeon (8 percent collectively). Goose harvest species composition in 2002 at Mni Sho Sho was approximately 85 percent Canada geese, 11 percent snow geese, and 4 percent white-fronted geese. Harvest of geese harvested by other hunters was approximately 100 percent Canada geese, and less than 1 percent snow geese.

The Tribe anticipates a duck harvest similar to the previous three years and a goose harvest below the target harvest level of 3,000 to 4,000 geese. All basic Federal regulations contained in 50 CFR part 20, including the use of steel shot, Migratory Waterfowl Hunting and Conservation Stamp, etc., would be observed by the Tribe's proposed regulations. In addition, the Lower Brule Sioux Tribe has an official Conservation Code that was established by Tribal Council Resolution in June 1982 and updated in 1996.

We propose to approve the Tribe's requested regulations for the Lower Brule Reservation.

(o) Lower Elwha Klallam Tribe, Port Angeles, Washington (Tribal Members Only)

Since 1996, the Service and the Point No Point Treaty Tribes, of which Lower Elwha was one of, have cooperated to establish special regulations for migratory bird hunting. The Tribes are now acting independently and the Lower Elwha Klallam Tribe would like to establish migratory bird hunting regulations for tribal members for the 2004–2005, season. The Tribe has a reservation on the Olympic Peninsula in Washington State and is a successor to the signatories of the Treaty of Point No Point of 1855.

The Lower Elwha Klallam Tribe request a duck and coot season from September 15, 2004, to March 9, 2005. The daily bag limit is seven ducks including no more than two hen mallards, one pintail, one canvasback, and two redheads. The daily bag and possession limit on harlequin duck is one per season. The coot daily bag limit is 25. The possession limit is twice the daily bag limit except as noted above.

For geese, the Tribe requests a season from September 15, 2004, to March 9, 2005. The daily bag limit is four including no more than three light geese. The season on Aleutian Canada geese is closed. For Brant, the Tribe proposes a season from November 1, 2004, to March 9, 2005, with a daily bag limit of two. The possession limit is twice the daily bag limit.

For mourning doves and bandtailed pigeon, the Tribe requests a season from September 1, 2004, to March 9, 2005, with a daily bag limit of 10 and 2, respectively. For Snipe, the Tribe requests a season from September 15, 2004, to March 10, 2005, with a daily bag limit of eight. The possession limit is twice the daily bag limit.

All Tribal hunters authorized to hunt migratory birds are required to obtain a tribal hunting permit from the Lower Elwha Klallam Tribe pursuant to tribal law. Hunting hours would be from one-half hour before sunrise to sunset. Only steel, tungsten-iron, tungsten-polymer, tungsten-matrix, and tin shot are allowed for hunting waterfowl. It is unlawful to use or possess lead shot while hunting waterfowl.

The Tribe anticipates harvest to be less than 100 birds. Tribal reservation police and Tribal Fisheries enforcement officers have the authority to enforce these migratory bird hunting regulations.

We propose to approve the Lower Elwha Klallam Tribe's requested migratory bird hunting season.

(p) Makah Indian Tribe, Neah Bay, Washington (Tribal Members Only)

The Makah Indian Tribe and the Service have been cooperating to establish special regulations for migratory game birds on the Makah Reservation and traditional hunting land off the Makah Reservation since the 2001–02 hunting season. Lands off the Makah Reservation are those contained within the boundaries of the

State of Washington Game Management Units 601–603 and 607.

The Makah Indian Tribe proposes a duck and coot hunting season from September 25, 2004, to January 19, 2005. The daily bag limit is seven ducks including no more than one canvasback and one redhead. The daily bag limit for coots is 25. The Tribe has a year-round closure on wood ducks and harlequin ducks. For geese, the Tribe proposes the season open on September 25, 2004, and close January 19, 2005. The daily bag limit for geese is four. The Tribe notes that there is a year-round closure on Aleutian and Dusky Canada geese. For band-tailed pigeons, the Tribe proposes the season open September 1, 2004, and close October 31, 2004. The daily bag limit for band-tailed pigeons is two. Shooting hours for all species of waterfowl are one-half hour before sunrise to sunset.

The Tribe anticipates that harvest under this regulation will be relatively low since fewer than 20 hunters are likely to participate at this time. The Tribe expects fewer than 50 total waterfowl and 20 pigeons are expected to be harvested during the 2004–05 migratory bird hunting season.

All other Federal regulations contained in 50 CFR part 20 would apply. The following restrictions are also proposed by the Tribe: (1) As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area; (2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl; (3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within one mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation; (4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited; (5) Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited; (6) The use of dogs is permitted to hunt waterfowl.

We propose to approve the Makah Indian Tribes requested 2004–05 special migratory bird hunting regulations.

(q) Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)

Since 1985, we have established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The Navajo Nation owns almost all lands on the reservation and has full wildlife management authority.

For the 2004–05 season, we have not yet heard from the Tribe regarding this seasons proposal. Based on last year, we assume The Navajo Nation would request special migratory bird hunting regulations on the reservation for both tribal and nontribal members for the 2004–05 hunting season for ducks (including mergansers), Canada geese, coots, band-tailed pigeons, and mourning doves. For ducks, mergansers, Canada geese, and coots, we assume the Tribe would request the earliest opening dates and longest seasons, and the same daily bag and possession limits permitted Pacific Flyway States under final Federal frameworks.

For both mourning dove and band-tailed pigeons, we assume the Navajo Nation would propose seasons of September 1 through September 30, 2004, with daily bag limits of 10 and 5 for mourning dove and band-tailed pigeon, respectively. Possession limits would be twice the daily bag limits.

The Nation requires tribal members and nonmembers to comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face of the stamp. Special regulations established by the Navajo Nation also apply on the reservation.

The Tribe usually anticipates a total harvest of less than 100 mourning doves, 20 band-tailed pigeons, 500 ducks, coots, and mergansers, and 300 Canada geese for the 2004–05 season. Harvest will be measured by mail survey forms. Through the established Tribal Nation Code, Title 17 and 18 U.S.C. 1165, the Tribe will take action to close the season, reduce bag limits, or take other appropriate actions if the harvest is detrimental to the migratory bird resource. We propose to approve the Navajo Nations request upon receipt of their proposal and confirmation that the Tribe would like to have a special season.

(r) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Since 1991–92, the Oneida Tribe of Indians of Wisconsin and the Service have cooperated to establish uniform regulations for migratory bird hunting by tribal and non-tribal hunters within the original Oneida Reservation boundaries. Since 1985, the Oneida Tribe's Conservation Department has enforced their own hunting regulations within those original reservation limits. The Oneida Tribe also has a good working relationship with the State of Wisconsin and the majority of the seasons and limits are the same for the Tribe and Wisconsin.

In a June 1, 2004, letter, the Tribe proposed special migratory bird hunting regulations. For ducks, the Tribe described the general outside dates as being September 25 through December 5, 2004, with a closed segment of November 20 through 28. The Tribe proposes a daily bag limit of six birds, which could include no more than six mallards (three hen mallards), five wood ducks, one redhead, two pintails, and one hooded merganser.

For geese, the Tribe requests a season between September 1 and December 31, 2004, with a daily bag limit of three Canada geese. Hunters will be issued three tribal tags for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. The Tribe will close the season November 20 to 28, 2004. If a quota of 150 geese is attained before the season concludes, the Tribe will recommend closing the season early. For woodcock, the Tribe proposes a season between September 11 and November 14, 2004, with a daily bag and possession limit of 5 and 10, respectively.

For mourning dove, the Tribe proposes a season between September 1 and November 14, 2004, with a daily bag and possession limit of 10 and 20, respectively.

The Tribe proposes shooting hours be one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including shooting hours of one-half hour before sunrise to sunset, season dates, and daily bag limits. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Oneida members would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells. Tribal member shooting hours will be from one-half hour before sunset to one-half hour after sunset.

The Service proposes to approve the request for special migratory bird

hunting regulations for the Oneida Tribe of Indians of Wisconsin.

(s) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Almost all of the Fort Hall Indian Reservation is tribally owned. The Tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by non-tribal members on reservation lands owned by non-Indians. As a compromise, since 1985, we have established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the Tribes and provided for different season dates than in the remainder of the State. We agreed to the season dates because they seemed to provide additional protection to mallards and pintails. The State of Idaho concurred with the zoning arrangement. We have no objection to the State's use of this zone again in the 2004–05 hunting season, provided the duck and goose hunting season dates are the same as on the reservation.

In a proposal for the 2004–05 hunting season, the Shoshone-Bannock Tribes requested a continuous duck (including mergansers) season with the maximum number of days and the same daily bag and possession limits permitted for Pacific Flyway States, under final Federal frameworks. The Tribes propose that, if the same number of hunting days are permitted as last year, the season would have an opening date of October 2, 2004, and a closing date of January16, 2005. Coot and snipe season dates would be the same as for ducks, with the same daily bag and possession limits permitted for Pacific Flyway States. The Tribes anticipate harvest will be between 2,000 and 5,000 ducks.

The Tribes also requested a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted in Idaho under Federal frameworks. The Tribes propose that, if the same number of hunting days is permitted as in previous years, the season would have an opening date of October 2, 2004, and a closing date of January 16, 2005. The Tribes anticipate harvest will be between 4,000 and 6,000 geese.

The Tribe requests a common snipe season with the maximum number of days and the same daily bag and possession limits permitted in Idaho under Federal frameworks. The Tribes propose that, if the same number of hunting days are permitted as in previous years, the season would have an opening date of October 2, 2004, and a closing date of January 16, 2005.

Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours, use of steel shot, and manner of taking. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

We note that the requested regulations are nearly identical to those of last year and propose they be approved for the 2004–05 hunting season.

(t) Sokaogon Chippewa Community, Madison, Wisconsin (Tribal Members Only)

The Sokaogon Chippewa Community has a reservation of approximately 1850 acres in northeastern Wisconsin. These special regulations apply to tribal members on the Sokaogon Chippewa Community Reservation and trust lands in Crandon, Wisconsin.

For the 2004–05 season, The Tribe proposes that duck (including mergansers, gallinule, and coots), goose, woodcock, rail, and snipe seasons run from September 1, 2004, to December 1, 2004. The daily bag limit on ducks (including sea ducks and mergansers) is 50 and must include no more than 20 mallards (only 10 of which can be hens), 10 pintail, 10 redhead, 10 black ducks, and 8 canvasback. The daily bag limit for coot is 50. For geese, the daily bag limit is 25 in the aggregate. The daily bag limit on woodcock is seven. The daily bag limit on sora and Virginia rails is 25 singly or in the aggregate. The daily bag limit for snipe is eight. Possession limits are double the daily bag limits except on opening day of the season, when the possession limit equals the daily bag limit. Possession limits are applicable only to transportation and do not include birds that are cleaned, dressed, and at a member's primary residence.

Tribal members must carry a picture identification card issued or approved by the Tribal Council for hunting purposes. Shooting hours are one-half hour before sunrise until three-quarters hour after sunset. The Tribal Council shall enforce these guidelines for on-reservation hunting by designating an on-reservation game warden for the hunting season.

We propose to approve the Sokaogon Chippewa Community's requested 2004–05 special migratory bird hunting regulations.

(u) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

The Squaxin Island Tribe of Washington and the Service have cooperated since 1995 to establish special tribal migratory bird hunting regulations. These special regulations apply to tribal members on the Squaxin Island Reservation, located in western Washington near Olympia, and all lands within the traditional hunting grounds of the Squaxin Island Tribe.

For the 2004–05 season, the Tribe requests to establish duck and coot seasons that would run from September 1, 2004, through January 15, 2005. The daily bag limit for ducks is five per day and could include only one canvasback. The season on harlequin ducks is closed. For coots the daily bag limit is 25. For snipe, the Tribe proposes the season start on September 15, 2004, and end on January 15, 2005. The daily bag limit for snipe is eight.

We propose to approve the Squaxin Island Tribe's requested 2004–05 special migratory bird hunting regulations.

(v) Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only)

The Stillaguamish Tribe of Indians and the Service have cooperated to establish special regulations for migratory game birds since 2001. The Tribe is proposing regulations to hunt all open and unclaimed lands under the Treaty of Point Elliott of January 22, 1855, including their main hunting grounds around Camano Island, Skagit Flats, Port Susan to the border of the Tulalip Tribes Reservation. Ceded lands are located in Whatcom, Skagit, Snohomish, and Kings Counties, and a portion of Pierce County, Washington. The Stillaguamish Tribe of Indians is a federally recognized Tribe and reserves the Treaty Right to hunt (*U.S.* v. *Washington*).

The Tribe proposes that duck (including mergansers, sea ducks, and coots), goose, and snipe seasons run from October 1, 2004, to January 31, 2005. The daily bag limit on ducks (including sea ducks and mergansers) is 10 and must include no more than 7 mallards (only 3 of which can be hens), 3 pintail, 3 redhead, 3 scaup, and 3 canvasback. The daily bag limit for coot is 25. For geese, the daily bag limit is six. The daily bag limit on brant is three. The daily bag limit for snipe is ten. Possession limits are totals of two daily bag limits.

Harvest is regulated by a punch card system. Tribal members hunting on lands under this proposal will observe

all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a non-toxic shot as required by Federal regulations.

The Tribe anticipates a total harvest of 200 ducks, 100 geese, 50 mergansers, 50 brant, 100 coots, and 100 snipe. Anticipated harvest needs include subsistence and ceremonial needs. Certain species may be closed to hunting for conservation purposes, and consideration for the needs of certain species will be addressed.

The Service proposes to approve the request for special migratory bird hunting regulations for the Stillaguamish Tribe of Indians.

(w) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

In 1996, the Service and the Swinomish Indian Tribal Community began cooperating to establish special regulations for migratory bird hunting. The Swinomish Indian Tribal Community is a Federally recognized Indian Tribe consisting of the Suiattle, Skagit, and Kikialos. The Swinomish Reservation was established by the Treaty of Point Elliott of January 22, 1855, and lies in the Puget Sound area north of Seattle, Washington.

For the 2004–05 season, we have not yet heard from the Tribe regarding this seasons proposal. Based on last year, we assume the Tribe would request to establish a migratory bird hunting season on all areas that are open and unclaimed and consistent with the meaning of the treaty. We assume the Tribe would request to establish duck, merganser, Canada goose, brant, and coot seasons opening on the earliest possible date allowed by the final Federal frameworks for the Pacific Flyway and closing 30 days after the State of Washington closes its season. The Swinomish requests an additional three birds of each species over that allowed by the State for daily bag and possession limits.

The Community normally anticipates that the regulations will result in the harvest of approximately 300 ducks, 50 Canada geese, 75 mergansers, 100 brant, and 50 coot. The Swinomish utilize a report card and permit system to monitor harvest and will implement steps to limit harvest where conservation is needed. All tribal regulations will be enforced by tribal fish and game officers.

On reservation, the Tribal Community proposes a hunting season for the above-mentioned species beginning on the earliest possible opening date and closing March 9, 2005. The Swinomish manage harvest by a report card permit system, and we anticipate harvest will be similar to that expected off reservation.

We believe the estimated harvest by the Swinomish will be minimal and will not adversely affect migratory bird populations. We propose to approve the Tribe's requested 2004–05 special migratory bird hunting regulations upon receipt of the Tribal proposal.

(x) Skokomish Tribe, Shelton, Washington (Tribal Members Only)

Since 1996, the Service and the Point No Point Treaty Tribes, of which Lower Elwha was one of, have cooperated to establish special regulations for migratory bird hunting. The Tribes are now acting independently and the Skokomish Tribe would like to establish migratory bird hunting regulations for tribal members for the 2004–2005, season. The Tribe has a reservation on the Olympic Peninsula in Washington State and is a successor to the signatories of the Treaty of Point No Point of 1855.

The Skokomish Tribe request a duck and coot season from September 15, 2004, to March 9, 2005. The daily bag limit is seven ducks including no more than two hen mallards, one pintail, one canvasback, and two redheads. The daily bag and possession limit on harlequin duck is one per season. The coot daily bag limit is 25. The possession limit is twice the daily bag limit except as noted above.

For geese, the Tribe requests a season from September 15, 2004, to March 9, 2005. The daily bag limit is four including no more than three light geese. The season on Aleutian Canada geese is closed. For Brant, the Tribe proposes a season from November 1, 2004, to March 9, 2005, with a daily bag limit of two. The possession limit is twice the daily bag limit.

For mourning doves and band-tailed pigeon, the Tribe requests a season from September 1, 2004, to March 9, 2005, with a daily bag limit of 10 and 2, respectively. For Snipe, the Tribe requests a season from September 15, 2004, to March 10, 2005, with a daily bag limit of eight. The possession limit is twice the daily bag limit.

All Tribal hunters authorized to hunt migratory birds are required to obtain a tribal hunting permit from the Skokomish Tribe pursuant to tribal law. Hunting hours would be from one-half hour before sunrise to sunset. Only steel, tungsten-iron, tungsten-polymer, tungsten-matrix, and tin shot are allowed for hunting waterfowl. It is unlawful to use or possess lead shot while hunting waterfowl.

The Tribe anticipates harvest to be less than 150 birds. The Skokomish Public Safety Office enforcement officers have the authority to enforce these migratory bird hunting regulations.

We propose to approve the Lower Elwha Klallam Tribe's requested migratory bird hunting season.

(y) The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Nontribal Hunters)

The Tulalip Tribes are the successors in interest to the Tribes and bands signatory to the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes' government is located on the Tulalip Indian Reservation just north of the City of Everett in Snohomish County, Washington. The Tribes or individual tribal members own all of the land on the reservation, and they have full wildlife management authority. All lands within the boundaries of the Tulalip Tribes Reservation are closed to nonmember hunting unless opened by Tulalip Tribal regulations.

For the 2004–05 season, we have not yet heard from the Tribe regarding this seasons proposal. Based on last year, we assume the Tribe would propose tribal and nontribal hunting regulations for the 2004–05 season. Migratory waterfowl hunting by Tulalip Tribal members is authorized by Tulalip Tribal Ordinance No. 67. For ducks, mergansers, coot, and snipe, we assume the proposed season for tribal members would be from September 15, 2004, through February 29, 2005. In the case of nontribal hunters hunting on the reservation, we assume the season would be the latest closing date and the longest period of time allowed under final Pacific Flyway Federal frameworks. Daily bag and possession limits for Tulalip Tribal members would be 7 and 14 ducks, respectively, except that for blue-winged teal, canvasback, harlequin, pintail, and wood duck, the bag and possession limits would be the same as those established in accordance with final Federal frameworks. For nontribal hunters, bag and possession limits would be the same as those permitted under final Federal frameworks. Nontribal members should check with the Tulalip tribal authorities regarding additional conservation measures which may apply to specific species managed within the region. Ceremonial hunting may be authorized by the Department of Natural Resources at any time upon application of a qualified tribal member. Such a hunt

must have a bag limit designed to limit harvest only to those birds necessary to provide for the ceremony.

For geese, we assume tribal members are proposed to be allowed to hunt from September 15, 2004, through February 29, 2005. We assume Non-tribal hunters would be allowed the longest season and the latest closing date permitted for Pacific Flyway Federal frameworks. For tribal hunters, the goose daily bag and possession limits would be 7 and 14, respectively, except that the bag limits for brant, cackling Canada geese, and dusky Canada geese would be those established in accordance with final Federal frameworks. For nontribal hunters hunting on reservation lands, the daily bag and possession limits would be those established in accordance with final Federal frameworks for the Pacific Flyway. The Tulalip Tribes also set a maximum annual bag limit for those tribal members who engage in subsistence hunting of 365 ducks and 365 geese.

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the Tribe. Nontribal hunters 16 years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face of the stamp.

Although the season length requested by the Tulalip Tribes appears to be quite liberal, harvest information indicates a total take by tribal and nontribal hunters under 1,000 ducks and 500 geese, annually.

We propose approval of the Tulalip Tribes request upon receipt of their proposal and confirmation that the Tribe would like to have a special season. We request that harvest be monitored closely and regulations be reevaluated for future years if harvest becomes too great in relation to population numbers.

(z) Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only)

The Upper Skagit Indian Tribe and the Service have cooperated to establish special regulations for migratory game birds since 2001. The Tribe has jurisdiction over lands within Skagit, Island, and Whatcom Counties, Washington. Tribal hunters are issued a harvest report card that will be shared with the State of Washington.

For the 2004–05 season, the Tribe requests a duck season of November 1, 2004, and ending February 8, 2005. The Tribe proposes a daily bag limit of 15 with a possession limit of 20. The coot daily bag limit is 20 with a possession limit of 30.

The Tribe proposes a goose season from November 1, 2004, to February 8, 2005, with a daily bag limit of seven geese and five brant. The possession limit for geese and brant are seven and five, respectively.

The Tribe proposes a mourning dove season between September 1 to December 31, 2004, with a daily bag limit of 12 and possession limit of 20.

The anticipated migratory bird harvest under this proposal would be 100 ducks, 5 geese, 2 brant, and 10 coots. Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR, except shooting hours would be one-half hour before official sunrise to one-half hour after official sunset.

The Service proposes to approve the request for special migratory bird hunting regulations for the Upper Skagit Indian Tribe. We request that the Tribe closely monitor harvest of this special migratory bird hunting season.

(aa) Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only)

The Wampanoag Tribe of Gay Head is a federally-recognized Tribe located on the island of Marthas Vineyard in Massachusetts. The Tribe has approximately 560 acres of land, which it manages for wildlife through its natural resources department. The Tribe also enforces its own wildlife laws and regulations through the natural resources department.

For the 2004–05 season, the Tribe proposes a duck season of October 20, 2004, to February 21, 2005. The Tribe proposes a daily bag limit of six birds, which could include no more than two hen mallards, two black ducks, two mottled ducks, one fulvous whistling duck, four mergansers, three scaup, one hooded merganser, two wood ducks, one canvasback, two redheads, and one pintail. The season for harlequins would be closed. The Tribe proposes a teal (green-winged and blue) season of October 20, 2004, to January 29, 2005. A daily bag limit of six teal would be in addition to the daily bag limit for ducks.

For sea ducks, the Tribe proposes a season between October 20, 2004, and February 21, 2005, with a daily bag limit of seven, which could include no more than one hen eider and four of any one species unless otherwise noted above.

For geese, the Tribe requests a season between September 11 to September 25, 2004, and November 8, 2004, through February 21, 2005, with a daily bag limit of 5 Canada geese during the first period and 3 Canada geese during the second period. They propose a daily bag limit of 15 snow geese.

For woodcock, the Tribe proposes a season between October 16 and November 30, 2004, with a daily bag limit of three.

The Tribe currently has 22 registered tribal hunters and estimates harvest to be no more than 15 geese, 25 mallards, 25 teal, 50 black ducks, and 50 of all other species combined. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20. Hunters will be required to register with the HIP program.

The Service proposes to approve the request for special migratory bird hunting regulations for the Wampanoag Tribe of Gay Head.

(bb) White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only)

The White Earth Band of Ojibwe is a federally-recognized tribe located in northwest Minnesota and encompasses all of Mahnomen County and parts of Becker and Clearwater Counties. The reservation employs conservation officers to enforce migratory bird regulations. The Tribe and the Service first cooperated to establish special tribal regulations in 1999.

For the 2004–05 migratory bird hunting season, the White Earth Band of Ojibwe requests a duck and merganser season to start September 27 and end December 14, 2004. For ducks, they request a daily bag limit of 10 including no more than 2 mallards and 1 canvasback. The merganser daily bag limit would be five with no more than two hooded mergansers. For geese, the Tribe proposes an early season from September 1 to September 24, 2004, and a late season from September 25, 2004, to December 19, 2004. The early season daily bag limit is eight geese and the late season daily bag limit is five geese.

For coots, dove, rail, woodcock, and snipe, the Tribe proposes a September 4 to November 30, 2004, season with daily bag limits of 20 coots, 25 doves, 25 rails, 10 woodcock, and 10 snipe. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required.

Based on past harvest surveys, the Tribe anticipates harvest of 1,000 to 2,000 Canada geese and 1,000 to 1,500

ducks. The White Earth Reservation Tribal Council employs four full-time Conservation Officers to enforce migratory bird regulations.

We propose to approve the White Earth Band of Ojibwes request to have a special season.

(cc) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters)

The White Mountain Apache Tribe owns all reservation lands, and the Tribe has recognized full wildlife management authority. The White Mountain Apache Tribe has requested regulations that are essentially unchanged from those agreed to since the 1997–98 hunting year.

The hunting zone for waterfowl is restricted and is described as: the length of the Black River west of the Bonito Creek and Black River confluence and the entire length of the Salt River forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 5, 6, and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting during the 2004–05 season. The length of the Black River east of the Black River/Bonito Creek confluence is closed to waterfowl hunting. All other waters of the reservation would be closed to waterfowl hunting for the 2004–05 season.

For nontribal and tribal hunters, the Tribe proposes a continuous duck, coot, merganser, gallinule, and moorhen hunting season, with an opening date of October 9, 2004, and a closing date of January 30, 2005. The Tribe proposes a separate pintail season, with an opening date of October 11, 2004, and a closing date of December 10, 2004. The season on canvasback is closed. The Tribe proposes a daily duck (including mergansers) bag limit of seven, which may include no more than two redheads, one pintail (when open), and seven mallards (including no more than two hen mallard). The daily bag limit for coots, gallinules, and moorhens would be 25, singly or in the aggregate. For geese, the Tribe is proposing a season from October 11, 2004, through January 25, 2005. Hunting would be limited to Canada geese, and the daily bag limit would be three.

Season dates for band-tailed pigeons and mourning doves would run concurrently from September 3 through September 17, 2004, in Wildlife Management Unit 10 and all areas south of Y–70 in Wildlife Management Unit 7, only. Proposed daily bag limits for band-tailed pigeons and mourning doves would be 3 and 10, respectively.

Possession limits for the above species are twice the daily bag limits. Shooting hours would be from one-half hour before sunrise to sunset. There would be no open season for sandhill cranes, rails, and snipe on the White Mountain Apache lands under this proposal. A number of special regulations apply to tribal and nontribal hunters, which may be obtained from the White Mountain Apache Tribe Game and Fish Department.

We propose to approve the regulations requested by the Tribe for the 2004–05 season.

(dd) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nontribal Hunters)

On May 28, 2004, the Yankton Sioux Tribe submitted a waterfowl hunting proposal for the 2004–05 season. The Yankton Sioux tribal waterfowl hunting season would be open to both tribal members and nontribal hunters. The waterfowl hunting regulations would apply to tribal and trust lands within the external boundaries of the reservation.

For ducks (including mergansers) and coots, the Yankton Sioux Tribe proposes a season starting October 9, 2004, and running for the maximum amount of days allowed under the final Federal frameworks. The Tribe indicated that if the Service decided to close the canvasback season, the Tribe would close theirs, otherwise, the canvasback season would start October 9, 2004, and run for the maximum amount of days allowed under the final Federal frameworks. Daily bag and possession limits would be 6 ducks, which may include no more than 5 mallards (no more than 2 hens), 1 canvasback (if open), 2 redheads, 3 scaup, 1 pintail, or 2 wood ducks. The bag limit for mergansers is 5, which would include no more than 1 hooded merganser. The coot daily bag limit is 15.

For geese, the Tribe has requested a dark geese (Canada geese, brant, white-fronts) season starting October 29, 2004, and closing January 31, 2005. The daily bag limit would be three geese (including no more than one whitefront or brant). Possession limits would be twice the daily bag limit. For white geese, the proposed hunting season would start October 29, 2004, and run for the maximum amount of days allowed under the final Federal frameworks. Daily bag and possession limits would be the maximum as those allowed under Federal frameworks.

All hunters would have to be in possession of a valid tribal license while hunting on Yankton Sioux trust lands. Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and the manner of taking. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

During the 2002–03 hunting season, the Tribe reported that 62 nontribal hunters took 325 Canada geese, 25 light geese, and 65 ducks. Seventy-eight tribal members harvested less than 50 geese and 50 ducks.

We concur with the Yankton Sioux proposal for the 2004–05 hunting season.

Public Comment Invited

We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, desire to obtain the comments and suggestions of the public, other governmental agencies, nongovernmental organizations, and other private interests on these proposals. However, special circumstances are involved in the establishment of these regulations, which limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to adjust appropriately their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow the comment period past the date specified in **DATES** is contrary to the public interest.

The Department of the Interiors policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. We invite interested persons to participate in this rulemaking by submitting written comments to the address indicated under the caption **ADDRESSES**.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 4107, 4501 North Fairfax Drive, Arlington, Virginia. Our practice is to make comments, including names and 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. In some circumstances, we would withhold from the rulemaking record a respondents identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them in the final rules.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with the Environmental Protection Agency on June 9, 1988. We published Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the address indicated under the caption **ADDRESSES**. In a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we expressed our intent to begin the process of developing a new EIS for the migratory bird hunting program.

Endangered Species Act Consideration

Prior to issuance of the 2004–05 migratory game bird hunting regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in future supplemental proposed rulemaking documents.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990'1996, and then updated in 1998. We have updated again this year. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a midpoint estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov*. Executive Order 12866 also requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the ASupplementary Information@ section of the preamble helpful in understanding the rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of the Executive Secretariat and Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail comments to this address: *Exsec@ios.doi.gov*.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date required by 5 U.S.C. 801 under the exemption contained in 5 U.S.C. 808 (1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned

clearance number 1018–0023 (expires 07/31/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a Asignificant regulatory action@ under the Unfunded Mandates Reform Act.

Civil Justice Reform-Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or tribe may be more restrictive than the Federal frameworks. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals contained in this proposed rule, we have consulted with all the tribes affected by this rule.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Based on the results of migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting regulations for migratory birds beginning as early as September 1, 2004, on certain Federal Indian reservations, off-reservation trust lands, and ceded lands. Taking into account both reserved hunting rights and the degree to which tribes have full wildlife management authority, the regulations only for tribal members or for both tribal and nontribal members may differ from those established by States in which the reservations, off-reservation trust lands, and ceded lands are located. The regulations will specify open seasons, shooting hours, and bag and possession limits for rails, coot, gallinules, woodcock, common snipe, band-tailed pigeons, mourning doves, white-winged doves, ducks, mergansers, and geese.

The rules that eventually will be promulgated for the 2004–05 hunting season are authorized under the Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended. The MBTA authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

Dated: August 11, 2004.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–18755 Filed 8–12–04; 12:02 pm]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 69, No. 158
Tuesday, August 17, 2004

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Proposed Uniform Guidelines for Conducting Farm Service Agency County Committee Elections

AGENCY: Department of Agriculture.

ACTION: Notice with request for comments.

SUMMARY: The Secretary of Agriculture (the Secretary) is issuing, and inviting public comment on, proposed uniform guidelines for conducting elections of Farm Service Agency (FSA) County Committees. The Secretary is issuing the proposed uniform guidelines pursuant to section 10708 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), (the 2002 Farm Bill), to ensure that FSA County Committees are fairly representative of the agricultural producers covered by the relevant county or counties, including fair representation of socially disadvantaged (SDA) farmers and ranchers on FSA County Committees. The uniform guidelines will address County Committee election outreach efforts, procedures for nomination and election of FSA County Committee members, and reporting and accountability requirements by FSA. FSA will be required to follow such uniform guidelines in conducting FSA County Committee elections.

DATES: Comments must be received by September 16, 2004.

ADDRESSES: The Secretary invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

- E-mail: Send comments to: *countyelectionguidelines@usda.gov*.
- Mail: Send comments to: County Committee Election Reform Comments, Department of Agriculture, Room 3092–S, Mail Stop 0539, 1400 Independence Ave., SW., Washington, DC 20250–0539.
- Hand Delivery or Courier: Deliver comments to the above address.

All comments, including names and addresses, provided by respondents become a matter of public record. Comments may be inspected in the office of the Deputy Administrator for Field Operations, FSA, at the above address. Make inspection arrangements by calling (202) 720–7890.

FOR FURTHER INFORMATION CONTACT: Ken Nagel, Administrative Management Specialist, Office of the Deputy Administrator for Field Operations, FSA, at (202) 720–7890 or at *ken.nagel@usda.gov*. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

FSA County Committees play an instrumental role in administering FSA programs at the local level, including carrying out FSA programs that have a financial impact on participating farmers and ranchers. The membership of each committee is comprised of three to five agricultural producers who participate or cooperate in FSA programs in the area under a committee's jurisdiction. 16 U.S.C. 590h(b)(5)(ii). County Committee members are elected to their positions by agricultural producers who participate or cooperate in programs administered in the area under the jurisdiction of the County Committee. *Id.* By statute, County Committees must be "fairly representative" of the agricultural producers in the area under a committee's jurisdiction. 16 U.S.C. 590h(b)(5)(B)(ii).

The 2002 Farm Bill made significant changes to the process governing County Committee elections. The purpose of these changes was to ensure public transparency and accountability of election results, as well as to ensure the fair representation of SDA producers on County Committees. Adopting the definition set forth in 7 U.S.C. 2003, the Farm Bill defines an SDA group as a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of the group, without regard to their individual qualities. 7 U.S.C. 2003(e)(1). SDA producers have generally been defined to include African-Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian-Americans, and women. By statute, USDA must solicit nominations for County Committee positions from organizations representing the interests of SDA groups. 16 U.S.C. 590h(b)(5)(B)(iii)(III)(bb). Under current practice, when FSA concludes that SDA producers are underrepresented on a given County Committee, a person may be appointed to be an advisor to the County Committee. A County Committee advisor is a member of the County Committee without voting authority who represents the interests of SDAs.

The first change made by the 2002 Farm Bill was to specifically define the class of agricultural producers who are eligible to vote for County Committee members as those producers who participate or cooperate in programs administered by FSA in the area under the committee's jurisdiction. 16 U.S.C. 590h(b)(5)(B)(ii)(II) and (b)(5)(B)(iii)(III)(aa). The Farm Bill also mandates public access requirements relating to county elections, requiring FSA County Committees to open and count the ballots in public, allowing the public to observe the opening and counting of the ballots, and giving the public a 10-day notice of the date, time, and place that the ballots will be tabulated. 16 U.S.C. 590h(b)(5)(B)(iii)(IV).

To further promote transparency and public accountability, the Farm Bill imposes several reporting requirements with regard to the results of County Committee elections. No later than 20 days after an election is conducted, each County Committee must file with the Secretary and the State FSA office a report on the election results. This local report must provide data including the number of eligible voters, the number of ballots cast and disqualified, and the race, ethnicity, and gender of the nominees for County Committee positions. 16 U.S.C. 590h(b)(5)(B)(iii)(V). Also, no later than 90 days after the date of the first election held after enactment of the Farm Bill (which would have been the 2002 election), the Secretary was required to compile a national report consolidating data on election results submitted by County Committees. *Id.* 16

U.S.C. 590h(b)(5)(B)(iii)(VI). Such national reports on the 2002 and 2003 elections were prepared and made public. These national reports may be viewed at *http://www.fsa.usda.gov/pas/EFOIA/efoiaread.htm*.

Most critically for present purposes, the 2002 Farm Bill gives the Secretary discretion to issue uniform guidelines governing the County Committee election process if she deems that such guidelines are necessary after analyzing the data from the national report. 16 U.S.C. 590h(b)(5)(B)(iii)(VII)(aa). If these guidelines are issued, they must contain provisions ensuring fair representation of SDA producers on County Committees where they are underrepresented in relation to their presence in the respective covered areas. 16 U.S.C. 590h(b)(5)(B)(iii)(VII)(bb). Further, the draft uniform guidelines must be published in the **Federal Register** once they are issued. *Id.*

After reviewing the national reports on the 2002 and 2003 election, the Secretary has determined that issuing such uniform guidelines is appropriate. The Secretary recognizes the importance of ensuring that the County Committee election process is fair and transparent and that producers are fairly represented on FSA County Committees. Uniform guidelines issued by the Secretary are a useful vehicle to meet this goal. The publication of uniform guidelines will make public the principles and procedures under which FSA will conduct such elections, thus contributing to the transparency and accountability of the process. FSA will be required to follow such guidelines in conducting County Committee elections, and FSA regulations and directives on conducting such elections must conform to these guidelines.

The proposed guidelines were prepared with the input of personnel from a number of USDA agencies, including FSA, the Office of the Assistant Secretary for Civil Rights, the Office of Budget and Policy Analysis, the National Agricultural Statistics Service, and others. Before finalizing such guidelines, the Secretary is interested in obtaining comments and input on such guidelines from interested persons and groups. Accordingly, USDA is issuing proposed guidelines, and is providing a 30-day period for comments. USDA intends to act in accordance with the proposed guidelines in preparing for the 2004 FSA County Committee elections, even while comments are being made and reviewed.

It should be noted that FSA already has undertaken a number of reforms and steps to ensure fair representation of SDA producers on County Committees. Such steps were taken in regard to the 2003 election and are being applied to the upcoming 2004 election. Reform steps taken to date include: (1) Centralization of ballot preparation and distribution; (2) improvements in the nominating process; (3) outreach to key local, State, and national organizations; and (4) initiation of processes to collect and analyze additional demographic data that will permit better identification of counties in which improved representation will be sought. The uniform guidelines will incorporate reforms already in progress, as well as provide additional election reforms.

Specifically, the uniform guidelines will address outreach to producers, nomination and election procedures, and reporting and accountability requirements. The uniform guidelines are generally intended to ensure that all eligible producers have an opportunity to participate in the election process, that there are no obstacles to participation, and that the process is transparent and accountable.

The proposed guidelines place a special emphasis on outreach efforts to producers eligible to vote, including SDA producers. USDA is committed to improving participation in the County Committee election process by increasing outreach efforts, providing more printed and electronic information to producers through a variety of sources and methods, and developing partnerships with groups representing the interests of producers, including SDA producers, as well as community-based institutions and educational institutions. FSA will work with members of such groups and institutions to encourage eligible voters to participate in County Committee elections and to nominate SDA producers. The Secretary expects FSA to work closely with the Office of the Assistant Secretary for Civil Rights (ASCR), and relevant offices under the ASCR's jurisdiction such as the Office of Outreach, to improve FSA's outreach efforts.

The proposed uniform guidelines also address procedures for the election process itself. Among the key provisions, which include steps FSA is already implementing as well as new procedures, are the following: (1) An annual review of the local administrative area (LAA) boundaries (the specific area within a county or counties that a single County Committee member represents) in order to determine if redrawing the boundaries or changing the number of LAAs in a county is appropriate to ensure fair representation of producers; (2) approval by the FSA State office of any changes in LAA boundaries or number of LAAs; (3) regular maintenance of lists of eligible voters; (4) review by the FSA State office of voter ineligibility determinations made by an FSA County Committee when review is sought by a producer; (5) direct mailing of nomination forms to eligible voters, as well as wider public accessibility of such forms; (6) when no nominations are filed, ensuring that the slate is filled with at least one member of an SDA group; (7) providing the Secretary with the authority to nominate candidates; (8) direct mailing of ballots to the State office, which will then provide the ballots to each county office in a sealed box to be opened at the public counting of ballots; and (9) a decrease in the term limits for County Committee members to two consecutive terms.

Finally, the proposed uniform guidelines contain extensive reporting and accountability requirements. Each FSA county office will be required to submit several reports to the FSA State and national offices on its actions in complying with the uniform guidelines and FSA regulations on elections, including the county's outreach efforts. Based on this reporting, the FSA national office will provide feedback and guidance to county offices on their outreach efforts and on the election process. FSA will also be required to conduct training of county employees on implementation of the uniform guidelines and FSA's regulations.

The uniform guidelines are not intended to be the final word on FSA County Committee election reform. USDA intends to continually monitor the effectiveness of election reform efforts in order to determine if the measures contained in these guidelines are sufficient to ensure fair representation of producers on County Committees. This will include efforts to improve the collection of data required to measure whether there is fair representation. USDA will also continue to improve the implementation of these guidelines, as well as to determine if additional efforts are necessary. Such additional efforts could include compliance reviews of particular counties and further centralization of the election process.

One of the possible additional measures is provided for in the Farm Bill itself. The Farm Bill provides that the Secretary is permitted to ensure the inclusion of SDA producers on County Committees by enacting provisions allowing for the appointment of an additional voting member to the committee. *Id.* 16 U.S.C.

590h(b)(5)(B)(iii)(VII)(cc). The Secretary has the discretion whether to exercise this authority. The Secretary intends to continually evaluate whether the reforms set forth in the uniform guidelines are achieving their goal of ensuring fair representation of SDA producers. Based on such evaluations, the Secretary will determine whether to exercise her authority to appoint SDA producers to committees. In the event that the Secretary does decide to utilize the appointment authority, the Secretary will only do so after providing an opportunity for the public to comment on proposed provisions under which such appointment will be made.

Accordingly, USDA hereby issues proposed Uniform Guidelines for Conducting FSA County Committee Elections, as follows:

Secretary of Agriculture

Uniform Guidelines for Conducting Farm Service Agency County Committee Elections

Pursuant to section 10708 of the Farm Security and Rural Investment Act of 2002, (Pub. L. 107–171)(7 U.S.C. 2279–1), the Secretary of Agriculture is issuing the following uniform guidelines for conducting elections to County Committees of the Farm Service Agency (FSA), United States Department of Agriculture (USDA). The purpose of such guidelines is to ensure that such County Committees are fairly representative of the agricultural producers covered by the relevant county or counties, including to ensure fair representation of socially disadvantaged (SDA) farmers and ranchers on such committees, as well as to ensure public transparency and accountability of the election process.

Accordingly, the Farm Service Agency (FSA) shall conduct elections of members to FSA County Committees in accordance with the following guidelines.

I. County Committee Election Outreach and Communication Efforts

A. FSA will ensure that outreach efforts are taken at the national, State, and local levels to ensure the fair representation of agricultural producers in a given county or area, including fair representation of SDA farmers and ranchers. Such efforts must be designed to increase the participation of eligible producers in the County Committee election process.

B. Each FSA county office will work with the State office to prepare an outreach plan, with specific steps that the county office will take on a year-long basis to increase the participation of producers generally and SDA producers specifically. A report detailing county office outreach efforts shall be submitted to the Office of the Deputy Administrator for Field Operations, FSA prior to the end of the nomination period.

C. FSA county and State offices, with guidance from the FSA national office, will prepare a list of group contacts with which FSA will work on its outreach efforts. Such group contacts should include, as appropriate, land grant colleges, Historically Black Colleges and Universities, Hispanic-serving institutions, tribal colleges, American Indian tribal organizations, community-based organizations, civic or charitable organizations, faith-based organizations, groups representing minorities and women, groups specifically representing the interests of SDA producers, and similar groups and individuals in the community.

D. FSA county and State offices will either develop partnerships with the group contacts or work with them on outreach efforts as appropriate to assist FSA in outreach efforts to SDA producers. County and State offices will also ensure that all group contacts are provided with all appropriate election materials on a timely basis, including fact sheets, posters, brochures, and nominations forms.

E. FSA State Outreach Coordinators, State Communications Coordinators, Field Public Affairs Specialists, and other relevant State office personnel shall work together in developing and implementing State communications plans for the election process.

F. FSA county offices shall ensure maximum publicity to remind and inform SDA farmers and ranchers of both the nomination and the election deadlines. FSA county offices shall ensure that all written election material is available in the county office, is prominently displayed and disseminated in the local area, and is provided to all group contacts. FSA shall ensure that all communications on the election process are available in languages other than English and in alternative formats when appropriate. County Committee election communications materials (nomination forms, fact sheets, posters, etc.) shall be posted on FSA's Web site at: *http://www.fsa.usda.gov/pas/publications/elections/*.

G. County offices shall ensure that information relating to elections is widely communicated, including the use of traditional and non-traditional media outlets. Media outlets should include television, radio, public service announcements, SDA organization newsletters, and other minority publications.

H. FSA county offices, as monitored by the FSA State offices and State committees, shall actively locate and recruit eligible candidates identified as SDA farmers and ranchers as potential nominees for the County Committee elections using any reasonable means necessary. FSA shall work with leaders within the SDA community to identify eligible nominees. Community leaders who are eligible producers should be encouraged to become candidates for County Committee membership.

I. FSA State offices shall ensure that county offices are taking all appropriate outreach and communication efforts, including follow-up visits to county offices.

J. The FSA national office shall provide specific written guidance to State and county offices on County Committee election outreach and communication efforts. The national office shall also develop partnerships with appropriate national organizations to assist in outreach efforts. The national office shall work closely with the Office of the Assistant Secretary for Civil Rights in developing and implementing outreach policy and activities.

II. County Committee Election Procedures

A. Local Administrative Areas

1. County Committees shall continue to annually review and provide State Committees with proposed changes in local administrative area (LAA) boundaries within each FSA county office jurisdiction no later than May 1 of each year. County Committees shall ensure that any LAA changes are in effect no later than July 15 of each year. Each FSA county office shall post the LAA boundaries in the county office, as well as locally publicize such boundaries in the county office newsletter and local media.

2. The FSA national office shall provide guidelines to County Committees on how to conduct the annual review of LAA boundaries. Such guidelines shall require the County Committees, in conducting the annual review of LAA boundaries, to determine whether redrawing the LAA boundaries or increasing the number of LAAs in a given area will assist in ensuring the fair representation of SDA producers in the area over which the committee has jurisdiction.

3. If a County Committee determines that LAA boundaries should be redrawn or that the number of LAAs should be changed, the FSA State Committee must

approve any such determination before such a change is implemented.

4. Apart from the annual review of LAAs by County Committees, the FSA national office and State Committees shall conduct annual reviews of selected County Committees in order to determine whether redrawing the LAA boundaries or increasing the number of LAAs in a given area will assist in ensuring the fair representation of SDA producers in the area over which the committee has jurisdiction. The FSA national office and State Committees shall select such County Committees for annual reviews when they deem such reviews are appropriate based on evidence of possible under-representation of SDAs on a given County Committee.

B. Eligible Voters

1. County Committees shall maintain in the county office no later than July 15 of each year a current and updated list of eligible voters for each LAA conducting an election during the year. County Committees shall provide the list to any nominee requesting the list. County Committees shall maintain updated lists of eligible voters throughout the nomination and election period. Any person may contact a county office, either in person or in writing, in order to ascertain whether they are on the eligible voters list.

2. Any producer deemed to be ineligible to vote and who is not on the list of eligible voters who believes that he or she should be on the list may file a written challenge with the County Committee at any time. The County Committee must provide a response to the challenge within 15 calendar days. If the County Committee denies the challenge, the producer may appeal such denial to the State Committee.

3. The County Committee shall provide to the State Committee a report of any producer who the County Committee has specifically declared ineligible as a voter. The State Committee may overturn any ineligibility determination and direct that the County Committee add that producer to the list of eligible voters.

C. Nominations

1. Nomination forms shall be directly mailed to every eligible voter no later than July 15 of each year. Such nomination forms may be mailed to eligible voters by including the form as part of the mailing of an FSA county newsletter mailed to producers.

2. Nomination forms shall be easily accessible to the public, including on the FSA Internet site year round. Nomination forms shall be readily available at FSA county offices and provided to the public upon request. The FSA State and county offices shall provide reproducible nomination forms to all of their group contacts.

3. The official nominating period for County Committee election candidacy shall run for 6 weeks after the official opening date.

4. Individuals desiring to file a nomination may nominate themselves or may nominate another eligible candidate. Nominees, whether self nominated, or nominated by another, must attest to their willingness to serve by signing the nomination form. Organizations representing SDA farmers and ranchers may nominate any eligible candidate.

D. Slate of Candidates

1. If at least one nomination for candidacy is filed for an LAA for the County Committee election, the County Committee shall not add names to the slate of candidates after the close of the nomination period.

2. If no valid nominations are filed, the Secretary may exercise her authority to nominate up to two individuals to be placed on the ballot. If the Secretary chooses not to exercise her authority, then the State Committee may exercise its authority to nominate up to two individuals to be placed on the ballot. If neither the Secretary nor the State Committee chooses to exercise their authority, then the respective County Committee shall nominate two individuals to be placed on the ballot.

3. Write-in candidates shall be accepted on ballots. The write-in candidate must meet eligibility criteria and attest to willingness to serve prior to being certified as a member or alternate member. Write-in candidates may serve as County Committee members or as alternates depending on the number of votes received.

4. Notwithstanding the above guidelines, the Secretary may nominate an eligible SDA producer to a slate regardless of whether any nominations have been filed. A nomination by the Secretary may include the current advisor for the County Committee.

E. Balloting and Vote Tabulation

1. Ballots shall be mailed to all eligible voters contained in the County Office records in the LAA conducting the election. Ballots shall be mailed no less than 4 calendar weeks prior to the date of the election. Ballots will be printed and mailed to eligible voters from a central location. Ballots shall be provided to anyone requesting a ballot. Voter eligibility shall be determined prior to tabulating the votes. Ballots shall state the date, time, and location that votes will be counted.

2. County Committee elections will be held the first Monday of December each year, unless announced otherwise. Voters shall mail or deliver ballots to the FSA State office. Ballots must be postmarked by the election date or, if delivered, received by the election date.

3. The FSA State office shall deliver the ballots in a sealed box to the FSA county office. There shall be a 10-day advance notice to the public of the date of the vote counting. Ballot opening and vote counting shall be fully open and readily accessible to the public. The seal on the ballot box from the State office shall not be broken except at the public ballot counting.

F. Challenges

1. Any nominee shall have the right to challenge an election in writing, in person, or both within 15 days after the results of the election are posted. Appeals to the election shall be made to the County Committee, which will provide a decision on the challenge to the appellant within 7 calendar days. The County Committee's decision may be appealed to the State Committee within 15 days of receipt of the notice of the decision if the appellant desires.

2. In the event that an election is nullified as a result of an appeal or an error in the election process, a special election shall be conducted by the county office and closely monitored by the FSA State office. A special election shall be held according to the processes for a regular election, but with different dates.

G. Term Limits

1. No member of a County Committee may serve more than two consecutive terms. This provision shall take effect with the 2005 election.

III. Reporting and Accountability Requirements

A. Not later than 20 days after the date an election is held, each County Committee shall file an election report on the results of the election with the FSA State and national offices. The FSA national office shall provide specific guidance to county offices on the form and contents of this report. At a minimum, the report must include:

1. The number of eligible voters in the LAAs conducting the election (including the percentage of eligible voters that cast ballots);

2. The number of ballots cast by eligible voters;

3. The number of ballots disqualified in the election;

4. The percentage that the number of ballots disqualified is of the number of ballots received;

5. The number of nominees for each seat up for election;

6. The race, ethnicity, and gender of each nominee, and

7. The final election results (including the number of ballots received by each nominee).

B. After each election, the FSA national office shall compile the county election reports into a national election report to the Secretary. The national election report shall also be available to anyone requesting a paper copy of the report and also shall be posted to the FSA Web-site. The national election report shall include election data on SDA County Committee representation by county.

C. Not later than 90 days after the date an election is held, each County Committee shall file a separate written election reform report with the FSA State and national offices detailing its efforts to comply with the uniform guidelines and FSA regulations and directives on County Committee elections. This report must contain a detailed description of county office outreach efforts. The FSA national office shall provide specific guidance to the county offices on the form and contents of this report.

D. Based on the county election reports and the county election reform reports, the FSA national office shall provide feedback and guidance to FSA county and State offices on the election process, including outreach efforts. The FSA national office shall also, based on its review of the county election reform reports, as well as its analysis of the data on SDA representation, submit an annual report to the Secretary on election reform efforts, including recommendations on further improvements in the County Committee election process.

IV. Additional Election Reform Efforts

A. USDA shall consider additional efforts to ensure such fair representation. Such additional efforts may include, but are not limited to, compliance reviews of selected counties by FSA's and USDA's Offices of Civil Rights; consideration of at-large seats or cumulative voting for certain County Committees; further centralization of the election process; and the issuance of provisions allowing for the appointment of an SDA voting member to particular committees pursuant to the 2002 Farm Bill.

V. Implementation of Uniform Guidelines

A. The FSA national office shall ensure that it issues all appropriate regulations, instructions, directives, notices, and manuals to implement the terms of these uniform guidelines.

B. FSA shall institute a comprehensive monitoring process, including spot checks on selected counties, to ensure compliance with these guidelines and FSA regulations and directives on the County Committee process.

C. The FSA national office shall ensure that appropriate training of FSA county offices, including County Committees, is conducted on the implementation of these guidelines and of FSA's regulations and directives on the County Committee election process.

D. These uniform guidelines shall take effect immediately unless the date for a specific action in these guidelines has passed upon issuance of the guidelines.

Signed in Washington, DC, August 11, 2004.

Ann M. Veneman,

Secretary of Agriculture.

[FR Doc. 04–18774 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–072–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations preventing the spread of the Asian longhorned beetle and restricting the interstate movement of regulated articles from the quarantined areas.

DATES: We will consider all comments that we receive on or before October 18, 2004.

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

• EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate this document.

• Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–072–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–072–1.

• E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 04–072–1" on the subject line.

• Agency Web Site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.

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

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding Asian longhorned beetle quarantine regulations, contact Mr. Michael B. Stefan, Director of Emergency Programs, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–7338. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Asian Longhorned Beetle Regulations.

OMB Number: 0579–0122.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is

responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the provisions of the Act and does so through the enforcement of its domestic quarantine regulations in 7 CFR part 301.

The Asian longhorned beetle (native to China, Japan, Korea, and the Isle of Hainan) is a destructive pest of hardwood trees, including maple, elm, ash, and horse chestnut. In addition, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and wood debris of a half an inch or more in diameter are subject to infestation. The beetles bore into the heartwood of host trees, eventually killing the tree.

The Asian longhorned beetle has been found in hardwood trees in the boroughs of Brooklyn, Manhattan, and Queens in the city of New York, NY, and in portions of Nassau and Suffolk Counties, NY. The Asian longhorned beetle has also been found in portions of Cook and DuPage Counties, IL, and portions of Hudson County, NJ. If this insect spreads into the hardwood forests of the United States, it could cause substantial economic harm to the U.S. nursery and forest product industries.

To prevent this, we have regulations in place (7 CFR 301.51–1 through 301.51–9) quarantining the areas described above. These regulations also restrict the movement of regulated articles (such as nursery stock, green lumber, firewood, and other items) from these quarantined areas.

These regulations are designed to prevent the spread of the Asian longhorned beetle within the United States. Implementing the regulations requires us to engage in certain information collection activities, which necessitates the use of several forms, including limited permits, certificates, and compliance agreements.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.4318 hours per response.

Respondents: Growers, shippers, exporters, and State plant health officials.

Estimated annual number of respondents: 475.

Estimated annual number of responses per respondent: 1.1894.

Estimated annual number of responses: 565.

Estimated total annual burden on respondents: 244 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18786 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–073–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations governing the importation of tomatoes from Spain, Chile, France, Morocco, and Western Sahara to prevent the introduction of foreign plant pests into the United States.

DATES: We will consider all comments that we receive on or before October 18, 2004.

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

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–073–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–073–1.
- E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 04–073–1" on the subject line.
- Agency Web Site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.

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

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding foreign quarantine regulations, contact, Hesham Abuelnaga, Import Specialist, Phytosanitary Issues Management, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–5334. For copies of more detailed information on the information

collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Tomatoes from Spain, Chile, France, Morocco, and Western Sahara.

OMB Number: 0579–0131.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, preventing the introduction and dissemination of plant pests into or through the United States and eradicating plant pests in the United States. The Plant Protection Act authorizes the Department to carry out this mission. The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service is responsible for implementing the regulations that carry out the intent of this Act.

The regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56 through 319.56–8) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction of plant pests, including fruit flies, that are new to or not widely distributed within the United States.

The regulations in 319.56–2dd allow tomatoes from Spain, Chile, France, Morocco, and Western Sahara to be imported into the United States subject to certain conditions. Allowing tomatoes to be imported necessitates the use of certain information collection activities, including completing phytosanitary inspection certificates and maintaining records regarding trap placement and Mediterranean fruit fly (Medfly) captures. The information we collect serves as the supporting documentation needed to confirm that the tomatoes meet the conditions set forth in the regulations.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.6960 hours per response.

Respondents: Importers, foreign officials, shippers.

Estimated annual number of respondents: 34.

Estimated annual number of responses per respondent: 72.

Estimated annual number of responses: 2448.

Estimated total annual burden on respondents: 1704 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 10th day of August 2004.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18787 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–030–1]

Mycogen c/o Dow; Availability of Environmental Assessment for Extension of Determination of Nonregulated Status for Corn Genetically Engineered for Insect Resistance and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for a preliminary decision to extend to one additional corn line our determination that a corn line developed by Mycogen Seeds c/o Dow AgroSciences LLC is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. We are making this environmental assessment available for public comment.

DATES: We will consider all comments we receive on or before September 16, 2004.

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

- Postal mail/commercial delivery: Please send four copies of your comments (an original and three copies) to Docket No. 04–030–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–030–1.
- E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 04–030–1" on the subject line.
- Agency Web site: Go to *http://www.aphis.usda.gov/ppd/rad/cominst.html* for a form you can use to submit an e-mail comment through the APHIS Web site.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

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

Other Information: You may view APHIS documents published in the **Federal Register**, and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Ms. Robyn Rose, Biotechnology Regulatory Services, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–0489. To obtain copies of the extension request or the environmental assessment, contact Ms. Terry Hampton at (301) 734–5715; e-mail: *Terry.A.Hampton@aphis.usda.gov*. The extension request and the environmental assessment are also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/*

03_18101p.pdf and *http://www.aphis.usda.gov/brs/aphisdocs/03_18101p_ea.pdf.*

SUPPLEMENTARY INFORMATION:

Background:

The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered "regulated articles."

The regulations in 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Further, the regulations in 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

On June 30, 2003, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 03–181–01p) from Mycogen Seeds c/o Dow AgroSciences LLC (Mycogen/Dow) of Indianapolis, IN, for corn (*Zea mays* L.) designated as maize line 6275 (corn line 6275), which has been genetically engineered for resistance to certain lepidopteran insect pests and tolerance to the herbicide glufosinate. The Mycogen/Dow request seeks an extension of a determination of nonregulated status issued in response to APHIS petition number 00–136–01p for insect resistant and glufosinate-tolerant corn line 1507, the antecedent organism (*see* 66 FR 42624–42625, published August 14, 2001, Docket No. 00–070–3). Based on the similarity of the antecedent organism corn line 1507 and corn line 6275, Mycogen/Dow requests a determination that corn line 6275 does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

Analysis

Like the antecedent organism, corn line 6275 has been genetically engineered to express a Cry1F insecticidal protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *Aizawi (Bt aizawi).* The Cry1F protein is said to be effective in controlling certain lepidopteran pests of corn, including European corn borer, black cutworm, fall army worm, and southwestern corn borer. Corn line 6275 also contains the *bar* gene isolated from the bacterium *Streptomyces hygroscopicus.* The *bar* gene encodes a phosphinothricin acetyltransferase enzyme which confers tolerance to the herbicide glufosinate. The antecedent organism contains the pat gene derived from the bacterium *Streptomyces viridochromogenes.* The *pat* gene encodes a phosphinothricin acetyltransferase (PAT) protein, which also confers tolerance to glufosinate herbicides. Corn line 6275 was developed through use of *Agrobacterium*-mediated transformation, while microprojectile bombardment was used to transfer the added genes into the antecedent organism, corn line 1507. The recipient line used in both the antecedent organism and corn line 6275 was the public line designated Hi-II.

Corn line 6275 expresses an insecticidal crystal protein identical in amino acid sequence to the Cry1F protein expressed in line 1507, both lines express an identical protein which confers tolerance to the herbicide glufosinate, and the recipient line used in both lines was the same public line Hi-II. Accordingly, we have determined that corn line 6275 is similar to the antecedent organism in APHIS petition number 00–136–01p and we are proposing that corn line 6275 should no longer be regulated under the regulations in 7 CFR part 340.

Corn line 6275 has been considered a regulated article under APHIS regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, corn line 6275 has been field tested since 1999 under APHIS authorizations. In the process of reviewing the notifications for field trials of the subject corn, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical confinement or isolation, would not present a risk of plant pest introduction or dissemination.

Should APHIS approve the Mycogen/Dow request for an extension of a determination of nonregulated status, corn line 6275 would no longer be considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations would no longer apply to the field testing, importation, or interstate movement of the subject corn line or its progeny.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with a proposed extension of a determination of nonregulated status for Mycogen/Dow's corn line 6275, an environmental assessment (EA) has been prepared. The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Copies of the Mycogen/Dow extension request and the EA are available as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Done in Washington, DC, this 12th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18788 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Institute of Standards and Technology (NIST).

Title: BEES Please.

Form Number(s): None.

OMB Approval Number: 0693–0036.

Type of Review: Regular submission.

Burden Hours: 1,875.

Number of Respondents: 30.

Average Hours Per Response: 62.5.

Needs and Uses: BEES Please is a voluntary program to collect data from product manufacturers so that the environmental performance of their products may be evaluated scientifically using the BEES (Building for Environmental and Economic Sustainability) Program. BEES uses the environmental life-cycle assessment approach specified in the International

Standards Organization 14040 series of standards. NIST will publish in BEES an aggregated version of the data collected from manufacturers that protects data confidentiality, subject to manufacturer's review and approval.

Affected Public: Business or for-profit organizations.

Frequency: Once.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Jacqueline Zeiher, (202) 395–4638.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 11, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information.

[FR Doc. 04–18728 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 33–2004]

Foreign-Trade Zone 25—Port Everglades, FL; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Broward County Department of Port Everglades, grantee of FTZ 25, requesting authority to expand FTZ 25 in Broward County, Florida. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended, (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 9, 2004.

FTZ 25 was approved on December 27, 1976 (Board Order 113, 42 FR 61, 1/3/77), and expanded on August 11, 1978 (Board Order 132, 43 FR 36989, 8/21/78), and October 10, 1991 (Board Order 537, 56 FR 52510, 10/21/91).

The applicant is now requesting authority to expand and reorganize the zone and make permanent several temporary parcels. The zone, as proposed, would consist of the following sites, totaling 250 acres, in Broward County, Florida:

Site 1A: (82 acres) 3400 McIntosh Road within the Port of Port Everglades;

Site 1B: (10 acres) 4401 McIntosh Road within the Port of Port Everglades;

Site 1C: (50 acres) 3401 McIntosh Road within the Port Everglades Commerce Center;

Site 2: (12 acres) Westport Business Park, 2525 Davie Road, Davie;

Site 3: (39 acres) Miramar Park of Commerce, 10044 Premier Parkway, Miramar;

Site 4A: (18 acres) Lauderdale Lakes Industrial Park, 2696 NW 31st Ave., City of Lauderdale Lakes;

Site 4B: (13 acres) Lincoln Park, located at 3435–3699 NW 19th Street, City of Lauderdale Lakes; and

Site 4C: (26 acres) Florida Studios, 3200 West Oakland Park Boulevard, City of Lauderdale Lakes.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St., NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230. The closing period for their receipt is October 18, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 1, 2004).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 200 E. Las Olas Blvd., Suite 1600, Fort Lauderdale, FL 33301–2284.

Dated: August 9, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–18811 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 34–2004]

Proposed Foreign-Trade Zone—Conroe (Montgomery County), TX; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Conroe, Texas, to establish a general-purpose foreign-trade zone in Conroe (Montgomery County), Texas, adjacent to the Houston Customs port of entry. The FTZ application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 11, 2004. The applicant is authorized to make the proposal under Texas Revised Civil Statutes Article 1446.01.

The proposed zone would be the fifth general-purpose zone in the Houston-Galveston Customs port of entry area. The existing zones are as follows: FTZ 84, Harris County (Grantee: Port of Houston Authority, Board Order 214, 07/15/83); FTZ 36, Galveston (Grantee: Board of Trustees of the Galveston Wharves, Board Order 129, 05/04/78); FTZ 171, Liberty County (Grantee: Liberty County Economic Development Corporation, Board Order 501, 01/04/91); and, FTZ 199, Texas City, (Grantee: Texas City Foreign Trade Zone Corporation, Board Order 681, 02/01/94).

The proposed zone consists of 438 acres located at Conroe Park North industrial park, located one mile east of I–45 on FM 3083. The park is owned by Conroe Industrial Development Corporation, an entity of the City of Conroe and a parcel is owned by Alchemia America, Corporation.

The application indicates that there is a need for zone services in the North Houston/Montgomery County area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activities. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on September 14, 2004, 1 p.m., North Harris Montgomery Community College District, Headquarters Building,

Room 102, 5000 Research Forest Drive, The Woodlands, Texas.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099–14th Street, NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is October 18, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 1, 2004).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the Greater Conroe Economic Development Council, 505 W. Davis St., Conroe, Texas 77305.

Dated: August 11, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–18809 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–583–008

Circular Welded Carbon Steel Pipe and Tubes from Taiwan: Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: August 17, 2004.

FOR FURTHER INFORMATION CONTACT: Robert James or Angela Strom, Office of AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–0649 or (202) 482–2704, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 3, 2004, the Department of Commerce (the Department) published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on certain circular welded carbon steel pipe & tubes from Taiwan for the period May 1, 2003, through April 30, 2004 (69 FR 24117). In accordance with 19 CFR 351.213(b)(1), on May 28, 2004, the respondent, Yieh Phui Enterprise Co., Ltd. (Yieh Phui), requested a review of this order. In response to this request, the Department initiated an administrative review for Yieh Phui on June 30, 2004 (*see* Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part (69 FR 39409)) and issued questionnaires to Yieh Phui on July 8, 2004. Yieh Phui withdrew its request for an administrative review in a letter submitted to the Department on July 29, 2004.

Rescission of Review

The Department's regulations at 19 CFR 351.213(d)(1) provide that the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Yieh Phui withdrew its request for an administrative review on July 29, 2004, which is within the 90–day deadline. No other party requested a review of Yieh Phui's sales. Therefore, because this withdrawal request was timely filed, we are rescinding this review with respect to Yieh Phui in accordance with 19 CFR 351.213(d)(1). We will instruct U.S. Customs and Border Protection to liquidate any entries from Yieh Phui during the POR and to assess antidumping duties at the rate that was applied at the time of entry.

Dated: August 11, 2004.

Jeffrey A. May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–18810 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–868

Notice of Extension of Time Limit for Final Results of Antidumping Duty Review: Certain Folding Metal Tables and Chairs from the People's Republic of China

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

EFFECTIVE DATE: August 17, 2004.

FOR FURTHER INFORMATION CONTACT: Anya Naschak at (202) 482–6375 or James Nunno at (202) 482–0783; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 2002, the Department of Commerce ("the Department") published the antidumping duty order on folding metal tables and chairs ("FMTC") from the People's Republic of China ("PRC"). *See* Antidumping Duty Order: Folding Metal Tables and Chairs From the People's Republic of China, 67 FR 43277 (June 27, 2002). On June 2, 2003, the Department published an opportunity to request an administrative review of the antidumping duty order on FMTC from the PRC for the period December 3, 2001, through May 31, 2003 (68 FR 32727). On June 30, 2003, the Department received a timely request from Meco Corporation ("petitioner") requesting that the Department conduct an administrative review of the antidumping duty order on FMTC exported to the United States from the following PRC producers/exporters: Feili Furniture Development Co., Ltd and Feili (Fujian) Co., Ltd ("Feili"), New–Tec Integration Co., Ltd. ("New–Tec"), and Dongguang Shichang Metals Factory, Ltd. ("Shichang").

On June 26, 2003, EJ Footwear requested that the Department conduct an administrative review of entries of subject merchandise made by Shichang. On June 16, 2003, we received a timely request from Wok and Pan Industry, Inc. ("Wok & Pan") requesting that the Department conduct an administrative review of its FMTC shipments to the United States. On July 29, 2003, the Department initiated the first administrative review of the antidumping duty order on FMTC from the PRC, for the period of December 3, 2001, through May 31, 2003, in order to determine whether merchandise imported into the United States is being sold below normal value with respect to these four companies. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews*, 68 FR 44524, July 29, 2003 ("*Initiation Notice*")

On October 27, 2003, petitioner filed a letter withdrawing their request for review for Feili Group and New–Tec.

Because petitioner had withdrawn its request within the time limits set by 19 CFR 351.213(d)(1), the Department rescinded its review of Feili Group and New–Tec on November 26, 2003. *See Certain Folding Metal Tables and Chairs from the People's Republic of China: Notice of Partial Rescission of First Antidumping Duty Administrative Review*, 68 FR 66397 (November 26, 2003).

On January 15, 2004, the Department extended the due date for the preliminary results of this review. *See Notice of Extension of Preliminary Results of Antidumping Duty Review: Certain Folding Metal Tables and Chairs from the People's Republic of China*, 69 FR 2329 (January 15, 2004). On July 6, 2004, the Department published the preliminary results of this review. *See Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review*, 69 FR 40602 (July 6, 2004).

Extension of Time Limit for Final Results

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the final results of an administrative review if it determines that it is not practicable to complete the final results within the statutory time limit of 120 days from the date on which the preliminary results were published. The Department has determined that it is not practicable to complete the final results of this review within the statutory time limit. Due to the complications arising from scheduling conflicts and requests for time extensions by interested parties, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act and section 19 CFR 351.213(h)(1) of the Department's regulations. Therefore, the Department is extending the time limit for the completion of these final results by 40 days. Accordingly, the final results will now be due no later than December 13, 2004.

This notice is published in accordance with section 751(1)(3)(A) of the Act and section 19 CFR 351.213(h)(2) of the Department's regulations.

Dated: August 10, 2004.

Jeffrey A. May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–18813 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty New Shipper Review

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

SUMMARY: The U.S. Department of Commerce (the Department) is extending the time limit of the final results of the new shipper review of the antidumping duty order on honey from the People's Republic of China (PRC) until no later than October 25, 2004. The period of review (POR) is December 1, 2002, through May 31, 2003. This extension is made pursuant to section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act).

EFFECTIVE DATE: August 17, 2004.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza or Brandon Farlander at (202) 482–3019 or (202) 482–0182, respectively; Antidumping and Countervailing Duty Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2003, the Department received timely filed requests from Cheng Du Wai Yuan Bee Products Co., Ltd. (Cheng Du) and Jinfu Trading Co., Ltd. (Jinfu) for new shipper reviews under the antidumping duty order on honey from the PRC, in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations. Cheng Du identified itself as the producer and exporter of the merchandise subject to review. Jinfu identified itself as the exporter of subject merchandise produced by its supplier, Cixi City Yikang Bee Industry Co., Ltd. (Cixi Yikang).

Because the Department determined that Cheng Du's and Jinfu's requests met the requirements of section 351.214 of its regulations at that time, on August 11, 2003, the Department published its initiation of this new shipper review for the period December 1, 2002, through May 31, 2003 (68 FR 47537). Accordingly, the Department is now conducting this new shipper review in accordance with section 751(a)(2)(B) of the Act and section 351.214 of its regulations.

On January 14, 2004, the Department extended the preliminary results of this new shipper review by 120 days until May 26, 2004 (69 FR 2112). On June 1, 2004, the Department published the preliminary results and partial rescission of these reviews. *See Preliminary Results and Partial Rescission of Antidumping Duty New Shipper Review: Honey from the People's Republic of China*, 69 FR 314348.

Extension of Time Limit for Final Results

Pursuant to section 751(a)(2)(B)(iv) of the Act, the Department may extend the deadline for completion of the final results of a new shipper review by 60 days if it determines that the case is extraordinarily complicated. The Department has determined that this case is extraordinarily complicated because of the issues pertaining to the relationship between Jinfu and its U.S. importer, the bona fides of Jinfu's U.S. sale and operations, and allegations that Jinfu placed new factual information on the record in filing its case brief. The Department must address these issues in the final results. Accordingly, the final results of this new shipper review cannot be completed within the statutory time limit of 90 days. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(2) of the regulations, the Department is fully extending the time limit for the completion of final results by an additional 60 days. The final results will now be due no later than October 25, 2004.

This notice is published in accordance with section 751(1)(3)(A) of the Act and section 19 CFR 351.213(h)(2) of the Department's regulations.

Dated: August 11, 2004.

Jeffrey A. May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–18812 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–824]

Silicomanganese From Brazil: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the administrative review of the antidumping duty order on silicomanganese from Brazil until November 30, 2004. This extension applies to the administrative review of Rio Doce Manganes S.A. (formerly SIBRA-Electrosiderurgica Brazileira S.A.), Companhia Paulista de Ferroligas, and Urucum Mineracao S.A. The period of review is December 1, 2002, through November 30, 2003.

EFFECTIVE DATE: August 17, 2004.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Enforcement 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0665 and (202) 482–1690, respectively.

Background

On January 22, 2004, the Department of Commerce (the Department) published in the **Federal Register** a notice of initiation of the antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 69 FR 3117, (January 22, 2004).

Extension of Time Limit for Preliminary Results

The Tariff Act of 1930, as amended (the Act), at section 751(a)(3)(A), provides that the Department will issue the preliminary results of an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act provides further that if the Department determines that it is not practicable to complete the review within this time period, the Department may extend the 245-day period to 365 days.

The Department has determined that it is not practicable to complete the preliminary results by the current deadline of September 1, 2004. There are a number of complex cost issues in this administrative review which impact the calculation of the antidumping margin. Further. we require additional time to analyze supplemental questionnaire responses and conduct verification. Therefore, in accordance with section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(2), the Department is extending the time limit for the preliminary results by 90 days to November 30, 2004. The deadline for the final results of this review will be 120 days after the publication of the preliminary results. We are issuing this notice in accordance with section 751(a)(3)(A) of the Act.

Dated: August 10, 2004.

Jeffrey A. May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–18815 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India

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

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On April 8, 2004, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on polyethylene terephthalate film, sheet, and strip from India for the period October 22, 2001, through December 31, 2002.[1] *See Notice of Preliminary Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 69 FR 18542 (April 8, 2004) (Preliminary Results). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Based on information received since the *Preliminary Results* and our analysis of the comments received, the Department has revised the net subsidy rate for Polyplex Corporation Ltd. (Polyplex), as discussed in the "Memorandum from Jeffery A. May, Deputy Assistant Secretary, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration concerning the Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India" (Decision Memorandum) dated concurrently with this notice and hereby adopted by this notice. The final net subsidy rate for the reviewed company is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: (Insert date of publication in the **Federal Register**.)

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen at (202) 482–2769 or Howard Smith at (202) 482–5193, Office of AD/CVD Enforcement IV, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 2004, the Department published in the **Federal Register** its *Preliminary Results*. We invited interested parties to comment on the results. On May 10, 2004, we received a case brief from Polyplex, the respondent in this case. On May 18, 2004, we received a rebuttal brief from Dupont Teijin Films, Mitsubishi Polyester Film of America, Toray Plastics (America) and SKC America, Inc, petitioners in this case. A public hearing was held at the Department on July 22, 2004.

Pursuant to 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Polyplex. This review covers fourteen programs.

Scope of the Review

For purposes of this review, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance–enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the Decision Memorandum, which is hereby adopted by this notice. A list of the issues

[1] For the purposes of these final results, we have analyzed data for the period January 1, 2001, through December 31, 2001, to determine the subsidy rate for exports of subject merchandise made during the period of review covering 2001. In addition, we have analyzed data for the period January 1, 2002, through December 31, 2002, to determine the subsidy rate for exports during that period. Further, we are using the subsidy rate calculated for calendar year 2002 to establish the cash deposit rate for exports of subject merchandise subsequent to the issuance of the final results of this administrative review.

contained in the Decision Memorandum is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading "**Federal Register** Notices." The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated an individual subsidy rate for the producer/exporter, Polyplex, subject to this review. For the year 2001, we determine the net subsidy *ad valorem* rate for Polyplex is 20.62 percent, and for the year 2002, we determine the net subsidy *ad valorem* rate is 19.63 percent.

We will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties as indicated above. The Department will instruct CBP to collect cash deposits of estimated countervailing duties in accordance with the assessment rate calculated for 2002 as detailed above, of the f.o.b. invoice price on all shipments of the subject merchandise from the producer/exporter under review, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Because the Uruguay Round Agreements Act (URAA) replaced the general rule in favor of a country–wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non–reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal–Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non–reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the URAA. *See Notice of Amended Final Determination and Notice of Countervailing Duty Orders: Certain Hot–Rolled Carbon Steel Flat Products from India and Indonesia*, 66 FR 60198 (December 3, 2001). This rate shall apply to all non–reviewed companies until a review of a company assigned this rate is requested. In addition, for the period October 22, 2001, through December 31, 2002, the assessment rates applicable to all non–reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 6, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix I - Issues and Decision Memorandum

I. LIST OF ISSUES

Comment 1: The period of review
Comment 2: Allocation of the benefits of the 80 HHC tax exemption
Comment 3: Benchmark used in assessing benefits of pre–shipment export financing
Comment 4: Benefits of post–shipment export financing
Comment 5: Partial export obligations under the EPCGS program
Comment 6: Program–wide change to 80 HHC tax exemption
Comment 7: Consideration of deemed exports under the EPCGS program
Comment 8: Certain license of EPCGS program
Comment 9: Calculation of benefits of DEPS program
Comment 10: Total sales under the 80 HHC tax exemption

II. BACKGROUND INFORMATION AND SUBSIDIES VALUATION INFORMATION

III. SUBSIDIES VALUATION INFORMATION

IV. ANALYSIS OF PROGRAMS

A. Programs Conferring Subsidies
1. Pre–shipment and Post–shipment Export Financing
2. Duty Entitlement Passbook Scheme (DEPS)
3. Export Promotion Capital Goods Scheme (EPCGS)
4. Income Tax Exemption Scheme 80 HHC
5. Capital Subsidy
6. Sales Tax Incentives
B. Programs Determined to Be Not Used
1. The Sale and Use of Special Import Licenses (SILs) for Quality and SILs for Export Houses, Trading Houses, Star Trading Houses, or Superstar Trading Houses (GOI Program)
2. Exemption of Export Credit from Interest Taxes
3. Loan Guarantees from the GOI
4. Benefits for Export Processing Zones/Export Oriented Units (EPZs/EOUs)
5. Electricity Duty Exemption Scheme (SOM)
6. Capital Incentive Schemes (SOM and SUP Program)
7. Waiving of Interest on Loan by SICOM Limited (SOM Program)
8. Infrastructure Assistance Schemes (State of Gujarat Program)

V. ANALYSIS OF COMMENTS

[FR Doc. 04–18814 Filed 8–16–04; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724217–4236–10]

Solicitation of Applications for the Minority Business Development Center (MBDC) Program

AGENCY: Minority Business Development Agency, DOC.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate Minority Business Development Centers (MBDCs) under its Minority Business Development Center Program in the following geographic areas: Honolulu, Oklahoma City, and Miami/Ft. Lauderdale.

In order to receive consideration, applicants must comply with all information and requirements contained in the Federal Funding Opportunity Announcement. For-profit entities (including sole proprietorships and corporations), non-profit organizations, state and local government entities, American Indian Tribes and educational institutions are eligible to operate MBDCs.

The MBDC Program requires MBDC staff to provide standardized business assistance services to rapid growth potential minority businesses directly; to develop a network of strategic partnerships; to charge client fees; and to provide strategic business consulting. These requirements will be 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. The MBDC Program will concentrate on rapid growth potential minority business enterprises (MBEs), *e.g.*, those generating $500,000 or more in annual revenues or capable of generating significant employment and long-term economic growth. The MBDC 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 MBDC can provide to minority-owned firms, including micro-enterprises.

DATES: The closing date for submission of applications is September 21, 2004. Completed applications must be received by MBDA no later than 5 p.m. Eastern Daylight Savings Time at the address below. Applications received after the closing date and time will not be considered.

Anticipated time for processing of applications is one hundred twenty (120) days from the date of publication of this notice.

A pre-application teleconference will be held on August 25, 2004, for the MBDC project solicitations.

MBDA anticipates that awards for the MBDC program will be made with a start date of January 1, 2005.

ADDRESSES: If the application is mailed by the applicant or its representative, they must submit one (1) signed original plus two (2) copies of the application. Completed application packages must be mailed to: Office of Business Development, Office of Executive Secretariat, HCHB, Room 5063, Minority Business Development Agency, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

If the application is hand-delivered by the applicant or his/her representative, one (1) signed original plus two (2) copies of the application must be delivered to: U.S. Department of Commerce, HCHB, Room 1874, Entrance #10, 15th Street, NW., Washington, DC, located between Pennsylvania and Constitution Avenues.

If applying on-line at *http://www.mbda.gov*, all sections of the application (Program Narrative, SF–424, SF–424A, SF–424B, SF–LLL, CD–346, and CD–511) must be completed in order for the application to be considered. In addition to applying on-line, you must also hand-deliver or mail one original plus two (2) copies of only the pages that require original signatures by the closing date and time stated above.

FOR FURTHER INFORMATION CONTACT: For a copy of the Federal Funding Opportunity Announcement as well as further information (including Frequently Asked Questions/Answers, Pre-Application teleconference, *etc.*), please visit MBDA's Minority Business Internet Portal (MBDA Portal) at *http://www.mbda.gov* or contact the appropriate regional office listed below. A printed application package can also be obtained by contacting the specified MBDA National Enterprise Center (NEC) for the geographic service area in which the project will be located (*see* Geographic Service Area in this notice).

Regional Agency Contacts:

1. MBDC Application: Honolulu. Linda Marmolejo, Regional Director, San Francisco National Enterprise Center, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, CA 94105, 415–744–3001.

2. MBDC Application: Oklahoma City. John F. Iglehart, Regional Director, Dallas National Enterprise Center, Minority Business Development Agency, U.S. Department of Commerce, 100 Commerce Street, Room 7B–23, Dallas, Texas 75242, 214–767–8001.

3. MBDC Application: Miami/Ft. Lauderdale. Robert Henderson, Regional Director, Atlanta National Enterprise Center, Minority Business Development Agency, U.S. Department of Commerce, 401 W. Peachtree Street, NW., Suite 1715, Atlanta, GA 30308–3516, 404–730–3300.

SUPPLEMENTARY INFORMATION:

Electronic Access

The full text Federal Funding Opportunity Announcement for the MBDC program is available via Web site at *http://www.mbda.gov* or by contacting the MBDA representative identified above. An abbreviated announcement will also be available through Grants.gov at *http://www.Grants.gov*.

Applicants are encouraged to submit their proposal electronically via the Internet and mail or hand-deliver only the pages that require original signatures by the closing date and time, as stated in this Notice. Applicants may submit their applications on the MBDA Portal located at *http://www.mbda.gov*. All required forms are located at this web address. However, the following paper forms must be submitted with original signatures in conjunction with any electronic submissions by the closing date and time stated in this Notice: (1) SF–424, Application for Federal Assistance; (2) SF–424B, Assurances—Non-Construction Programs; (3) SF–LLL (Rev. 7–97) (if applicable), Disclosure of Lobbying Activities; (4) Department of Commerce Form CD–346 (if applicable), Application for Funding Assistance; and, (5) CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying.

Funding Availability

The total award period is two (2) years with a third year option. MBDA anticipates a total of approximately $738,750 will be available in FY 2005 for Federal assistance under this program and approximately $738,750 for FY 2006 and possibly $738,750 for FY 2007 to be applied in the optional third year of funding under this program. Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will MBDA or the Department of Commerce (DoC) be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities.

Financial assistance awards under this program may range from $155,000 to $338,750 in Federal funding per year based upon minority population, the size of the market and its need for MBDA resources. Applicants must submit project plans and budgets for each of the two years. Projects will be

funded for no more than one year at a time. Project proposals accepted for funding will not compete for funding in subsequent budget periods within the approved award period. Second year funding will depend upon first year satisfactory performance by the award recipient. Funding for the subsequent third year will be at the sole discretion of the MBDA and the DoC, and only those MBDC's achieving outstanding performance ratings for each prior program year will be eligible for continued funding. All funding periods are subject to the availability of funds to support the continuation of the project, DoC and Agency priorities. Publication of this notice does not obligate MBDA or DoC to award any specific cooperative agreement or to obligate all or any part of available funds.

Authority: Executive Order 11625 and 15 U.S.C. 1512.

Catalog of Federal Domestic Assistance (CFDA): 11.800 Minority Business Development Center Program.

Eligibility

For-profit entities (including sole-proprietorships, partnership, and corporations), and non-profit organizations, state and local government entities, American Indian Tribes, and educational institutions are eligible to operate MBDCs.

Program Description

In accordance with Executive Order 11625 and 15 U.S.C. 1512, MBDA is soliciting competitive applications from organizations for cooperative agreements to operate MBDCs under its MBDC program in the following geographic service areas: Honolulu, Oklahoma City and Miami/Ft. Lauderdale.

The MBDC program requires MBDC staff to provide standardized business assistance services to rapid growth potential minority businesses directly; to develop a network of strategic partnerships; to charge client fees; and to provide strategic business consulting. These requirements will be 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.

The MBDC program will concentrate on rapid growth potential minority business enterprises (MBEs), *e.g.*, those generating $500,000 or more in annual revenues or capable of generating significant employment and long-term economic growth. The MBDC 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 MBDC can provide to minority-owned firms, including micro-enterprises.

The MBDC program incorporates an entrepreneurial approach to building market stability and improving the quality of services delivered. This strategy expands the reach of the MBDC by requiring project operators to develop and build upon strategic alliances with public and private sector partners, as a means of serving the growing numbers of minority firms with rapid growth potential within the project's geographic service area. In addition, MBDA will establish specialized business consulting training programs to support the MBDC client assistance services. These MBDC training programs are designed specifically to foster growth assistance to its clients. The MBDC will also encourage increased collaboration and client/non-client referrals among the MBDA-sponsored networks. This will provide a comprehensive approach to serving the emerging sector of the minority business community.

The MBDC will operate through the use of trained professional business consultants who will assist minority entrepreneurs through direct client engagements.

Entrepreneurs eligible for assistance under the MBDC Program are African Americans, Puerto Ricans, Spanish-speaking Americans, Aleuts, Asian Pacific Americans, Asian Indians, Native Americans, Eskimos and Hasidic Jews.

As part of its strategy for continuous improvement, the MBDC shall expand its delivery capacity to all minority firms, with greater emphasis on emerging/rapid growth-potential minority firms capable of impacting economic growth and employment. MBDA wants to ensure that MBDC clients are receiving a consistent level of service throughout its funded network. To that end, MBDA will require MBDC consultants to attend a series of training courses designed to achieve standardized services and quality expectations.

Selection Procedures

Prior to the formal paneling process, each application will receive an initial screening to ensure that all required forms, signatures and documentation are present. Each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted. MBDA anticipates that the review panel will be made up of at least three independent reviewers who are Federal employees who will review all applications based on the above evaluation criteria. Each reviewer will evaluate and provide a score for each proposal. The National Director of MBDA makes the final recommendation to the Department of Commerce Grants Officer regarding the funding of applications, taking into account the following selection criteria:

1. The evaluations and rankings of the independent review panel;

2. The following funding priorities: (a) Identifying and working to eliminate barriers which limit the access of minority businesses to markets and capital; (b) identifying and working to meet the special needs of minority businesses seeking to obtain large-scale contracts (in excess of $500,000) with institutional customers; and (c) promoting the understanding and use of Electronic Commerce by the minority business community. The National Director or his designee reserves the right to conduct a site visit (subject to the availability of funding) to applicant organizations receiving at least 70% of the total points available for each evaluation criterion, in order to make a better assessment of the organization's capability to achieve the three funding priorities.

3. The availability of funding.

Evaluation Criteria

Proposals will be evaluated and applicants will be selected based on the following criteria. An application must receive at least 70% of the total points available for each evaluation criterion, in order for the application to be considered for funding.

1. Applicant Capability (45 Points)

The applicant's proposal will be evaluated with respect to the applicant firm's experience and expertise in providing the work requirements listed. Specifically, the proposals will be evaluated as follows:

- MBE Community—experience in and knowledge of the minority business sector and strategies for enhancing its growth and expansion (5 points);
- Business Consulting—experience in and knowledge of business consulting of rapid growth-potential minority firms (10 points);
- Financing—experience in and knowledge of the preparation and formulation of successful financial transactions (5 points);
- Procurements and Contracting—experience in and knowledge of the public and private sector contracting opportunities for minority businesses (5 points);
- Financing Networks—resources and professional relationships within the

corporate, banking and investment community that may be beneficial to minority-owned firms (5 points);

• MBE Advocacy—experience and expertise in advocating on behalf of minority businesses, both as to specific transactions in which a minority business seeks to engage, and as to broad market advocacy for the benefit of the minority community at large (5 points); and

• Key Staff—assessment of the qualifications, experience and proposed role of staff who will operate the MBDC. In particular, an assessment will be made to determine whether proposed staff possess the expertise in utilizing information systems. (10 points).

2. Resources (20 Points)

The applicant's proposal will be evaluated according to the following criteria:

• *Resources*—discuss those resources (not included as part of the cost-sharing arrangement) that will be used. (10 points);

• *Partners*—discuss how you plan to establish and maintain the network of five (5) Strategic Partners (5 points);

• *Equipment*—discuss how you plan to accomplish the computer hardware and software requirements (5 points).

3. Techniques and Methodologies (25 Points)

The applicant's proposal will be evaluated as follows:

• *Performance Measures*—relate each performance measure to the financial, information and market resources available in the geographic service area to the applicant and how the goals will be met. Specific attention should be placed on the Dollar Value of Transactions. This goal represents the sum of (a) Dollar Value of Financial Transactions and (b) Dollar Value of Gross Receipts. When proposing the minimum goal under Dollar Value of Transactions, the applicant is given the flexibility to address the percentage breakdown for items (a) and (b) above within a specific range—not more than 60% and not less than 40%. The applicant should consider existing market conditions and its strategy to achieve the goal. The applicant may vary the percentage breakdown for items (a) and (b) above as long as the sum meets the required goal as provided by MBDA in this Notice. (15 points)

• *Plan of Action*—provide specific detail on how the applicant will start operations. MBDCs have thirty (30) days to become fully operational after an award is made. Fully operational means that all staff are hired, all signs are up, all items of furniture and equipment are in place and operational, all necessary forms are developed (*e.g.*, client engagement letters, other standard correspondence, etc.), and the center is ready to open its doors to the public (5 points);

• *Work Requirement Execution Plan*—The applicant will be evaluated on how effectively and efficiently all staff time will be used to achieve the work requirements (5 points).

4. Proposed Budget and Supporting Budget Narrative (10 Points)

The applicant's proposal will be evaluated on the following sub-criteria:

• Reasonableness, allowability and allocability of costs (5 points).

• Proposed cost sharing of 15% is required. The non-Federal share must be adequately documented, including how client fees will be used to meet the cost-share (5 points).

Bonus Points

Proposals with cost sharing which exceeds 15% will be awarded bonus points on the following scale: 16–20%—1 point; 21–25%—2 points; 26–30%—3 points; 31–35%—4 points; and over 36%—5 points.

Matching Requirements

Cost sharing of at least 15% is required. Cost sharing is the portion of the project cost not borne by the Federal Government. Applicants must meet this requirement in client fees and any one or more of remaining three means or a combination thereof: (1) Client fees (mandatory); (2) cash contributions; (3) non-cash applicant contributions; and/or (4) third party in-kind contributions.

The MBDC must charge client fees for services rendered. The fees may range from $10 to $60 per hour based on the gross receipts of the client's business ranging from $0 to $5 million and above. The MBDC must comply with the following policy restrictions when charging client service fees: (1) Client fees charged for one-on-one assistance must be based on a rate of $100 per hour, (2) the MBDC must set fee rates based on the following chart:

Gross receipts of client	Base rate for services rendered	Percent of cost borne by client	Client fee per hour
$0–99,999	$100.00	10%	$10.00
$100,000–299,999	100.00	20%	20.00
$300,000–999,999	100.00	30%	30.00
$1 Million–2,999,999	100.00	40%	40.00
$3 Million–4,999,999	100.00	50%	50.00
$5 Million and Above	100.00	60%	60.00

(3) the MBDC must contribute cash for uncollected fees that were included as part of the cost sharing contribution committed for this award, and (4) client fees applied directly to the award's cost sharing requirement must be used in furtherance of the program objectives.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Universal Identifier

Applicants should be aware that they may be required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. *See* the June 27, 2003 (68 FR 38402) **Federal Register** notice for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or on MBDA's Web site at *www.mbda.gov.*

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 October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Application Forms and Package

One (1) original and two (2) signed copies of the application must consist of: Standard Forms 424, Application for Federal Assistance; 424A, Budget Information-Non-Construction Programs; and 424B, Assurances-Non-Construction Programs, SF–LLL (Rev. 7–97); Department of Commerce forms, CD–346, Applicant for Funding Assistance; CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility matters: Drug-Free Workplace Requirements and Lobbying.

Failure to submit a signed, original SF–424 with the application, or separately in conjunction with submitting a completed proposal electronically, by the deadline will result in the application being rejected and returned to the applicant. A completed proposal submitted electronically consists of the following sections: Program Narrative; Standard Forms 424; 424A; 424B; and LLL; and Department of Commerce forms, CD–346; and 511. *Failure to sign and submit with the application, or separately in conjunction with submitting a proposal electronically, the forms identified above by the deadline will automatically cause an application to lose two (2) points.* Failure to submit other documents or information may adversely affect an applicant's overall score. MBDA shall not accept any changes, additions, revisions or deletions to competitive applications after the closing date for receiving applications, except through a formal negotiation process.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, CD 346, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0605–0001, and 0348–0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

Executive Order 12866

This notice has been determined to be not significant for purposes of E.O. 12866.

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.

Dated: August 17, 2004.

Ronald J. Marin,

Financial Management Officer, Minority Business Development Agency.

[FR Doc. 04–18761 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081004B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an application for EFPs contains all of the required information and warrants further consideration. The Assistant Regional Administrator is considering the impacts of the activities to be authorized under the EFPs with respect to the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Assistant Regional Administrator proposes to issue EFPs in response to an application submitted by Manomet Center for Conservation Sciences (Manomet) that would allow three vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would exempt three vessels from the minimum mesh size requirements for the Gulf of Maine (GOM) Regulated Mesh Area (RMA); regulations pertaining to the GOM Rolling Closure Areas V; and minimum fish size requirements. The experiment proposes to conduct a study to target cod and other groundfish species using modified bottom trawl gear to assess the effectiveness of square and hexagonal mesh escape windows, both with and without visual stimuli, in reducing the bycatch of non-target and undersized fish in the GOM groundfish fishery. The EFP would allow these exemptions for three commercial fishing vessels, for not more than 16 days of sea trials. All experimental work would be monitored at sea by observers trained to NMFS standards as part of this Cooperative Research Partners Initiative-funded project. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before September 1, 2004.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Visual Stimuli EFP Proposal." Comments may also be sent via fax to (978) 281–9135, or submitted via e-mail to the following address: *da638@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Heather Sagar, Fishery Management Specialist, phone: 978–281–9341, fax: 978–281–9135.

SUPPLEMENTARY INFORMATION: A final application for an EFP was submitted on July 13, 2004, by Dr. Christopher Glass. This request would build upon data collected by Manomet under an approved EFP that began October 1, 2003. The purpose of the experiment is to assess the selective efficiency of various codend configurations, specifically escape windows and visual stimuli, that could effectively reduce bycatch of non-target and undersized fish in the GOM groundfish fishery and allow better and more effective management of groundfish stocks. Specific objectives of the study include comparing the catch selectivity of each of the experimental codend configurations to regulated mesh codends currently used by the fishing industry and to quantify the behavioral responses of different species to the experimental codend configurations. The results of this study will be submitted to NMFS, the New England Fishery Management Council, and any

other interested parties through newsletters, popular articles, and meetings throughout the region.

This research would consist of the development of modified bottom trawl nets containing different configurations of an escape window and visual stimuli surrounded by 3–inch (7.6–cm) mesh codend covers to measure the escapement of undersized fish. These nets would test the difference in juvenile retention between square and hexagonal mesh escape windows, both with and without visual stimuli in the form of a black panel wrapped around the net between the extension and the codend of the net. A total of four experimental extension/codend configurations would be developed, including: (1) A codend made of 6.5–inch (16.5–cm) diamond mesh preceded by a 7–inch (17.7–cm) square mesh escape window in the extension; (2) a codend made of 6.5–inch (16.5–cm) diamond mesh preceded by a 7–inch (17.7–cm) hexagonal mesh escape window in the extension; (3) a codend made of 6.5–inch (16.5–cm) diamond mesh preceded by a 7–inch (17.7–cm) square mesh escape window in the extension, with additional visual stimulus by a black panel wrapped around the codend between the escape window and the codend; and (4) a codend made of 6.5–inch (16.5–cm) diamond mesh preceded by a 7–inch (17.7–cm) hexagonal mesh escape window in the extension, with additional visual stimulus by a black panel wrapped around the codend between the escape window and the codend ball. Two conventional nets of 6.5–inch (16.5–cm) diamond mesh and 6.5–inch (16.5–cm) square mesh codends would be used to compare the effectiveness of the experimental extension configurations.

The EFP would allow three commercial vessels to conduct a total of 16 days of sea trials in support of this study. During these sea trials, vessels would test all four experimental codend configurations and control codends. Five 1–hour experimental tows, and ten 20–minute control tows would be made per vessel per days-at-sea (DAS). All fish retained in the codend and the cover would be weighed and measured as quickly as possible. All legal-sized fish would be landed and sold to offset vessel costs. No undersized fish would be retained as part of this study, and any caught would be returned to the sea as quickly as possible. All vessels would be required to use DAS.

This work would examine the use of inexpensive visual stimuli to reduce bycatch of undersized fish. It is estimated that the use of visual stimuli can induce escape behavior in nearly all species, and may increase escapement of undersized fish by up to 90 percent. Therefore, it is necessary to have an exemption to allow the use of a 3–inch (7.6–cm) codend cover on the net in order to quantify the number of undersized fish, and to assess the success of the visual stimuli and escape windows. This work also would examine seasonal effects on gear selectivity. Seasonal variation has been demonstrated for fisheries in other parts of the world. It is speculated that codends and other bycatch reduction devices may not perform in the same manner in all areas at all times. Therefore, in order to vary the season and have the maximum likelihood of catching a wide range of groundfish species, it is necessary to have access to the GOM Rolling Closure Area V.

Underwater video cameras would be placed within the net and in the codend cover to record reaction behavior of fish to the escape windows, visual stimuli, and codend mesh. Videotapes would be analyzed to develop behavioral traces of reaction behavior for each species. The catches of each codend configuration would be compared and analyzed to assess the effectiveness of the escape windows, visual stimuli, and codend mesh shapes (diamond versus square mesh).

The intended sampling area includes the western GOM, including 30–minute statistical squares 124, 125, 138, and 139, during September and October 2004. This area includes the GOM Rolling Closure Area V. Access to this areas is necessary to be able to sample a wide range of fish species in sufficient numbers during the proposed project time frame. Sampling would not take place in the Western GOM Closed Area during this research.

The participating vessels would be required to report all landings in their Vessel Trip Reports. The data collection activities aboard the participating vessel would be conducted by observers trained to NMFS standards to ensure compliance with the experimental fishery objectives.

Regulations under the Magnuson-Stevens Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

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

Dated: August 12, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18826 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081104F]

Gulf of Mexico Fishery Management Council; Public Meeting

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

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of its Standing and Special Mackerel Scientific and Statistical Committees (SSCs) to review stock assessment reports and proposed revisions to the guidelines for National Standard One.

DATES: The Council's Standing and Special Mackerel SSCs will convene from 9 a.m. to 5 p.m. on Wednesday, September 1, 2004.

ADDRESSES: The meeting will be at the DoubleTree Guest Suites Tampa Bay, 3050 North Rocky Point Drive West, Tampa, FL; telephone: 813–888–8800.

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

FOR FURTHER INFORMATION CONTACT: Dr. Rick Leard, Deputy Executive Director, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council will convene its Standing and Special Mackerel SSC to review stock assessment information on mackerel stocks that were developed as part of the Southeast Area Data and Assessment Review (SEDAR) 5 workshops. As part of the stock assessment process, three workshops were held between December 2003 and April 2004. The first workshop reviewed available data that would be used to develop stock assessments for Gulf and Atlantic group king mackerel. The second workshop provided a forum for developing the stock assessment, and the third workshop was a peer review of the stock assessment. The SSC will review the workshop reports as well as other information that was made available to the workshop attendees and provide the Council with a determination of whether the assessment reflects the best available scientific information. The SSC will also review draft revised guidelines for implementing National Standard 1 or the Magnuson-Stevens Fishery Conservation and Management

Act (Magnuson Act) that addresses overfishing and achieving optimum yield from the Nation's fisheries.

Copies of the agenda and other related materials can be obtained by calling 813–228–2815.

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

Special Accommodations

The meetings are open to the public and physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) office by August 18, 2004.

Dated: August 12, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18806 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080904B]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of the South Atlantic Fishery Management Council Researcher Workshop for the Oculina Experimental Closed Area and Deepwater Coral/Habitat.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a technical research workshop in Cape Canaveral, FL involving invited scientists with backgrounds in deepwater coral and the Oculina Bank area.

DATES: The workshop will take place August 31 through September 3, 2004. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The workshop will be held at the Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, FL 32920; telephone: 321–784–0000 or 800–333–3333.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: 843–571–4366 or 866–SAFMC–10; fax: 843–769–4520.

SUPPLEMENTARY INFORMATION: Workshop participants will meet from 1 p.m. until 5 p.m. on August 31, 2004, from 8:30 a.m. until 5 p.m. on September 1–2, 2004, and from 8:30 a.m. until 1 p.m. on September 3, 2004. The workshop has two primary goals: (1) Development of a research and monitoring plan for the Oculina Experimental Closed Area, and (2) Development of a research and monitoring plan for deepwater coral and associated habitat.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by August 27, 2004.

Dated: August 12, 2004.

Alan D. Risenhoover,

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

[FR Doc. 04–18831 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

Proposed Information Collection; Comment Request; Global Positioning System (GPS) Industry Survey

ACTION: Notice.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 18, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Forms Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Jason Kim, Senior Policy Analyst, Office of Space Commercialization, Technology Administration, Department of Commerce, Room 4843, 14th and Constitution Avenue, NW., Washington, DC 20230 or via e-mail to *jason.kim@technology.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Space Commercialization will collect financial information from all known producers of Global Positioning System (GPS) equipment. The information will be used to develop a public report describing the size and characteristics of the GPS manufacturing industry, and its economic impact on the United States. Dissemination of this information will provide a service to businesses and investors involved in the GPS industry. The information will also be used within the U.S. Government to inform ongoing policy and budget decisions related to the GPS program.

II. Method of Collection

This will be a one-time collection of information involving a paper questionnaire mailed to all known GPS manufacturers. The survey is completely voluntary and designed to be short to minimize public burden. Follow-up phone calls and letters will be used to encourage companies to participate in the survey. All respondents will receive a copy of the final report upon its release.

III. Data

OMB Number: None.
Form Numbers: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations, and the Federal Government.
Estimated Number of Respondents: 200.
Estimated Time Per Response: 1.25 hours.
Estimated Total Annual Respondent Burden Hours: 250.

Estimated Total Annual Respondent Cost Burden: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 11, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04–18729 Filed 8–16–04; 8:45 am]

BILLING CODE 3510–18–P

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[OJP(OJJDP) Docket No. 1408]

Notice of Meeting

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) is announcing the September 10, 2004, meeting of the Council.

DATES: Friday, September 10, 2004, from 9:30 a.m.–12:30 p.m.

ADDRESSES: The meeting will take place at the Robert F. Kennedy Department of Justice Building (Conference Center), 950 Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy Wight, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, OJJDP, by telephone at 202–514–2190, or by e-mail at *Timothy.Wight@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, *et seq.* Documents such as meeting announcements, agendas, minutes, and interim and final reports will be available on the Council's Web page at *http://www.JuvenileCouncil.gov.* (You may also verify the status of the meeting at that Web address.)

The agenda for this meeting will include: (a) Review of past Council actions, (b) discussion of the Final Report of the White House Task Force for Disadvantaged Youth, and (c) discussion and Council recommendations regarding Federal agencies that hold juvenile offenders, nonoffenders, and undocumented juveniles.

Written Comments: Interested parties may submit written comments by September 1, 2004, to Timothy Wight, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, OJJDP, at *Timothy.Wight@usdoj.gov.* The Coordinating Council on Juvenile Justice and Delinquency Prevention expects public statements presented at its meetings will not be repetitive of previously submitted statements. No oral comments will be permitted at this meeting.

For security purposes, members of the public who wish to attend the meeting must pre-register by calling the Juvenile Justice Resource Center at 301–519–6473 (Daryel Dunston) or 301–519–5790 (Karen Boston), no later than September 1, 2004. To register on-line, please go to *http://www.JuvenileCouncil.gov/meetings.html.* Space is limited.

Note: Two forms of photo identification will be required for admission to the meeting.

Dated: August 12, 2004.

J. Robert Flores,

Vice-Chair, Coordinating Council on Juvenile Justice and Delinquency Prevention.

[FR Doc. 04–18760 Filed 8–16–04; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before September 16, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 12, 2004.

Angela C. Arrington,

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

Institute of Education Sciences

Type of Review: Reinstatement.

Title: Teacher Follow-Up Survey: 2004–2005.

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 7,600. Burden Hours: 3,595.

Abstract: This survey of 8,300 public and private elementary and secondary school teachers is the fifth in a series. It is a follow-up to the 2003–2004

Schools and Staffing Survey (SASS) and collects data on public school and private school teachers' characteristics and attitudes, as well as the factors affecting their decisions to stay in or leave the teaching profession.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 2547. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@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. 04–18762 Filed 8–16–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.358A]

Small, Rural School Achievement Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice extending application deadline.

SUMMARY: Under the Small, Rural School Achievement (SRSA) Program, we will award grants on a formula basis to eligible local educational agencies (LEAs) to address the unique needs of rural school districts. In this notice, we are extending the deadline for eligible LEAs to apply for fiscal year (FY) 2004 funding under the program.

DATES: *Application Deadline:* All applications must be received electronically by August 25, 2004, 4:30 p.m. eastern time.

SUPPLEMENTARY INFORMATION: On June 30, 2004, we published a notice in the **Federal Register** (69 FR 39443–39444) establishing a July 30, 2004, deadline for LEAs to apply for funding under the program. We subsequently published a notice extending that deadline until August 6, 2004 (69 FR 47127 to 47128). As discussed in the initial notice, some LEAs that are eligible for FY 2004 SRSA funding are considered already to have met the application deadline based on their previously submitted application and do not have to submit a new application to the Department to receive their FY 2004 SRSA grant awards. The Department's Web site at *http://www.ed.gov/offices/OESE/* indicates which eligible LEAs must submit an application to receive a FY 2004 SRSA grant award.

We have recently learned that some eligible LEAs were unable to meet the extended deadline of August 6, 2004, because of unavailability of district personnel and for other reasons. In order to afford as many eligible LEAs as possible an opportunity to receive funding under this program, we are extending the application deadline to August 25, 2004, 4:30 p.m. eastern time. We have already notified each State educational agency of this extension and have also posted the new application deadline on the Department's Web site.

An eligible LEA that is required to submit a new SRSA application in order to receive FY 2004 SRSA funding and that has not done so by the original application deadline may apply for funds by the deadline in this notice.

We encourage eligible LEAs to submit their applications as soon as possible to avoid any problems with filing electronic applications on the last day. The deadline for submission of applications will not be extended any further as we must make awards by September 30, 2004.

Electronic Submission of Applications: To receive its share of FY 2004 SRSA funding, an eligible LEA that is required to submit a new SRSA application and that has not done so must submit an electronic application to the Department by August 25, 2004, 4:30 p.m. eastern time. Submission of an electronic application involves the use of the Department's Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system.

You can access the electronic application for the SRSA Program at: *http://e-grants.ed.gov.*

Once you access this site, you will receive specific instructions regarding the information to include in your application.

The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight, Saturday (Washington, DC time). Please note that the system is unavailable on Sundays, Federal holidays, and after 7 p.m. on Wednesdays for maintenance (Washington, DC time).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hitchcock. Telephone: (202) 401–0039 or via Internet: *reap@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this notice in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access To This Document: You may view this document, as well as other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1–888–293–6498; or in the Washington DC, area at (202) 512–1530.

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

Program Authority: 20 U.S.C. 7345–7345b.

Dated: August 11, 2004.

Raymond J. Simon,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 04–18808 Filed 8–16–04; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Statement of Policy Regarding National Mail Voter Registration Form

AGENCY: United States Election Assistance Commission.

ACTION: Statement of Policy.

SUMMARY: The Commission intends to exercise its discretion in administering the National Mail Voter Registration Form by interpreting the waiver of the effective date for implementing the Computerized Statewide Voter Registration List required by the Help America Vote Act of 2002 (HAVA) to extend to all of the requirements of

subsection (a) of Section 303 of HAVA, including the requirements of paragraph (a)(5) of that section. Therefore, a State that has obtained a waiver extending the effective date of Section 303(a)(5) until January 1, 2006 may use State-specific instructions for Box 6 that may change when Section 303(a)(5) becomes effective as to that State.

DATES: August 10, 2004.

FOR FURTHER INFORMATION CONTACT: John C. Vergelli, Attorney Advisor, 1225 New York Ave., NW., Suite 1100, Washington, DC 20005. Telephone: (202) 566–3100.

SUPPLEMENTARY INFORMATION: Title III of HAVA, entitled "Uniform and Nondiscriminatory Election Technology and Administration Requirements," imposes certain requirements upon States and local jurisdictions conducting federal elections. HAVA Sections 301–303. Among other things, a State or local jurisdiction must verify voter registration information. Specifically, paragraph (a)(5) of section 303 of HAVA requires the collection of certain identifying information from applicants, or, in certain circumstances, the assignment of a unique identifying number.

HAVA further provides that the requirements of subsection (a) of section 303, including paragraph (a)(5), became effective on January 1, 2004. HAVA Section 303(d)(1)(A). However, a State could have obtained a waiver that delays the effective date until January 1, 2006. HAVA section 303(d)(1)(B). Forty-four States obtained such a waiver.

The United States Election Assistance Commission (EAC) has succeeded to the responsibilities of maintaining the National Mail Voter Registration Application Form ("Form") authorized by the National Voter Registration Act (NVRA) (Pub. L. 103–31 (May 20, 1993)) (42 U.S.C. §§ 1973gg–1973gg–0). Box 6 of the Form is labeled "ID Number—(See Item 6 in the instructions for your state)." These "State-specific instructions" provide State-by-State guidance as to what information the relevant State's law requires the applicant to provide in Box 6.

Depending upon a given State's law, Section 303(a)(5) may affect that State's specific instructions for Box 6 when Section 303(a)(5) takes effect with regard to that State. The question has arisen of whether such a State, if it has obtained a waiver extending the effective date of Section 303(a)(5) until January 1, 2006, may, before January 1, 2006, use State-specific instructions for Box 6 that may change when Section 303(a)(5) becomes effective to such a State.

The EAC intends to exercise its discretion in administering the Form by interpreting the waiver of the effective date provided in Section 303(d)(1)(B) to extend to all of the requirements of subsection (a) of Section 303, including paragraph (a)(5). Therefore, a State that has obtained a waiver extending the effective date of Section 303(a)(5) until January 1, 2006 may use State-specific instructions for Box 6 that may change when Section 303(a)(5) becomes effective as to that State.

In issuing this Statement of Policy regarding the scope of the waiver provision in Section 303(d)(1), the EAC emphasizes that it is not stating its policy with regard to the substantive requirements of Section 303(a)(5) when that paragraph becomes effective with regard to a given State. The EAC also emphasizes that this Statement of Policy is only applicable to a State that has obtained a waiver of the effective date under Section 301(d)(1), and applies only before January 1, 2006.

Dated: August 10, 2004.

DeForest B. Soaries, Jr.,

Chairman, U.S. Election Assistance Commission.

[FR Doc. 04–18725 Filed 8–16–04; 8:45 am]

BILLING CODE 6820–MP–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–443–000]

Chandeleur Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 10, 2004.

Take notice that on August 6, 2004, Chandeleur Pipe Line Company tendered for filing as part of its FERC Gas Tariff, Volume No. 1, Fifteenth Revised Sheet No. 5, to become effective October 1, 2004.

Chandeleur states that the proposed tariff sheet was filed under the authority of part 154 of the Commission Regulations (18 CFR 154.402(c)) in order to implement a decreased Annual Charge Adjustment (ACA) unit charge as calculated by the Commission.

Chandeleur states that the purpose of this filing is to implement revised ACA unit charge as calculated by the Commission and authorized by section 382 of its Regulations (18 CFR 382.202).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1830 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–447–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

August 10, 2004.

Take notice that on August 6, 2004, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective August 1, 2004:

1st Rev Sixteenth Revised Sheet No. 1

Eighth Revised Sheet No. 4
Fifth Revised Sheet No. 5
Second Revised Sheet No. 5A
Sixteenth Revised Sheet No. 7
Third Revised Sheet No. 47
Tenth Revised Sheet No. 48
Fifth Revised Sheet No. 50A
Third Revised Sheet No. 56
First Revised Sheet No. 57J
First Revised Sheet No. 60A

Great Lakes states that these tariff sheets are being filed to reflect the discontinuance of the applicability and collection of the non-voluntary, Commission approved Gas Research Institute (GRI) surcharges, while retaining the existing provisions relating to the collection and remittance to GRI of voluntary amounts contributed by shippers.

Great Lakes states that copies of the filing are being served on all of its existing customers and upon the Public Service Commission of the States of Minnesota, Wisconsin and Michigan.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1827 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–444–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 10, 2004.

Take notice that on August 6, 2004, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A, to be effective September 6, 2004.

Kern River states that the purpose of this filing is: (1) To reduce the daily reporting requirements set forth in Order No. 2004 by revising Kern River's tariff to eliminate certain discretionary provisions; (2) to update the tariff to reflect current practices pertaining to electronic communication, transactions and contracting procedures; (3) to add new receipt and delivery points to the appropriate gas supply and market area pools; and (4) to propose housekeeping and other miscellaneous ministerial changes.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1831 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application for Amendment of License To Remove Certain Facilities and Acreage From the Project Boundary

August 10, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Type of Filing:* Application for amendment of license to remove certain facilities and acreage from the project boundary.

b. *Project No.:* P–137–061.

c. *Date Filed:* October 17, 2003.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Mokelumne River Project.

f. *Location:* The project is located on the Mokelumne River and its tributaries in Alpine, Amador, and Calaveras Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Richard J. Doble, Senior License Coordinator, Safety, Environmental, and License Management Team, Power Generation, Mail Code N11c, Pacific Gas and Electric Company, P.O.Box 770000, San Francisco, CA 94177–0001.

i. *FERC Contact:* Etta Foster, (202) 502–8769, or e-mail address: *etta.foster@ferc.gov.*

j. *Deadline for filing comments, motions to intervene or protests:* September 10, 2004.

All documents (original and eight copies) should be filed with Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The applicant requests that its license for this project be amended by removal of the East Panther, West Panther, and Beaver Creek Diversion Dams from the license and modification of the project boundary to reflect the removal.

l. *Location of Filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. This filing may also be viewed on the Web site at *http://www.ferc.gov* using the "elibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, 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", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1828 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–162–012]

Trailblazer Pipeline Company; Notice of Compliance Filing

August 10, 2004.

Take notice that on August 6, 2004, Trailblazer Pipeline Company (Trailblazer) submitted a compliance filing pursuant to the Federal Energy Regulatory Commission's (Commission) Order on Rehearing and Compliance Filing (Order), issued July 13, 2004, in Docket Nos. RP03–162–004 and RP03–162–005.

Trailblazer states that the filing is being made to comply with the Commission's Order regarding Trailblazer's credit procedures. The proposed effective date reflected on these tariff sheets is October 1, 2004.

Trailblazer states that copies of its filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1829 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG04–89–000, et al.]

B & K Energy Systems, LLC, et al.; Electric Rate and Corporate Filings

August 10, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. B & K Energy Systems, LLC

[Docket No. EG04–89–000]

Take notice that on August 4, 2004, B & K Energy Systems, LLC (B & K) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

B & K states that it owns and operates a 1.9 MW wind energy conversion facility near Brewster, Minnesota.

B & K states that a copy of this application has been served on the Secretary of the Securities and Exchange Commission and on the Minnesota Public Utilities Commission.

Comment Date: 5 p.m. eastern time on August 25, 2004.

2. Bethpage Energy Center 3, LLC

[Docket No. EG04–90–000]

Take notice that on August 4, 2004, Bethpage Energy Center 3, LLC (Bethpage), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Bethpage states that it will own and operate a nominal 79.9 MW power generation facility to be located in the Town of Oyster Bay, Nassau County, New York. Bethpage further states that copies of the application were served upon the United States Securities and Exchange Commission and New York Public Service Commission.

Comment Date: 5 p.m. eastern time on August 25, 2004.

3. TBG Cogen Partners

[Docket No. EG04–91–000]

Take notice that on August 4, 2004, TBG Cogen Partners (TGB), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it owns and operates a nominal 57 MW power generation facility located in Bethpage, Nassau County, New York. Applicant further states that copies of the application were served upon the United States Securities and Exchange Commission and New York Public Service Commission.

Comment Date: 5 p.m. eastern time on August 25, 2004.

4. New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, LIPA, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, and Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc., New York Independent System Operator, Inc.

[Docket Nos. EL04–110–002, EL04–113–002, EL04–115–003, and ER04–983–003]

Take notice that on August 6, 2004, the New York Independent System Operator, Inc. (NYISO) filed tariff sheets in compliance with the Commission's order issued July 22, 2004, in Docket No. EL04–110–000 *et al.*, 108 FERC 61,075.

NYISO states that it is electronically serving a copy of this compliance filing on the official representative of each of its customers, on each participant in its stakeholder committees, and on the New York State Public Service Commission.

Comment Date: 5 p.m. eastern time on August 24, 2004.

5. ISO New England Inc.

[Docket No. ER01–316–013]

Take notice that on August 3, 2004, ISO New England Inc. (ISO) submitted for filing its Index to Customers for the second quarter of 2004 under its Tariff for Transmission Dispatch and Power Administration Services in compliance with Commission Order No. 614.

Comment Date: 5 p.m. eastern time on August 24, 2004.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–1093–000]

Take notice that on August 4, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing Original Service Agreement No. 1432 under Midwest ISO's FERC Electric Tariff, Second Revised Volume No. 1, a Facilities Construction Agreement between Minnesota Power and the Midwest ISO. Midwest ISO requests an effective date of July 7, 2004.

Midwest ISO states that it has served a copy of this filing on the applicable parties.

Comment Date: 5 p.m. eastern time on August 25, 2004.

7. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–1094–000]

Take notice that on August 4, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted Original Service Agreement No. 1434 under Midwest ISO's FERC Electric Tariff, Second Revised Volume No. 1, an Interconnection and Operating Agreement among Truman Municipal, Interstate Power and Light Company, a wholly-owned subsidiary of Alliant Energy Corporation, and the Midwest ISO. Midwest ISO requests an effective date of July 27, 2004.

Midwest ISO states that it has served a copy of this filing on all the applicable parties.

Comment Date: 5 p.m. eastern time on August 25, 2004.

8. PacifiCorp

[Docket No. ER04–1095–000]

Take notice that on August 4, 2004, PacifiCorp tendered for filing in a Generation Interconnection Agreement between PacifiCorp and Rock River I LLC designated as Pacific Corp's Rate Schedule FERC No. 591. PacifiCorp requests and effective date of November 8, 2001.

PacifiCorp states that copies of this filing were supplied to the Public Utility Commission of Oregon, the Washington Utilities and Transportation Commission, and Rock River I LLC.

Comment Date: 5 p.m. eastern time on August 25, 2004.

9. Tucson Electric Power Company

[Docket No. ER04–1097–000]

Take notice that on August 4, 2004, Tucson Electric Power Company (Tucson Electric) tendered for filing Service Agreement No. 234 under Tucson Electric FERC Electric Tariff Third Revised Volume No. 2, the executed Phil Young Substation Interconnection Agreement between Tucson Electric Power Company and the Morenci Water & Electric Company. Tucson Electric Power Company requests an effective date of June 15, 2004.

Comment Date: 5 p.m. eastern time on August 25, 2004.

10. Rolling Hills Generating, L.L.C.

[Docket No. ER04–1098–000]

Take notice that on August 4, 2004, Rolling Hills Generating, L.L.C. (Rolling Hills) submitted for filing Rolling Hills Rate Schedule FERC No. 2 under which it specifies its revenue requirement for providing cost-based Reactive Support and Voltage Control from Generation Sources. Rolling Hills requests an effective date of October 1, 2004.

Rolling Hills states that it has provided copies of the filing to the designated corporate officials and or representatives of American Electric Power Service Corporation and PJM Interconnection, L.L.C., and the Public Utilities Commission of Ohio.

Comment Date: 5 p.m. eastern time on August 25, 2004.

12. Bethpage Energy Center 3, LLC

[Docket No. ER04–1099–000]

Take notice that on August 4, 2004, Bethpage Energy Center 3, LLC (Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves, and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant states that it will own and operate a 79.9 megawatt combined-cycle electric generation facility in the Town of Oyster Bay, New York. Applicant requests an effective date of May 1, 2005.

Comment Date: 5 p.m. eastern time on August 25, 2004.

13. TBG Cogen Partners

[Docket No. ER04–1100–000]

Take notice that on August 4, 2004, TBG Cogen Partners (Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves, and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant states that it owns and operates a 57 megawatt topping-cycle electric cogeneration facility in Bethpage, Nassau County, New York. Applicant requests an effective date of September 1, 2004.

Comment Date: 5 p.m. eastern time on August 25, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "e-Filing" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1833 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–340–000]

Southern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Triangle Project and Request for Comments on Environmental Issues

August 10, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Triangle Project involving construction and operation of facilities by Southern Natural Gas Company (Southern) in Bibb, Clayton, Douglas, Fulton, Henry, Jefferson, Monroe, Richmond, Spalding, and Upson Counties, Georgia. These facilities consist of about 6.4 miles of 30-inch-diameter pipeline, four new taps and meter stations, replacement of about 420 feet of 16-inch-diameter pipeline, and auxiliary equipment. The EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including how to participate in the Commission's proceedings.

Summary of the Proposed Project

Southern requests authorization to abandon by sale to Atlanta Gas Light Company (AGLC) about 253.7 miles of various pipelines located between Southern's North and South Main Lines, as well as ten meter stations and two regulator stations. In order to accomplish the transfer of these facilities to AGLC, Southern proposes to construct, install, and operate about 6.4 miles of 30-inch-diameter pipeline loop.[1] The 6.4 miles of 30-inch-diameter pipeline would extend Southern's existing Ocmulgee/Atlanta 3rd Loop Line to a point where it connects with Southern's existing Thomaston/Griffin 2nd Loop Line in Spalding County, Georgia.

As part of the request to abandon facilities by sale to AGLC, Southern proposes to construct four new delivery points consisting of tap, metering, and appurtenant facilities to provide service at the points of interconnection between Southern's facilities and the facilities to be purchased by AGLC. Southern proposes to construct the new delivery points at the new Ben Hill (a proposed bi-directional meter station), South Thomaston, Bass Junction, and South Atlanta Meter Stations in Fulton, Upson, Bibb, and Clayton Counties, Georgia, respectively. The proposed meter stations would be constructed on Southern's existing properties at the Ben Hill Regulator/Check Station, Thomaston Compressor Station, Bass Junction Crossover Meter Station, and the South Atlanta #1 Meter Station.

Southern also proposes to uprate about 11 miles of its 16-inch-diameter South Main Line in Jefferson and Richmond Counties, Georgia from a Maximum Allowable Operating Pressure (MAOP) of 1,100 pounds per square inch gauge (psig) to 1,200 psig in order to meet its existing firm obligations downstream as a result of the sale of facilities to AGLC. This would require the replacement of about 420 feet of 16-inch-diameter pipeline.

Southern proposes to also install auxiliary equipment to isolate its facilities from AGLC's facilities and to enable deliveries at the four new delivery points for the purpose of obtaining more efficient or more economical operation of the proposed transmission facilities.

[1] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

In addition to the acquisitions from Southern, AGLC intends to construct certain nonjurisdictional facilities. These consist of: (1) A new South Atlanta Meter Station reconstructed from the South Atlanta #1 Meter Station purchased from Southern, about 1,200 feet of pipeline, and a regulator station; (2) tie-overs to AGLC's distribution system; (3) additional cathodic protection equipment/fittings along the mainlines purchased from Southern; (4) AGLC would perform work necessary to raise the MAOP of the 20-inch North Main Line and 30-inch North Main Loop Line purchased from Southern; (5) install odorization equipment; (6) a new South Thomaston Meter Station and tie-in piping; (7) a new crossover connection between the 14-inch Ocmulgee-Atlanta Loop Line and the 18-inch Ocmulgee-Atlanta 2nd Loop Line being purchased from Southern; and (8) a new Bass Junction Meter Station. These facilities would be constructed and operated under AGLC's present franchise agreements and under authority granted by the Georgia Public Service Commission.

The general location of Southern's proposed facilities is shown on the map attached as appendix 1.[2]

Land Requirements for Construction

Construction of Southern's proposed facilities would require about 142.0 acres of land, including construction right-of-way for the loop and 16-inch-diameter mainline replacement, meter stations, extra work/staging areas, pipe storage yards, and acreage affected by construction of the ancillary facilities. The majority of the loop would be constructed directly adjacent to Southern's existing rights-of-way. For the construction of the 30-inch-diameter loop, Southern proposes to use up to a 90-foot-wide construction right-of-way, which includes a 50- to 65-foot overlap of the existing right-of-way, with 40-feet of new temporary construction right-of-way to be cleared. Because of the use of Southern's existing right-of-way for construction, Southern indicates that only about 5.0 acres would be maintained as new permanent right-of-way. For the existing 16-inch-diameter South Main Line replacement, Southern proposes to use a 70-foot-wide construction right-of-way, which includes a 30-foot overlap of the existing right-of-way, with 40-feet of new temporary construction right-of-way to be cleared.

Modifications to the meter stations and ancillary facilities needed to upgrade existing facilities would be performed within the existing Southern aboveground facilities or rights-of-way, and would not require the clearing of additional land.

Construction access to Southern's project would be via existing public and private roads. Southern has identified 10 existing private access roads necessary for the construction of its project.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. This process is referred to as "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, State, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission(s official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Southern. This preliminary list of issues may be changed based on your comments and our analysis.

- Crossing of 11 perennial waterbodies and 6 wetlands.
- Impact on 10 residences located within 50 feet of the construction work area, of which eight are within 25 feet of the construction work area.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 1.
- Reference Docket No. CP04–340–000.

Mail your comments so that they will be received in Washington, DC on or before September 10, 2004.

The Commission strongly encourages electronic filing of comments. *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 and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's e-Filing system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than appendix 1 (map), are available on the Commission's Web site at the "eLibrary" link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] "We", "us", and "our", refer to the environmental staff of the Office of Energy Projects (OEP).

parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission(s Rules of Practice and Procedure (18 CFR 385.214) (*see* appendix 2).[4] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

If you do not want to send comments at this time, but still want to remain on our mailing list, please return the Information Request (appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208-FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1832 Filed 8–16–04; 8:45 am]

BILLING CODE 6717–01–P

[4] Interventions may also be filed electronically via the Internet in lieu of paper. *See* the previous discussion on filing comments electronically.

ENVIRONMENTAL PROTECTION AGENCY

[AZ–118–ADEQ; FRL–7801–9]

Adequacy Status of the Maricopa County, Arizona, Submitted One-Hour Ozone Redesignation Request and Maintenance Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found that the motor vehicle emissions budgets contained in the submitted *One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area* are adequate for conformity purposes.

As a result of our finding, the Maricopa Association of Governments and the U.S. Department of Transportation must use the VOC and NO_X motor vehicle emissions budgets from the submitted Ozone Redesignation Request and Maintenance Plan for future conformity determinations.

DATES: This determination is effective September 1, 2004.

FOR FURTHER INFORMATION CONTACT: The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/transp/conform/adequacy.htm* (once there, click on the "What SIP submissions has EPA already found adequate or inadequate?" button).

You may also contact Wienke Tax, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901; (520) 622–1622 or *tax.wienke@epa.gov*.

SUPPLEMENTARY INFORMATION: This notice announces our finding that the emissions budgets contained in the submitted One-Hour Ozone Redesignation Request and Maintenance Plan for the Maricopa County Nonattainment Area (March 2004) ("2004 MAG Ozone Maintenance Plan"), submitted by the State of Arizona on behalf of the Maricopa Association of Governments, are adequate for conformity purposes. EPA Region IX made this finding in a letter to the State of Arizona, Department of Environmental Quality, on August 3, 2004. We are also announcing this finding on our conformity Web site: *http://www.epa.gov/otaq/transp/conform/adequate.htm* (once there, click on the "What SIP submissions has EPA already found adequate or inadequate?" button).

Transportation conformity is required by section 176(c) of the Clean Air Act. Our conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The criteria by which we determine whether a SIP's motor vehicle emissions budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). One of these criteria is that the motor vehicle emissions budgets, when considered together with all other emissions sources, are consistent with applicable requirements for a maintenance plan. We have preliminarily determined that the 2004 MAG Ozone Maintenance Plan meets the necessary emissions reductions and therefore, the motor vehicle emissions budgets can be found adequate. Please note that an adequacy review is separate from EPA's completeness review which is required by section 110(k)(1) of the Clean Air Act, and it also should not be used to prejudge EPA's ultimate action (approval or disapproval) on the submitted plan itself. Even if we find a budget adequate, the submitted plan could later be disapproved.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999, memo titled "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision"). We followed this guidance in making our adequacy determination on the emissions budgets contained in the 2004 MAG Ozone Maintenance Plan.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 10, 2004.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 04–18771 Filed 8–16–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7800–7]

Notice of Proposed Administrative Consent Agreement and Final Order Pursuant to Section 309(g)(4) of the Clean Water Act: In the Matter of E.J. Mahoney Construction

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 309(g)(4)(A) of the Clean Water Act, ("CWA"), 33 U.S.C. 1319(g)(4)(A), notice is hereby given of a proposed Consent Agreement and Final Order ("CA/FO"), which resolves penalties for alleged violations of sections 301(a) of the CWA, 33 U.S.C. 1311(a). The respondent to the CA/FO is E.J. Mahoney Construction ("Respondent"). Through the proposed CA/FO, Respondent will pay $3,000 as a penalty for alleged violations involving its failure to obtain coverage under either a CWA National Pollutant Discharge Elimination System (NPDES) individual permit, or the NPDES General Permit #NVR10000I for Storm Water Discharges From Construction Activities for Indian Country within the State of Nevada (the "NPDES Construction General Permit"), prior to engaging in construction activity associated with development of the Deer Lodge Park residential subdivision located on individual Indian allotment land in Douglas County, Nevada.

DATES: For 30 days following the date of publication of this notice, the Agency will receive written comments relating to the proposed CA/FO.

ADDRESSES: Requests for copies of the proposed CA/FO should be addressed to: Richard Campbell, Attorney Advisor, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, Mailcode: ORC–2, San Francisco, CA 94105.

Comments regarding the proposed CA/FO should be addressed to: Danielle Carr, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Comments should reference the following information:

Case Name: In the Matter of E.J. Mahoney Construction.

Docket Number: CWA–9–2004–0003.

FOR FURTHER INFORMATION CONTACT: Richard Campbell at the above address or by telephone at (415) 972–3870, or by e-mail at *campbell.rich@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Respondent E.J. Mahoney Construction is an "operator", as that term is defined at 40 CFR part 122, in control of day to day construction activities at the Deer Lodge Park residential subdivision. Construction activities associated with development of the Deer Lodge Park residential subdivision were unpermitted under either an individual NPDES permit or a NPDES Construction General Permit for six months in 2003. During this period, construction activity at the Deer Lodge Park site involved grading of roads, installation of a water tank, and installation of a well site. Storm water from the Deer Lodge Park construction site drains to a tributary of the East Fork Carson River. Pursuant to the proposed CA/FO, Respondent has consented to the assessment of a $3,000 penalty in this matter, and has certified that it will obtain coverage under a NPDES permit for construction activities at Deer Lodge Park.

II. General Procedural Information

Any person who comments on the proposed CA/FO shall be given notice of any hearing held and a reasonable opportunity to be heard and to present evidence. If no hearing is held regarding comments received, any person commenting on this proposed CA/FO may, within 30 days after the issuance of the final order, petition the Agency to set aside the CA/FO, as provided by section 309(g)(4)(C) of the CWA, 33 U.S.C. 1319(g)(4)(C). Procedures by which the public may submit written comments or participate in the proceedings are described in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 CFR part 22.

Dated: July 28, 2004.

Alexis Strauss,

Director, Water Division, Region IX.

[FR Doc. 04–18782 Filed 8–16–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CCB/CPD 97–39, 97–41, DA 04–2474]

Petitions for Waiver of 6.5 Percent Price Cap Local Exchange Carrier X-Factor

AGENCY: Federal Communications Commission.

ACTION: Notice, termination of proceeding.

SUMMARY: This document provides notice of the termination of the petitions for waiver of the 6.5 percent productivity-based "X-factor" for price cap local exchange carriers adopted by the Commission in a 1997 order. The petitions for waiver have been withdrawn by the petitioners.

DATES: Effective September 16, 2004, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

ADDRESSES: Oppositions to the proceeding termination should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: On July 14, 1997, Citizens Utilities Company (Citizens) filed an emergency petition for waiver of the Commission's rules requiring it to apply a productivity X-factor of 6.5 percent under the price cap rules as established in the *1997 Price Cap Review Order*, 62 FR 31939, June 11, 1997. On August 13, 1997, the Southern New England Telephone Company (SNET) also filed a petition for waiver and/or amendment of the Commission's rules establishing a 6.5 percent productivity X-factor. On October 7, 2003, SBC, SNET's parent company, filed a request to withdraw its petition. On August 2, 2004, Citizens filed a request to withdraw its petition. The Citizens Petition and the SNET Petition are dismissed without prejudice. Since the filing of the Citizens Petition and the SNET Petition, the Commission has revised its rules regarding the 6.5 percent productivity X-factor. The changes to the Commission's X-factor rules and the passage of time have mooted the issues raised in the Citizens Petition and the SNET Petition. Therefore, these proceedings will be terminated effective 30 days after publication of this Public Notice in the **Federal Register**, unless

the Wireline Competition Bureau receives an opposition to the terminations before that date.

Parties filing oppositions to the termination of these proceedings must file an original and four copies of each filing. The filings should reference CCB/CPD File No. 97–39 for the Citizens Petition, and CCB/CPD File No. 97–41 for the SNET Petition. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A263, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *jennifer.mckee@fcc.gov*. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*.

Authority: 47 U.S.C. 152, 154, 155, 303; 47 CFR 0.291, 1.749.

Federal Communications Commission.

Jeffrey J. Carlisle,

Acting Chief, Wireline Competition Bureau.

[FR Doc. 04–18803 Filed 8–16–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 94–1, 96–262; DA 04–2475]

Reconsideration of 1997 Price Cap Review Order

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document requests that parties that filed petitions for reconsideration of a 1997 Commission order adopting rules applicable to price cap local exchange carriers file supplemental notices indicating whether they wish to pursue any issues in those petitions. Subsequent rule changes may have mooted the issues in those petitions for reconsideration. To the extent parties do not indicate an intent to pursue their respective petitions for reconsideration, the Commission will consider such petitions withdrawn and will dismiss them.

DATES: Comments due September 16, 2004, and reply comments due Ocrober 18, 2004.

ADDRESSES: Filings should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530, *jennifer.mckee@fcc.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Commission's rules governing petitions for reconsideration, 47 CFR 1.106, the Wireline Competition Bureau (the Bureau) invites interested parties to update the record pertaining to petitions for reconsideration filed with respect to the *1997 Price Cap Review Order*, 62 FR 31939, June 11, 1997.

On May 21, 1997, the Commission released the *1997 Price Cap Review Order*, which established a 6.5 percent productivity-based X-factor and eliminated the sharing requirements in the Commission's price cap rules. Several parties filed petitions for reconsideration of that order. Since then the rules adopted in the *1997 Price Cap Review Order* have been the subject of both litigation and additional orders, including the *CALLS Order*, 65 FR 38684, June 21, 2000. Issues raised in the pending petitions for reconsideration may therefore have become moot or irrelevant. As a result, it is not clear what issues arising out of the *1997 Price Cap Review Order*, if any, remain in dispute. Moreover, because the *CALLS Order* arose out of a voluntary proposal representing a large consensus in the industry, the earlier concerns raised by the petitions for reconsideration already may have been addressed. Finally, because the petitions for reconsideration were filed several years ago, the passage of time and intervening developments may have rendered the records developed by those petitions stale.

For these reasons, the Bureau requests that parties that filed petitions for reconsideration of the *1997 Price Cap Review Order* now file a supplemental notice indicating those issues that they still wish to be reconsidered. In addition, parties may refresh the record with any new information or arguments that they believe to be relevant to deciding such issues. To the extent parties do not indicate an intent to pursue their respective petitions for reconsideration, the Commission will deem such petitions withdrawn and will dismiss them. The refreshed record will enable the Commission to undertake appropriate reconsideration of its price cap and access charge rules.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 16, 2004, and reply comments on or before October 18, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case, CC Docket Nos. 94–1 and 96–262. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A263, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *jennifer.mckee@fcc.gov*. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com*.

The original petitions for reconsideration filed by the parties in CC Docket Nos. 94–1 and 96–262 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, or by e-mail at *fcc@bcpiweb.com*.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

Authority: 47 U.S.C. 152, 154, 155, 303; 47 CFR 0.291, 1.429.

Federal Communications Commission.

Jeffrey J. Carlisle,

Acting Chief, Wireline Competition Bureau.

[FR Doc. 04–18804 Filed 8–16–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 04–09]

American Warehousing of New York, Inc. v. the Port Authority of New York and New Jersey; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed by American Warehousing of New York, Inc. ("Complainant") against The Port Authority of New York and New Jersey ("Respondent"). Complainant contends that Respondent violated sections 10(d)(3) [1], and 10(d)(4) of the Shipping Act of 1984, U.S.C. app. section 1709(d)(3) and 1709(d)(4), respectively. Specifically, the Complainant alleges that the Respondent has unreasonably refused to deal with Complainant and shown unreasonable prejudice against the Complainant by refusing to negotiate in good faith a long-term extension or renewal of their Marine Terminal Lease Agreement ("Agreement of Lease"). As a direct result of these allegations, Complainant claims that it has suffered and will continue to suffer substantial ongoing economic damages and injury. Complainant seeks an order directing Respondent to cease all actions to terminate Complainant's leasehold relationship with Respondent; recommence discussions with the Complainant in good faith for a long-term extension of the Agreement of Lease similar to those entered into by Respondent for its other terminals; establish and put in force such practices as the Commission determines to be reasonable; pay reparations in an amount yet to be determined but exceeding $15,000,000.00 per year, including interest and attorney fees or any other damages to be determined; and take any other such action or provide any other such relief as the Commission determines to be warranted.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 11, 2005 and a final decision of the Commission shall be issued by December 9, 2005.

Karen Gregory,

Assistant Secretary.

[FR Doc. 04–18727 Filed 8–16–04; 8:45 am]

BILLING CODE 6730–01–P

[1] Complainant references section 10(d)(3) of the Shipping Act of 1984, 46 U.S.C. app. section 1709(d)(3), which applies sections 10(b)(10) and 10(b)(13) to marine terminal operators.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 31, 2004.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. William Ray Harris, Sr., Jean Wright Harris, Michael Wesley Harris, Florence

Diane Harris, Austin Ray Harris, Clayton Moore Harris, Matthew Wesley Harris, William Ray Harris, Jr., William Otis Hundley, Jr., Sandra Harris Hundley, and Joshua James Spain, all of Mineral, Virginia, as a group; to acquire voting shares of Peoples Bank of Virginia, Richmond, Virginia.

B. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. James Bernard Cantrelle, Raceland, Louisiana, Albert Anthony Cheramie, Golden Meadow, Louisiana, Huey Joseph Cheramie, Cut Off, Louisiana, Eldon Joseph Frazier, Cut Off, Louisiana, and Walter Harold Maples, Grand Isle, Louisiana, to acquire additional voting shares of SBT Bancshares, Inc., and thereby indirectly acquire additional voting shares of State Bank & Trust Company, both of Golden Meadow, Louisiana.

Board of Governors of the Federal Reserve System, August 11, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–18753 Filed 8–16–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 10, 2004.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Cass Information Systems, Inc., Bridgeton, Missouri; to acquire Franklin Bancorp, and thereby indirectly acquire Franklin Bank of California, both in Orange, California, pursuant to section 225.28(b)(4)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, August 11, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–18752 Filed 8–16–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, August 23, 2004.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, August 13, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–18940 Filed 8–13–04; 1:37 pm]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Nominations Requested/Open for the 2004 Secretary's Innovation in Prevention Awards

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) seeks nominations of public and private sector organizations to support the 2004 Secretary's Innovation in Prevention Awards Initiative. This activity is part of a broader Departmental initiative called Steps to a Healthier U.S. that advances President George W. Bush's HealthierUS goal of helping Americans live longer, better and healthier lives. The Secretary's Innovation in Prevention Awards Initiative will identify and celebrate outstanding organizations that have implemented innovative and creative chronic disease prevention and health promotion programs. To be nominated, a program must address at least one of the following risk factors: (1) Obesity; (2) Physical activity; and (3) Nutrition.

The Department intends that these awards will provide an opportunity to increase public awareness of creative approaches to develop and expand innovative health programs and duplication of successful strategies.

Awards will be given in the following categories:

- Faith-Based
- Health Care Delivery
- Healthy Workplace
  - Large Employer >500 employees
  - Small Employer <500 employees
- Non-Profit
- Media
- Public Sector
- Schools (K–12)

The following criteria will be taken into consideration upon review:

- Creativity/Innovation
- Leadership
- Sustainability
- Replicability
- Effectiveness
- Receipt of national award(s)

DATES: Nominations must be received by 5 p.m. e.d.t., September 3, 2004.

Nominations: Partnership for Prevention, a 501(c)3 focused on health promotion, is handling all Innovation in Prevention Award nominations on behalf of the Department. To nominate a program send an e-mail to: *2004InnovationAwards@prevent.org*. Include your name, organization, award category, and contact information in the

text of the message. For more information, contact Partnership for Prevention (202) 833–0009 ext. 112. Partnership for Prevention may request additional information if necessary.

SUPPLEMENTARY INFORMATION: HHS is the U.S. government's principal agency for promoting and protecting the health of all Americans. HHS manages many programs, covering a broad spectrum of health promotion and disease prevention services and activities. Leaders in the business community, State and local government officials, tribes and tribal entities and charitable, faith-based, media, and community organizations have expressed an interest in working with the Department to promote healthy choices and behaviors. The Secretary welcomes this interest. With this notice, the Secretary outlines opportunities for these and other entities to nominate potential awardees, in order to identify and celebrate outstanding organizations that have implemented innovative and creative chronic disease prevention and health promotion programs.

Dated: August 12, 2004.

Penelope Royall,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, Office of Public Health and Science.

[FR Doc. 04–18954 Filed 8–6–04; 2:21 pm]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Community Services Block Grant Community Economic Development Public Markets

AGENCY: Administration for Children and Families, Office of Community Services.

Announcement Type: Competitive Grant-Initial.

Funding Opportunity Number: HHS–2004-ACF-OCS-IP–0029.

CFDA Number: 93.570.

DATES: Applications are due September 16, 2004.

I. Funding Opportunity Description

The Community Services Block Grant (CSBG) Act of 1981, as amended, (Section 680 of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998), authorizes the Secretary of the U.S. Department of Health and Human Services (HHS) to make grants to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities. Pursuant to this announcement, the Office of community Services (OCS) will award grants to Community Development Corporations (CDCs) to expand or create public markets. CDCs should ideally have in place written commitments for at least 50 percent of non-CED funding, a business plan, and site control for the market. Low income beneficiaries of these projects include those who are determined to be living in poverty as determined by the HHS Guidelines on Poverty (*See* Appendix A). They may be unemployed, on public assistance, including Temporary Assistance for Needy Families (TANF), are at risk teenagers, custodial and non-custodial parents, public housing residents, persons with disabilities and persons who are homeless.

The public markets priority area is designed to encourage rural and urban community development corporations to create projects intended to provide employment and business development opportunities for low-income people through public markets.

Applicants must address development or expansion of a market both from the perspective of the business of operating a public market and of providing development services to vendors, who will be micro entrepreneurs or small business owners. Development services to vendors include training on business planning, marketing, accounting, legal issues including licensure, micro-loans, *etc.* New, start-up markets seeking capital funding from OCS must have their business and work plans in place or close to finalization, have at least 50 percent non-CED funding in place, and have site control.

The establishment of viable public markets is the expected outcome of funding under this announcement. These public markets must demonstrate benefits for vendors and their employees. This includes the number of new businesses created or expanded and the numbers of jobs created. Public market benefits are also expected to impact the communities and CDCs must develop measures to demonstrate this impact. Communities served include low income communities and communities undergoing demographic shifts; *i.e.*, there may be appropriate cases where public markets are in or proximate to a distressed community, but in a location where customer draw can be more diverse and thus make the market more likely to be economically sustainable.

In addition to an economic development capability, the public market may contain a non-profit community or public agency space for human services delivery, which might include faith-based and other organizations that provide education, training, and resources for developing healthy lifestyles, relationships, marriages, and families. Other community services to be provided might include general medical testing (diabetes, blood pressure, *etc.*) and referrals for child care, nutrition services, and counseling.

By improving the economic and social status of low income individuals and their families, Public Markets can reduce poverty and the need for TANF assistance by giving a sense of ownership over one's life. This fosters a liberating internal sense of fulfillment and balance, which nourishes positive and constructive attitudes, behaviors, and moral character traits that build and stabilize healthy relationships, marriages, families, and communities.

Project Goals

CED projects should further HHS goals of strengthening American marriages and families and promoting their self-sufficiency, and ACF goals of promoting healthy families in healthy communities. The CED Program is particularly directed toward public-private partnerships that develop employment and business development opportunities for low-income people and revitalize distressed communities. By providing access to opportunity, CED projects help build economic and social capital in low income individuals, and thereby help stabilize and strengthen relationships, marriages, families, and produce healthier environments for children. Public Markets have a unique role in building healthier, more prosperous and diverse communities, and therefore also serve as a useful-if not essential-tool for strengthening the safety of neighborhoods, towns, cities, states, and the nation as a whole.

Although there is no cost sharing or matching requirement for this program, most public market projects require significant funding in addition to Federal CED funds so applicants are strongly encouraged to mobilize the resources needed for a successful project. The ability to mobilize resources is considered in evaluating the feasibility of a proposal. Please note that ash resources such as cash or loans contributed from all project sources (except for those contributed directly by the applicant) must be documented by letters of commitment from third parties making the contribution. Further, the

value of in-kind contributions for personal property is documented by an inventory valuation for equipment and a certified appraisal for real property and a copy of a deed or other legal documents are required for real property. Please note that anticipated or projected program income such as gross or net profits from the project or business operations will not be recognized as mobilized or contributed resources.

Applicants are strongly encouraged to provide adequate source documentation proving sufficiency of sound financial management systems such as a signed statement from a Certified or Licensed Public Accountant as to the sufficiency of the applicant CDC's financial management system and/or financial statements for the CDC for the prior three years. If such statements are not available because the CDC is a newly formed entity, the application can include a statement to this effect, "CDC grantees are responsible for ensuring that all grant funds are expended in compliance with applicable federal regulations and Federal Office of Management Budget Circulars".

Project Scope

Projects must result in the creation of new businesses and jobs. Each applicant must describe the project scope including the low-income community to be served, business activities to be undertaken, and the types of jobs to be created.

Business Plan

Applications are strongly encouraged to submit a business plan. This business plan covers the development or expansion of the market, not the individual business plans of vendors.

The ability to demonstrate an effective business plan that outlines a successful business venture and/or economic development project will be closely reviewed and evaluated by an expert review panel, OCS, and OGM. Please *see* Section V.I Evaluation Criteria for specific criterion related to the business plan. Ideally, strong business plans should address all the relevant elements as follows:

(1) Executive Summary (limit to 2 pages).

(2) Description of the business: The business as a legal entity and its general business category. Business activities must be described by Standard Industrial Codes (SIC) using the North American Industry Classification System (NAICS) and jobs by occupational classification. This information is published by the U. S. Department of Commerce in the Statistical Abstract of the United States, 1998, Tables No. 679 and 680. These tables include information necessary to meet this requirement.

(3) Description of the industry, current status and prospects.

(4) Products and Services, including detailed descriptions of:

(a) Products or services to be sold;

(b) Proprietary position of any of the products, *e.g.*, patents, copyright, trade secrets;

(c) Features of the product or service that may give it an advantage over the competition;

(5) Market Research: This section describes the research conducted to assure that the business has a substantial market to develop and achieve sales in the face of competition. This includes researching:

(a) Customer base: Describe the actual and potential purchasers for the product or service by market segment.

(b) Market size and trends: Describe the site of the current total market for the product or service offered;

(c) Competition: Provide an assessment of the strengths and weaknesses of the competition in the current market;

(d) Estimated market share and sales: Describe the characteristics of the product or service that will make it competitive in the current market;

(6) Marketing Plan: The marketing plan details the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan addresses overall marketing, strategy, packaging, service and warranty, pricing, distribution and promotion.

(7) Design and Development Plans: If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, describe the nature, extent and cost of this work. The section covers items such as development status and tasks, difficulties and risks, product improvement and new products and costs.

(8) Operations Plan: An operations plan describes the kind of facilities, site location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

(9) Management Team: This section describes the technical, managerial and business skills and experience to be brought to the project. This is a description of key management personnel and their primary duties; compensation and/or ownership; the organizational structure and placement of this proposed project within the organization; the board of directors; management assistance and training needs; and supporting professional services.

(10) Overall Schedule: This section is the implementation plan which shows the timing and interrelationships of the major events or benchmarks necessary to launch the venture and realize its objectives. This includes a month-by-month schedule of activities such as product development, market planning, sales programs, production and operations. If the proposed project is for construction, this section lays out timeframes for conduct of predevelopment, architectural, engineering and environmental and other studies, and acquisition of permits for building, use and occupancy that are required for the project.

(11) Business and Job Creation: This section describes the business development and job creation activities and projections expected as a result of this project. This includes a description of the strategy that will be used to identify and hire individuals who are low-income, including those on TANF. This section includes the following:

(a) The number of permanent jobs that will be created during the project period, with particular emphasis on jobs for low-income individuals.

(b) The number of new businesses and/or jobs that will be filled by low-income individuals (this must be at least 60 percent of all jobs created).

(c) For low-income individuals who become self-employed, the number of self-employed and other ownership opportunities created; specific steps to be taken including on going management support and technical assistance provided by the grantee or a third party to develop and sustain self-employment after the businesses are in place; and expected net profit after deductions of business expenses;

Note: OCS will not recognize job equivalents nor job counts based on economic multiplier functions; jobs must be specifically identified.

(12) Financial Plan: The financial plan demonstrates the economic supports underpinning the project. It shows the project's potential and the timetable for financial self-sufficiency. The following exhibits must be submitted for the first two years of the public market's operation:

(a) Profit and Loss Forecasts—quarterly for each year;

(b) Cash Flow Projections—quarterly for each year;

(c) Pro forma balance sheets—quarterly for each year;

(d) Sources and Use of Funds Statement for all funds available to the project;

(e) Brief summary discussing any further capital requirements and methods or projected methods for obtaining needed resources.

(13) Critical Risks and Assumptions: This section covers the risks faced by the project and assumptions surrounding them. This includes a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product or service market appeal, and the timing and financing of the venture.

(14) Community Benefits: This section describes other economic and non-economic benefits to the community such as development of a community's physical assets; provision of needed, but currently unsupplied, services or products to the community; or improvement in the living environment.

Work Plan

In addition to the ability to demonstrate an effective business plan, applicants will also be evaluated on the extent to which they demonstrate an effective work plan. Please *see* Section V.I Evaluation Criteria for specific criterion related to the work plan. Ideally, an applicant should include a detailed work plan that covers the activities to be undertaken and benchmarks that illustrate progress toward stated goals and measurable objectives.

Third Party Agreements

Applicants that propose to use some or all of the requested CED funds to enter into a third party agreement in order to make an equity investment, such as the purchase of stock or a loan to an organization or business entity (including a wholly-owned subsidiary), are required to submit the signed Third Party Agreement in the application, along with the business plan, for approval by OCS.

It should be noted that the portion of a grant that will be used to fund project activities related to a third party agreement will not be released until the agreement has been approved by OCS.

All third party agreements must include written commitments as follows: From third party (as appropriate): (1) Low-income individuals will fill a minimum of 60 percent of the jobs to be created from project activities as a result of the injection of grant funds. (2) The grantee will have the right to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility. (3) If the grantee's equity investment equals 25 percent or more of the business' assets, the grantee will have representation on the board of directors. (4) Reports will be made to the grantee regarding the use of grant funds on a quarterly basis or more frequently, if necessary. (5) Procedures will be developed to assure that there are no duplicate counts of jobs created. (6) That the third party will maintain documentation related to the grant objectives as specified in the agreement and will provide the grantee and HHS access to that documentation. From the grantee: (1) Detailed information on how the grantee will provide support and technical assistance to the third party in areas of recruitment and retention of low-income individuals. (2) How the grantee will provide oversight of the grant-supported activities of the third party for the life of the agreement. Detailed information must be provided on how the grant funds will be used by the third party by submitting a Sources and Uses of Funds Statement.

A third party agreement covering an equity investment must contain, at a minimum, the following: (1) Purpose(s) for which the equity investment is being made. (2) The type of equity transaction (*e.g.* stock purchase). (3) Cost per share and basis on which the cost per share is derived. (4) Number of shares being purchased. (5) Percentage of CDC ownership in the business. (6) Term of duration of the agreement. (7) Number of seats on the board, if applicable. (8) Signatures of the authorized officials of the grantee and third party organization.

A third party agreement covering a loan transaction must contain, at a minimum, the following information: (1) Purpose(s) for which the loan is being made. (2) Interest rates and other fees. (3) Terms of the loan. (4) Repayment schedules. (5) Collateral security. (6) Default and collection procedures. (7) Signatures of the authorized officials of the lender and borrower.

Evaluation Plan

Applications must include provision for an independent and methodologically sound evaluation of the effectiveness of the activities carried out with the grant and their efficacy in creating new jobs and business ownership opportunities. There must be a well-defined process evaluation, and an outcome evaluation whose design will permit tracking of project participants throughout the proposed project period. The evaluation must be conducted by an independent evaluator, *i.e.*, a person with recognized evaluation skills who is organizationally distinct from, and not under the control of, the applicant. It is important that each successful applicant have a third-party evaluator selected, and implement their role at the very latest by the time the work program of the project is begun, and if possible before that time so that he or she can participate in the design of the program, in order to assure that data necessary for the evaluation will be collected and available.

Definitions of Terms

The following definitions apply:

Beneficiaries—Low-income individuals (as defined in the most recent annual revision of the Poverty Income Guidelines published by the U.S. Department of Health and Human Services) who receive direct benefits and low-income communities that receive direct benefits.

Budget Period—The time interval into which a grant period is divided for budgetary and funding purposes.

Business Start-up Period—Time interval within which the grantee completes preliminary project tasks. These tasks include but are not limited to assembling key staff, executing contracts, administering lease out or build-out of space for occupancy, purchasing plant and equipment and other similar activities. The Business Start-Up Period typically takes three to six months from the time OCS awards the grant or cooperative agreement.

Cash contributions—The recipient's cash outlay, including the outlay of money contributed to the recipient by the third parties.

Community Development Corporation (CDC)—A private non-profit corporation governed by a board of directors consisting of residents of the community and business and civic leaders, which has as a principal purpose planning, developing, or managing low-income housing or community development activities.

Community Economic Development (CED)—A process by which a community uses resources to attract capital and increase physical, commercial, and business development, as well as job opportunities for its residents.

Construction projects—Projects that involve land improvements and development or major renovation of (new or existing) facilities and buildings, fixtures, and permanent attachments.

Developmental/Research Phase—The time interval during the Project Period that precedes the Operational Phase. Grantees accomplish preliminary activities during this phase including

establishing third party agreements, mobilizing monetary funds and other resources, assembling, rezoning, and leasing of properties, conducting architectural and engineering studies, constructing facilities, *etc.*

Displaced worker—An individual in the labor market who has been unemployed for six months or longer.

Distressed community—A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

Employment education and training program—A program that provides education and/or training to welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals and that has demonstrated organizational experience in education and training for these populations.

Empowerment Zone and Enterprise Community Project Areas (EZ/EC)—Urban neighborhoods and rural areas designated as such by the Secretaries of Housing and Urban Development and Agriculture.

Equity investment—The provision of capital to a business entity for some specified purpose in return for a portion of ownership using a third party agreement as the contractual instrument.

Faith-Based Community Development Corporation—A community development corporation that has a religious character.

Hypothesis—An assumption made in order to test a theory. It should assert a cause-and-effect relationship between a program intervention and its expected result. Both the intervention and its result must be measured in order to confirm the hypothesis. The following is a hypothesis: "Eighty hours of classroom training will be sufficient for participants to prepare a successful loan application." In this example, data would be obtained on the number of hours of training actually received by participants (the intervention), and the quality of loan applications (the result), to determine the validity of the hypothesis (that eighty hours of training is sufficient to produce the result).

Intervention—Any planned activity within a project that is intended to produce changes in the target population and/or the environment and that can be formally evaluated. For example, assistance in the preparation of a business plan is an intervention.

Job creation—New jobs, *i.e.* jobs not in existence prior to the start of the project, that result from new business start-ups, business expansion, development of new services industries, and/or other newly-undertaken physical or commercial activities.

Job placement—Placing a person in an existing vacant job of a business, service, or commercial activity not related to new development or expansion activity.

Letter of commitment—A signed letter or agreement from a third party to the applicant that pledges financial or other support for the grant activities contingent only on OCS accepting the applicant's project proposal.

Loan—Money lent to a borrower under a binding pledge for a given purpose to be repaid, usually at a stated rate of interest and within a specified period.

Non-profit Organization—An organization, including faith-based and community-based, that provides proof of non-profit status described in the "Additional Information on Eligibility" section of this announcement.

Operational Phase—The time interval during the Project Period when businesses, commercial development or other activities are in operation, and employment, business development assistance, and so forth are provided.

Outcome evaluation—An assessment of project results as measured by collected data that define the net effects of the interventions applied in the project. An outcome evaluation will produce and interpret findings related to whether the interventions produced desirable changes and their potential for being replicated. It should answer the question: Did this program work?

Poverty Income Guidelines—Guidelines published annually by the U.S. Department of Health and Human Services that establish the level of poverty defined as low-income for individuals and their families. The guideline information is posted on the Internet at the following address: *http://www.hhs.aspe.gov/poverty/*

Process evaluation—The ongoing examination of the implementation of a program. It focuses on the effectiveness and efficiency of the program's activities and interventions (for example, methods of recruiting participants, quality of training activities, or usefulness of follow-up procedures). It should answer the questions such as: Who is receiving what services and are the services being delivered as planned? It is also known as formative evaluation, because it gathers information that can be used as a management tool to improve the way a program operates while the program is in progress. It should also identify problems that occurred, how the problems were resolved and what recommendations are needed for future implementation.

Pre-Development Phase—The time interval during the Project Period when an applicant or grantee plans a project, conducts feasibility studies, prepares a business or work plan and mobilizes non-OCS funding.

Program income—Gross income earned by the grant recipient that is directly generated by an activity supported with grant funds.

Project Period—The total time for which a project is approved for OCS support, including any approved extensions.

Revolving loan fund—A capital fund established to make loans whereby repayments are re-lent to other borrowers.

Self-employment—The employment status of an individual who engages in self-directed economic activities.

Self-sufficiency—The economic status of a person who does not require public assistance to provide for his/her needs and that of his/her immediate family.

Sub-award—An award of financial assistance in the form of money, or property, made under an award by a recipient to an eligible sub-recipient or by a sub-recipient to a lower tier sub-recipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of "award" in 45 CFR Part 74.

Technical assistance—A problem-solving event generally using the services of a specialist. Such services may be provided on-site, by telephone or by other communications. These services address specific problems and are intended to assist with immediate resolution of a given problem or set of problems.

Temporary Assistance for Needy Families (TANF)—The Federal block grant program authorized in Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193). The TANF program transformed "welfare" into a system that requires work in exchange for time-limited assistance.

Third party—Any individual, organization or business entity that is not the direct recipient of grant funds.

Third party agreement—A written agreement entered into by the grantee and an organization, individual or business entity (including a wholly owned subsidiary), by which the grantee makes an equity investment or a loan in support of grant purposes.

Third party in-kind contributions—Non-cash contributions provided by non-Federal third parties. These

contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and especially identifiable to the project or program.

II. Award Information

Funding Instrument Type: Grant.
Anticipated total priority area funding: $1,000,000.
Anticipated number of awards: 4–6 per project period.
Ceiling of Individual Awards: $250,000 per project period.
Floor on amount of individual awards: None.
Average Projected Award Amount: $250,000 per project period.
Project Periods for Awards: Applications for projects that are exclusively construction, major alteration or renovation may request a budget and project period up to 2 years. Applications for non-construction projects may request a budget and project period up to 17 months.

III. Eligibility Information

1. Eligible Applicants

Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher education and Nonprofits that do not have a 501(c)(3) status with the IRS, other than institutions of higher education.

Faith-based organizations are eligible to apply for these grants.

Additional Information on Eligibility: Applicants must demonstrate proof of non-profit status and this proof must be included in their applications (*see* section IV. 2). Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

In addition to demonstrating proof of non-profit status, applicants must also demonstrate proof of CDC status. This proof must be included in their applications. Proof of CDC status is any one of the following:

- A list of governing board members along with their designation as a community resident or business or civic leader; and
- Documentation that the applicant organization has as a primary purpose planning, developing or managing low-income housing or community development activities. This documentation may include incorporation documents or other official documents that identify the organization.

Applicants are cautioned that the ceiling for individual awards is $250,000. An application that exceeds the upper value of the dollar range specified will be considered "non-responsive" and will be returned to the applicant without further review.

2. Cost Sharing or Matching

None.

3. Other

On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003. Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com*.

Applications are cautioned that the ceiling for individual awards is $250,000. Applications exceeding the $250,000 threshold will be considered non-responsive and returned without review.

Applications that fail to submit proof of non-profit status with their applications will be considered non-responsive and returned without review.

Applications that fail to submit proof of CDC status with their applications will be considered non-responsive and returned without review.

IV. Application and Submission Information

IV.1. Address To Request Application Package

Office of Community Services, Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, e-mail: *ocs@lcgnet.com*, Telephone: (800) 281–9519.

URL to Obtain an Application Package: *http://www.acf.hhs.gov/programs/ocs*.

IV.2. Content and Form of Application Submission

This subsection provides detailed instructions for developing the application. Please *see* Section V "Application Review Information" for additional relevant information.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the *http://www.grants.gov site*. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number to register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurance and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.

• After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.

• We may request that you provide original signatures on forms at a later date.

• You may access the electronic application for this program on *http://www.Grants.gov*. You must search for the downloadable application package by the CFDA number.

Application Content

Each application must include the following components:

Proof of Non-Profit Status—Documentation about the applicant agency's non-profit status. Please include any one of the following:

• A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

• A copy of a currently valid IRS tax exemption certificate.

• A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

• A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

• Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Proof of Status as Private Non-Profit Community Development Corporation—Proof of status as a CDC. Please include any one of the following:

• A list of governing board members along with their designation as a community resident or business or civic leader; and

• Documentation that the applicant organization has as a primary purpose planning, developing or managing low-income housing or community development activities. This documentation may include incorporation documents or other official documents that identify the organization.

Abstract of the Proposed Project—One or two paragraphs, not to exceed 350 words, that describe the community in which the project will be implemented, beneficiaries to be served, type(s) of business(es) to be developed, type(s) of jobs to be created, projected cost-per-job, any land or building to be purchased or building constructed, resources leveraged and intended impact on the community.

Completed Standard Form 424—That has been signed by an official of the organization applying for the grant who has legal authority to obligate the organization. Under Box 11. indicate the Priority Area for which the application is written.

Standard Form 424A—Budget Information—Non-Construction Programs.

Standard Form 424B—Assurances—Non-Construction Programs.

Narrative Budget Justification—For each object class category required under Section B, Standard Form 424A.

Applicants are encouraged to use job titles and not specific names in developing the application budget. However, the specific salary rates or amounts for staff positions identified must be included in the application budget.

Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers. The copies may include summary salary information.

Project Narrative—A narrative that addresses issues described in the "Application Review Information" and the "Review and Selection Criteria" sections of this announcement.

Evaluation Plan—Description of an independent, methodologically sound evaluation of the effectiveness of the activities carried out with the grant and the organization's efficacy in creating new jobs and business ownership opportunities. Please *see* Section I. Funding Opportunity Description for additional information on preparing the Evaluation Plan.

Third Party Agreement (if applicable)—Applicants that propose to use some or all of the requested CED funds to enter into a third party agreement in order to make an equity investment, such as the purchase of stock or a loan to an organization or business entity (including a wholly-owned subsidiary), are required to submit the signed Third Party Agreement in the application, along with the business plan, for approval by OCS. Please *see* Section I. Funding Opportunity Description for additional guidance in preparing the Third Party Agreement.

Application Format

Submit application materials on white 8½ x 11 inch paper only. Do not use colored, oversized or folded materials.

Do not include organizational brochures or other promotional materials, slides, films, clips, *etc.*

The font size may be no smaller than 12 pitch and the margins must be at least one inch on all sides.

Number all application pages sequentially throughout the package, 60 pages max, beginning with the abstract of the proposed project as page number one.

Present application materials either in loose-leaf notebooks or in folders with pages two-hole punched at the top center and fastened separately with a slide paper fastener.

Each application should include one signed original and two additional copies.

Page Limitation

The application package including sections for the Table of Contents, Project Abstract, Project and Budget Narratives, must not exceed 60 double spaced pages. The page limitation does not include Standard Forms and Assurances, Certifications, Disclosures, appendices and any supplemental documents as required in this announcement.

An application that exceeds the page limitation specified will be considered "non-responsive" and will be returned to the applicant without further review.

Required Standard Forms

Applicants must submit a signed Standard Form 424, Application for Federal Assistance, Standard Form 424A Budget Information—Non-Construction Projects, and Standard Form 424B, "Assurances: Non-Construction Programs."

Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification of their compliance with all Federal statutes relating to non-

discrimination. Applicants provide certification by signing the SF424 and need not mail back the certification with the application.

Applicants must make the appropriate certification of their compliance with the requirements of the Pro-Children Act of 1994 as outlined in Certification Regarding Environmental Tobacco Smoke. Applicants provide certification by signing the SF424 and need not mail back the certification with the application.

Private, non-profit organizations are encouraged to submit with their applications the survey located under "Grant Related Documents and Forms" titled "Survey for Private, Non-Profit Grant Applicants." The forms are located on the Web at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

IV.3. Submission Dates and Times

The closing time and date for receipt of applications is 4:30 p.m. (Eastern Standard Time) on September 16, 2004. Mailed or hand carried applications received after 4:30 p.m. on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., e.s.t., at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note: "Attention: Office of Community Services Operations Center." Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Late applications: Applications that do not meet the criteria above will be considered late applications. ACF will notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, *etc.*) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

Required Forms:

What to submit	Required content	Required form or format	When to submit
Table of Contents	A numbered list of key parts of the application.	Consistent with guidance in Section IV. Content and Form of Application Submission.	By application due date.
Project Summary/Abstract	Very brief narrative that identifies the type of project, the target population and the major elements of the work plan.	Consistent with guidance in Section IV. Content and Form of Application Submission.	By application due date.
Objectives and Needs for Assistance	Narrative that describes the economic situation and needs of residents of the target neighborhood(s) and the comprehensive community building or neighborhood transformation effort that is planned or currently underway in that neighborhood.	Consistent with guidance in Section IV. Content and Form of Application Submission and Section V. Evaluation Criteria.	By application due date.
Results or Benefits Expected	Narrative that identifies the results and benefits to be derived. For example, the number of new jobs that will be targeted for residents.	Consistent with Section IV. Content and Form of Application Submission and Section V. Evaluation Criteria.	By application due date.
Approach	Overall Project Work Plan	Consistent with Section IV. Content and Form of Application Submission and Section V. Evaluation Criteria.	By application due date.
Organizational Profile	Description of organizational ability	Consistent with guidance in Section IV. Content and Form of Application Submission and Section V. Evaluation Criteria.	By application due date.
Budget and Budget Justification	Budget information including: (a) Narrative budget justification; (b) Completed Standard Form 424; (c) Completed Standard Form 424A.	Consistent with guidance in Section IV. Content and Form of Application Submission and Section V. Evaluation Criteria. Required Standard Forms are posted on the Internet at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Evaluation Plan	Description of the plan to assess project outcomes.	Consistent with guidance in Section I. Funding Opportunity Description and Section IV. Content and Form of Application submission.	By application due date.

What to submit	Required content	Required form or format	When to submit
Third-party Agreement (if applicable)	Agreement with third party for equity investments.	Consistent with guidance in Section I. Funding Opportunity Description Section and Section IV. Content and Form of Application submission.	By application due date.
Certification regarding lobbying	As per required form	Required Standard Forms are posted on the Internet at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.
Certification regarding environmental tobacco smoke.	As per required form	Required Standard Forms are posted on the Internet at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*	By application due date.

Additional Forms: Private-non-profit organizations may submit with their applications the additional survey located under "Grant Related Documents and Forms" titled "Survey for Private, Non-Profit Grant Applicants".

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/form.htm.*	By application due date.

IV.4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. As of June 20, 2001, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming have elected not to participate in the Executive Order process and have established Single Point of Contacts (SPOCs). Applicants from these twenty-five jurisdictions need take no action regarding Executive Order 12372.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them about the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

Comments should be submitted directly to Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Aerospace Building—4th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included with the application materials for this announcement.

IV.5. Funding Restrictions

Cost Per Job

OCS will not fund projects with a cost-per-job in CED funds that exceeds $10,000. An exception will be made if the project includes purchase of land or a building, or major renovation or construction of a building. In this instance, the applicant must explain the factors that raise the cost beyond $10,000. In no instance, will OCS allow for more than $15,000 cost-per-job in CED funds. Cost per job is calculated by dividing the amount of funds requested by the number of jobs to be created.

National Historic Preservation Act

If an applicant is proposing a project which will affect a property listed in, or eligible for, inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the National Historic Preservation Act of 1996, as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant must consult with the State Historic Preservation Officer and describe in the narrative the content of such consultation.

Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant.

The applicant must have a substantive role in the implementation of the project for which funding is requested. This prohibition does not bar the making of sub-grants or sub-contracting for specific services or activities needed to conduct the project.

Number of Projects in Application

Except for the retail development initiative under Priority Area 1. Operational Projects, each application may include only one proposed project.

Prohibited Activities

OCS will not consider applications that propose to establish Small Business Investment Corporations or Minority Enterprise Small Business Investment Corporations.

OCS will not fund projects that are primarily education and training projects. In projects where participants must be trained, any funds proposed for training must be limited to specific job-related training to those individuals who have been selected for employment in the grant supported project. Projects involving training and placement for existing vacant positions will be disqualified from competition.

OCS will not fund projects that would result in the relocation of a business from one geographic area to another resulting in job displacement.

Pre-award costs will not be covered by an award.

IV.6. Other Submission Requirements

Submission by Mail: An Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 4:30 p.m. eastern standard time on or before the closing date. Applications should be mailed to: Department of Health and Human Services (HHS), Administration for Children and Families, Office of Community Services Operations Center, 1815 Fort Meyer Drive, Suite 300, Arlington, Virginia 22209.

For Hand Delivery: Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 4:30 p.m. eastern standard time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m., Monday through Friday. Applications may be delivered to: Department of Health and Human Services (HHS), Administration for Children and Families, Office of Community Services Operations Center, 1815 Fort Meyer Drive, Suite 300, Arlington, Virginia 22209. It is strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

V. Application Review Information

1. Criteria

Instructions: ACF Uniform Project Description (UPD)

The following are instructions and guidelines on how to prepare the "project summary/abstract" and "Full Project Description" sections of the application. The generic UPD requirement is followed by the evaluation criterion specific to the Community Economic Development National Philanthropic Institution Projects program. Public Reporting for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection information.

The project description is approved under OMB Control Number 0970–0139 which expires 4/30/2007.

An agency may nor 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.

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria. The text options give a broad overview of what your project description should include while the evaluation criteria identifies the measures that will be used to evaluate applications.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. Explain how the project will reach the targeted population and how it will benefit participants or the community.

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in, for example, such terms as the "number of people served." When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Evaluation

Provide a narrative addressing how the results of the project and the conduct of the project will be evaluated. In addressing the evaluation of results, state how you will determine the extent to which the project has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the project. Discuss the criteria to be used to evaluate results, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of the project, define the procedures to be employed to determine whether the project is being conducted in a manner consistent with the work plan presented and discuss the impact of the project's various activities on the project's effectiveness.

Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports, statements from CPA's/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information.

The non-profit agency can accomplish this by providing: (a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code Section 501(c)(3) of the IRS code; (b) a copy of the currently valid IRS tax exemption certificate; (c) a statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals; (d) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, (e) any of the items immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. Also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

2. Evaluation Criteria

Criteria for Review and Evaluation of Applications Submitted Under Priority Area 1—Operational Projects

Evaluation Criterion I: Approach (Maximum: 35 Points)

- a(1). The extent to which the project describes the proposed public market and types of vendors and products and services to be sold. (0–3)
- a(2). The extent to which the application documents the market research and marketing plan for the project. (0–2)
- a(3). The extent to which the operations plan and schedule document a timeline and benchmarks providing for completion of the project within two years. (0–10)

b. The extent to which the applicant demonstrates they have firm site control. (0–5)

c. The extent to which the applicant demonstrates their executed third party agreements meet the requirements set forth above. (0–5)

d. The extent to which the applicant demonstrates their required financial documents are contained in the application, and clearly describe proposed use of CED funds and demonstrate that the project is viable. (0–10)

Evaluation Criterion II: Organizational Profiles (Maximum: 20 Points)

a. Organizational profile: The extent to which the applicant demonstrates that it has the management capacity, organizational structure and successful record of accomplishment relevant to business development, commercial development, physical development, and/or financial services and that it has the ability to mobilize other financial and in-kind resources. (0—10 points)

b. Staff skills, resources and responsibilities: The extent to which the application describes in brief resume form the experience and skills of the project director who is not only well qualified, but whose professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description that indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The extent to which the applicant has adequate facilities and resources (*i.e.* space and equipment) to successfully carry out the work plan. (0–3 points)

The extent to which the assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–2 points)

Evaluation Criterion III: Results or Benefit Expected (Maximum: 15 Points)

a. Results or Benefits Expected: The extent to which the applicant proposes to produce permanent and measurable results including, but not limited to, employment and business ownership opportunities for low income individuals and their families. (0–8 points)

b. Community empowerment and coordination: The extent to which the applicant provides documentation that it is an active partner in either a new or on-going comprehensive community revitalization project such as: a federally-designated Empowerment Zone, Enterprise Community or Renewal Community project that has clear goals of strengthening economic and human development in target neighborhoods; a State or local-government supported comprehensive neighborhood revitalization project; or a private sector supported community revitalization project. (0-2 points)

c. Cost-per-job: The extent to which the applicant indicates that during the project period, the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job not to exceed $10,000 in OCS funds unless the project involves purchase of land or building or construction or significant renovation in

which instance the cost per job may not exceed $15,000. (0–5 points)

Evaluation Criterion IV: Objectives and Need for Assistance (Maximum: 10 Points)

The extent to which the applicant shows and documents that the project addresses a vital need in a distressed community. "Distressed community" is defined as a geographic urban neighborhood or rural community with high unemployment and pervasive poverty. The application documents that both the unemployment rate and poverty level for the targeted neighborhood or community must be equal to or greater than the state or national level. (0–5 points)

The extent to which the application cites the most recent available statistics from published sources *e.g.* the recent U.S. Census or updates, the State, county, city, election district and other information are provided in support of its contention. (0–2 points)

The extent to which the application shows how the project will respond to stated need. (0–3 points)

Evaluation Criterion V: Project Evaluation (Maximum: 5 Points)

a. The extent to which the applicant provides a well thought through outline of an evaluation plan that identifies the principal cause-and-effect relationships to be tested, and that demonstrates the applicant understands of the role and purpose of both process and outcome evaluations. (0–3 points)

b. The extent to which the application provides the identity and qualifications of the proposed third-party evaluator, of if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating community development programs, and the planning and/or evaluation of programs designed to foster self-sufficiency in low-income populations. (0–2 points)

Evaluation Criterion VI: Public-Private Partnerships (Maximum: 10 Points)

a. Mobilization of resources: The extent to which the applicant shows through documentation that it has mobilized from public and/or private sources the proposed balance of non-CED funding required to fully implement the project. Lesser contributions will be given consideration based upon the value documented. (0–5 points)

b. Integration/coordination of services: The extent to which the applicant demonstrates a commitment to, or agreements with, local agencies responsible for administering child support enforcement, employment education, and training programs to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals, and low-income custodial and non-custodial parents will be trained and placed in the newly created jobs. The extent to which the applicant provides written agreements from the local TANF or other employment education and training offices, and child support enforcement agency indicating what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. (0–3 points)

The extent to which the agreement shows: (1) The goals and objectives that the applicant and the TANF or other employment education and training offices and/or child support enforcement agency expect to achieve through their collaboration; (2) the specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the target population that this collaboration will serve; (4) the mechanism(s) to be used in integrating/coordinating activities; (5) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (6) how those activities will be significant in relation to their impact on the success of the OCS-funded project. (0–2 points)

Evaluation Criterion VII: Budget and Budget Justification (Maximum: 5 Points)

a. The extent to which the application shows that the funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. (0–2 points)

b. The extent to which the application includes a detailed budget breakdown and a narrative justification for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. (0–2 points)

c. The extent to which the application shows that the estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–1 point)

V.2. Review and Selection Process

OCS Evaluation of Applications

Applications that pass the initial OCS screening or conformity with the "Eligibility" and "Content and Form of Application Submission" requirements will be reviewed and rated by a panel based on the program elements and review criteria presented in relevant sections of this program announcement.

The review criteria are designed to enable the review panel to assess the quality of a proposed project and determine the likelihood of its success. The criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. The review panel awards points only to applications that are responsive to the program elements and relevant review criteria within the context of this program announcement.

The OCS Director and the program staff use the reviewer scores when considering competing applications. Reviewer scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by the review panel. Because other important factors are taken into consideration, highly ranked applications are not guaranteed funding. These other considerations include, for example: the timely and proper completion by the applicant of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; amount and duration of the grant requested and the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowance on previous OCS or other Federal agency grants.

VI. Award Administration Information

VI.1. Award Notices

Following approval of the applications selected for funding, notice of project approval and authority to draw down projects will be made in writing. The official award document is the Financial Assistance Award, which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer.

VI.2. Administrative and National Policy Requirements

Grantees are subject to the requirements in 45 CFR Parts 74 (non-governmental) or 45 CFR Part 92 (governmental).

VI.3. Reporting

All grantees are required to submit semi-annual program and financial reports (SF–269) with a final report due 90 days after the project end date. A suggested format for the program report will be sent to all grantees after the awards are made.

VII. Agency Contacts

Program Office Contact: Debbie Brown, Office of Community Services, 370 L'Enfant Promenade, SW., Suite 500 West, Aerospace Building, Washington, DC 20447–0002, e-mail: *dbrown@acf.hhs.gov,* Telephone: (202) 401–3446.

Grants Management Office Contact: Barbara Ziegler Johnson, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Aerospace Building, Washington, DC 20447–0002., e-mail: *bziegler-johns1@acf.hhs.gov,* Telephone: (202) 401–4646.

General Contact: Office of Community Services, Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, e-mail: *ocs@lcgnet.com,* Telephone: (800) 281–9519.

VIII. Other Information

Additional information about this program and its purpose can be located on the following Web site: *http://www.acf.hhs.gov/programs/ocs.*

Dated: August 12, 2004.

Clarence H. Carter,

Director, Office of Community Services.

[FR Doc. 04–18783 Filed 8–16–04; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0026]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Human Cells, Tissues, and Cellular and Tissue-Based Products; Establishments Registration and Listing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Human Cells, Tissues, and Cellular and Tissue-Based Products; Establishments Registration and Listing" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 27, 2004 (69 FR 30315), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0469. The approval expires on July 31, 2007. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: August 6, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–18723 Filed 8–16–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Provider Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement for the opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) Whether the information shall have practical utility; (b) the accuracy of the provider's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Ryan White Comprehensive AIDS Resources Emergency (CARE) Act Grant Application Forms for the Division of Community Based Programs: New

The purpose of the Ryan White CARE Act is to provide emergency assistance to localities that are disproportionately affected by the human immunodeficiency virus (HIV) epidemic and to make financial assistance available for the development, organization, coordination, and operation of more effective and cost-efficient systems for the delivery of essential services to persons with HIV disease. The Ryan White CARE Act also provides grants to States, eligible metropolitan areas, community-based programs, and early intervention programs for the delivery of services to individuals and families with HIV infection.

The HRSA's HIV/AIDS Bureau (HAB) administers Titles I, II, III, IV, and Part F of the Ryan White CARE Act of 1990, as amended by the Ryan White CARE Act Amendments of 1996 and 2000 (codified under Title XXVI of the Public Health Service Act).

In order to ensure funds are allocated to those areas in need of financial assistance, information is needed to assist reviewers in making funding recommendations to HAB. The grant application forms are designed to collect information from service providers currently receiving or seeking funds from the following programs: Title III, Title III Planning, Title III Capacity Development, Title IV, Title IV Youth, and Community-Based Dental Partnership Program. The forms focus on five areas: (1) Line item budget; (2) epidemiology profile; (3) patients served; (4) service matrix; and (5) linkages to research. The specific requirements of the program dictates which forms are required for each grant application.

The grant application forms will be included in the application guidance for each program. The forms will be completed by the service providers

seeking funds from the six programs listed above. Responding service providers will return the completed forms as part of a complete application packet. The forms will be submitted on paper, as part of a grant application submitted via the United States Postal Service or alternate delivery service, or as an Internet web-based response form as part of an electronic grant application.

The estimated response burden for service providers is as follows:

Grant application form	Estimated number of provider respondents	Estimated responses per provider	Hours per response	Total hour burden
Line Item Budget	510	1	1	510
Epidemiology Profile	510	1	4	2,040
Patients Served	440	1	2	880
Service Matrix	440	1	.5	220
Linkages to Research	440	1	.5	220
Total	510		8	3,870

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 10, 2004.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04–18720 Filed 8–16–04; 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, 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 the Office of Management and Budget (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: Ryan White CARE Act: Title III Client Level Data Project, CDP (OMB No. 0915–0275)—Extension

The CDP was originally established in 1994 to collect information from grantees and their subcontracted service providers funded under Titles I and II of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, as amended by the Ryan White CARE Act Amendments of 1996 and 2000, (codified under Title XXVI) of the Public Health Service (PHS) Act. This effort will collect client level data from a limited number of Ryan White CARE Act Title III Grantees. HRSA's HIV/AIDS Bureau administers funds for all titles of the CARE Act. The Title III program is authorized by Section 2651 of the PHS Act.

The PHS Act specifies that HRSA is responsible for the administration of grant funds, the allocation of funds, the evaluation of programs for the population served, and the improvement of the quantity and quality of care. Accurate records on the grantees receiving CARE Act funding, the services provided, and the clients served are critical to the implementation of the legislation and thus are necessary for HRSA to fulfill its responsibilities.

Client level information will be collected from 24 CARE Act funded grantees regarding the number of clients served, services provided, demographic information about clients served, and health status of clients served. In addition, client level information will be collected that measures mortality status and additional indicators of health status and whether standards of care are being followed by providers.

The primary purposes of the CDP are to examine client level demographic and service data on HIV/AIDS infected/affected clients being served by the Ryan White CARE Act and demonstrate the usefulness of these data for planning and evaluation purposes. Through this system, HRSA seeks to supplement the information collected in the CARE Act Data Report (CADR). The CADR collects data aggregated at the grantee level and contains duplicated counts of clients who have received services from more than one provider during a given reporting period.

The burden estimate for this project is as follows:

Grantee	Number of respondents	Responses per respondents	Total responses	Hours per response	Total burden hours
CDP Report	24	700	16,800	1.5	25,200

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Desk Officer, Health Resources and Services Administration, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 10, 2004.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04–18721 Filed 8–16–04; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[CFDA Number 93.224, HRSA–05–024]

Amendment to a Notice of Availability of Funds—Fiscal Year 2005 Competitive Application Cycle for Service Area Competition for the Consolidated Health Center Program (CHCP)

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Amendment to a Notice of Availability of Funds.

SUMMARY: A Notice of Availability of Funds announced in the HRSA Preview, "Primary Health Care Programs: Community and Migrant Health Centers HRSA–05–024," was published in the **Federal Register** on July 12, 2004 (Volume 69, Number 132), FR Doc. 04–15605. On page 41814, under announcement HRSA–05–024, add the following: Jacksonville, FL, December 31, 2004.*

*The due date for Jacksonville, Florida service area is October 15, 2004. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Darryl Burnett, Health Resources and Services Administration/Bureau of Primary Health Care; *Dburnett@HRSA.GOV*

SUPPLEMENTARY INFORMATION: Program Information Notice 2004–22, "Service Area Competition (including all Competing Continuations) Funding for the Consolidated Health Center Program," and application guidance is available at the Bureau of Primary Health Care web page: *http://www.bphc.hrsa.gov/pinspals/.*

Dated: August 10, 2004.

Elizabeth M. Duke,

Administrator.

[FR Doc. 04–18719 Filed 8–16–04; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Directorate of Science and Technology; Notice of Meeting of Homeland Security Science and Technology Advisory Committee

AGENCY: Office of the Under Secretary for Science and Technology, DHS.

ACTION: Notice.

SUMMARY: The Homeland Security Science and Technology Advisory Committee (HSSTAC) will meet in closed session at the Lawrence Livermore National Laboratory, Livermore, CA, on August 31–September 1, 2004.

DATES: The meeting dates are August 31, 2004 and September 1, 2004.

ADDRESSES: The meeting location is Lawrence Livermore National Laboratory, 7000 East Avenue, Livermore, CA 94550–9234.

FOR FURTHER INFORMATION CONTACT: Brenda Leckey, Homeland Security Science and Technology Advisory Committee, Department of Homeland Security, Directorate of Science and Technology, Washington, DC 20528; telephone 202–254–5721; e-mail *HSSTAC@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Pub. L. 92–463, as amended (5 U.S.C. App.2). The HSSTAC will meet for purposes of receiving briefings and examining initiatives and activities at various national laboratories. HSSTAC will be obtaining perspectives from these Homeland Security Research and Development (R&D) performers of what they do, what needs to be done, and any special insights they have as to how the Department of Homeland Security Science & Technology Directorate could better access, utilize and/or develop R&D capabilities. HSSTAC will also be receiving briefings and reviewing subcommittee progress reports and determining future actions. In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. 2), the Under Secretary for Science and Technology has determined that this HSSTAC meeting will concern classified and sensitive matters to homeland security within the meaning of 5 U.S.C. 552b(c)(1)(a) and (c)(9)(B) and that, accordingly, the meeting will be closed to the public.

Dated: August 12, 2004.

Charles E. McQueary,

Under Secretary for Science and Technology.

[FR Doc. 04–18817 Filed 8–16–04; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2004–18883]

Discussion of Maritime Information Sharing and Sector Coordinating Entity

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The United States Coast Guard will meet on September 1, 2004 with members of the maritime industry, Department of Homeland Security representatives and representatives from other government agencies. The purpose of the meeting is to discuss the information sharing mechanisms used to allow the federal government and the diverse members of the maritime industry to share threat information and the need for a maritime sector coordinating entity. The meeting will be open to the public.

DATES: The meeting will be held on September 1, 2004, from 9 a.m. to Noon. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before August 30, 2004. Requests to have a copy of your material distributed to the attending Coast Guard representatives should reach the Coast Guard on or before August 27, 2004.

ADDRESSES: The meeting will be held in room 2230, U.S. Department of Transportation, 400 7th Street SW., Washington, DC. Submit any written materials you wish to be distributed at the meeting and any requests to make oral presentations to LT Kenneth Washington, Commandant (G-MPP–2), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: LT Kenneth Washington at 202–267–0029 or LCDR Tuan Thomson at 202–267–6166, fax 202–267–1285.

SUPPLEMENTARY INFORMATION:

Background: At the meeting, we intend to layout the need and requirements for an information sharing mechanism, discuss planned improvements, and allow an opportunity for attendees to offer their individual opinions on how to best operate an information sharing mechanism for the maritime industry.

Additionally, we will discuss the need for a national maritime sector coordinating entity to represent the concerns of industry.

Acronym List

FOUO—For Official Use Only
HSIN—Homeland Security Information Network
HSPD 7—Homeland Security Presidential Directive 7
IAIP (ICD)—Information Analysis and Infrastructure Protection Directorate, Information Coordination Division
ISAC—Information Sharing and Analysis Center

JRIES—Joint Regional Information Exchange System
PCII—Protected Critical Infrastructure Information
PDD 63—Presidential Decision Directive 63
USCG—US Coast Guard
SSI—Sensitive Security Information

Agenda of Meeting

The agenda includes the following:

(1) Welcome/Administrative Procedures.

(2) Opening Remarks (Coast Guard's role overview)/IAIP (ICD) Overview.

(3) Introductions.

(4) Current Maritime sector info sharing process.

(a) Memorandum Of Understanding between the National Infrastructure Protection Center, National Response Center and U.S. Coast Guard.

(b) Threat product development (IAIP).

(c) Current CG system for threat product distribution.

(i) History since 9/11/01.

(ii) Direct dissemination to associations: to Company, Vessel, and Facility Security Officers via Federal Maritime Security Coordinator and Area Maritime Security Committees.

(iii) FOUO and SSI Products / SSI material designation/handling.

(iv) Classified products.

(v) Clearances for industry.

(d) Suspicious Activity Reporting.

(5) Proposed Sector Coordinating Entity.

(a) Functions of entity.

(b) Membership and leadership of entity.

(c) Development of improved communication JRIES/HSIN.

(d) HSIN implementation update / PCII.

(e) Attendees comments; open discussion on future industry meeting to establish entity.

Optional agenda items, time permitting:

(6) National Maritime Security Plan Timeline. *Security Access:* If you have the proper security badge to enter the Department of Transportation building you may proceed to the Northwest Entrance which is on your right side when arriving at the top of the escalator exit from the Metro. If you do not have the required security badge please proceed to the Southwest Lobby entrance which is where the sign-in and security entrance is located. Non-government employees will be required to have an escort. Please ensure to notify the persons noted in **FOR FURTHER INFORMATION CONTACT** if you require an escort, and we will make arrangements to meet you.

Procedural: The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting.

If you would like to make an oral presentation at the meeting. please notify LT Kenneth Washington no later than August 30, 2004. Written material for distribution at the meeting should reach the Coast Guard no later than August 27, 2004. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit copies to LT Kenneth Washington no later than August 30, 2004.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Jack Sheckells as soon as possible at 202–366–1467.

Dated: August 11, 2004.

L.L. Hareth,

Rear Admiral, U.S. Coast Guard, Director of Port Security.

[FR Doc. 04–18800 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4912–N–10]

Air Quality Conformity Determination for the World Trade Center Memorial and Redevelopment Plan, City of New York, New York County, NY

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Conformity Rule, the Lower Manhattan Development Corporation (LMDC) has reviewed the air quality analysis conducted for the World Trade Center Memorial and Redevelopment Plan (the Selected Project pursuant to the June 2004 Record of Decision and Lead Agency Findings Statement under the National Environmental Policy Act and New York State Environmental Quality Review Act). LMDC is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation (a political subdivision and public benefit corporation of the State of New York) and, as the recipient of HUD Community Development Block Grant funds appropriated for the World Trade Center disaster recovery and rebuilding efforts, acts as the responsible entity for compliance with the National Environmental Policy Act and the Clean Air Act, 42 U.S.C. 7401 *et seq.* [particularly sections 7506(c) and (d)] in accordance with 24 CFR 58.4 and 58.5. LMDC released its Record of Decision and Lead Agency Findings Statement for the Selected Project on June 2, 2004, which includes responses to comments received on the Final Generic Environmental Impact Statement that was subject to public comment from April 16, 2004, through May 24, 2004.

The Selected Project is located in Lower Manhattan, New York County, which has been designated by the United States Environmental Protection Agency (EPA) as a moderate non-attainment area for particulate matter less than 10 micrometers in aerodynamic diameter (PM_{10}), and a severe non-attainment area for ozone. The area is in attainment of all other criteria pollutants: nitrogen dioxide (NO_2), lead, sulfur dioxide (SO_2), and carbon monoxide (CO). LMDC's review has been conducted consistent with the requirements of 40 CFR part 93, subpart B: "Determining Conformity of General Federal Actions to State or Federal Implementation Plans' issued on November 30, 1993. LMDC has determined that, during some of the construction years, annual nitrogen oxide (NO_X) emissions from all the portions of the Selected Project that may be federally-funded are predicted to exceed the *de minimis* threshold of 25 tons per year; accordingly, LMDC prepared a general conformity determination to demonstrate that the federally-funded portions of the Selected Project conform with the ozone State Implementation Plan.

Pursuant to the requirements of 40 CFR 93.156(b), the Draft Conformity Determination: World Trade Center Memorial and Redevelopment Plan were made available for public review beginning May 7, 2004. Notice of the draft determination was published in the New York Post on May 7, 2004, and copies of the draft determination were delivered to all applicable agencies pursuant to 40 CFR 93.155 that same day. In addition, the notice of availability of the draft determination and the proposed list of activities of the federally-funded portions of the Selected Project that are presumed to conform was published in the **Federal Register** on May 12, 2004 (69 FR 26403). One comment letter on the draft conformity determination was received by LMDC.

As per the requirement in 40 CFR 93.153(h)(4), this notice lists the

activities that are presumed to conform and the basis for these presumptions. A comprehensive presentation of the bases for the conformity presumptions is included in the report entitled "Final Conformity Determination: World Trade Center Memorial and Redevelopment Plan." The Final Conformity Determination also includes a summary of all comments received through the end of the comment period.

FOR FURTHER INFORMATION CONTACT: Further information and a copy of the Final Conformity Determination may be obtained by contacting: William H. Kelley, Planning Project Manager, Lower Manhattan Development Corporation, One Liberty Plaza, 20th Floor, New York, NY 10006; Telephone: (212) 962–2300; Fax: (212) 962–2431; E-mail: *wtcenvironmental@renewnyc.com*. The Final Conformity Determination is also available on the LMDC Web site at *www.RenewNYC.com* in the "Planning, Design & Development" section.

SUPPLEMENTARY INFORMATION:

A. Background

The Selected Project involves the construction of a World Trade Center Memorial and memorial-related improvements, as well as commercial, retail, museum and cultural facilities, new open space areas, new street configurations, and certain infrastructure improvements at the World Trade Center Site (WTC Site) bounded by Liberty, Church, and Vesey Streets and Route 9A and the Southern Site, which comprises two city blocks south of the WTC Site and portions of Liberty Street and Washington Street. As documented in the Final Conformity Determination, the federally-funded portions of the Selected Project might include portions of the following uses: (a) Cultural uses in the northwest and southwest quadrants of the WTC Site; (b) the Memorial; (c) open spaces; (d) deconstruction of the building at 130 Liberty Street (Deutsche Bank); and (e) sub-grade construction at the Southern Site.

The Clean Air Act (CAA), as amended in 1990, defines a non-attainment area (NAA) as a geographic region that has been designated as not meeting one or more of the National Ambient Air Quality Standards (NAAQS). The Selected Project is located in Lower Manhattan, New York County, which has been designated by the EPA as a moderate NAA of the NAAQS for PM_{10} and severe NAA for ozone. No formal designation has been made to date regarding attainment of the NAAQS for fine particulate matter less than 2.5 micrometers in aerodynamic diameter ($PM_{2.5}$), which became effective September 16, 1997. The area is in attainment of all other criteria pollutants: NO_2, lead, SO_2 and CO. EPA had re-designated New York City as in attainment for CO on April 19, 2002 (67 FR 19337); the CAA requires that a maintenance plan ensure continued compliance with the CO NAAQS for former NAAs.

A State Implementation Plan (SIP) is a State's plan on how it will meet the NAAQS under the deadlines established by the CAA. In November 1998, New York State submitted its *Phase II Alternative Attainment Demonstration for Ozone*, which addressed attainment of the NAAQS by 2007, and has recently submitted revisions to the SIP for the attainment of the one-hour ozone NAAQS. These SIP revisions included additional emission reductions that EPA requested to demonstrate attainment of the standard and also update the SIP estimates using a new EPA model to predict mobile source emissions (MOBILE6).

The general conformity requirements in 40 CFR part 93, subpart B, apply to those Federal actions that are located in a non-attainment or maintenance area, and that are not subject to transportation conformity requirements at 40 CFR part 51, subpart T, or part 93, subpart A, where the action's direct and indirect emissions have the potential to emit one or more of the six criteria pollutants (or precursors, in the case of ozone) at emission rates equal to or exceeding the prescribed rates at 40 CFR 93.153(b), or where the action encompasses 10 percent or more of a NAA or maintenance area's total emissions inventory for that pollutant. In the case of New York City, the prescribed annual rates are 25 tons of VOCs or NO_X (severe ozone NAA), 100 tons of CO (maintenance area), and in New York County only, 100 tons of PM_{10} (moderate PM_{10} NAA).

LMDC, as the recipient of HUD Community Development Block Grant Funds, has determined that the total annual direct and indirect emissions of CO, VOCs and PM_{10} from the Selected Project that could be applicable to the general conformity regulations are less than the rates prescribed in 40 CFR part 93 that would trigger the requirement to conduct a general conformity determination. Therefore, a general conformity determination for CO and PM_{10} emissions is not required. Temporarily, during some of the construction years, annual NO_X emissions are predicted to exceed the prescribed rate of 25 tons per year; accordingly, LMDC has concluded that a determination of conformity with the ozone SIP is required.

B. Requirements of the Conformity Determination

The purpose of the conformity analysis is to establish that the federally-funded portions of the Selected Project would conform to the New York ozone SIP, thereby demonstrating that total direct and indirect emissions of the ozone precursors, NO_X and VOC, from the project would not:

- Cause or contribute to any new violation of any standard in the area,
- Interfere with provisions in the applicable SIP for maintenance of any standard,
- Increase the frequency or severity of any existing violation of any standard in any area, or
- Delay timely attainment of any standard or any required interim emission reductions or other milestones in the SIP for purposes of—

1. A demonstration of reasonably further progress (RFP),
2. A demonstration of attainment, or
3. A maintenance plan.

For the purposes of a general conformity determination, direct and indirect emissions are defined as follows (40 CFR 93.152):

- *Direct Emissions:* Those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action;
- *Indirect Emissions:* Those emissions of a criteria pollutant or its precursors that—

1. Are caused by the Federal action, but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and
2. The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency.

LMDC has concluded that the pollutants of concern regarding the ozone SIP conformity are the ozone precursors: NO_X and VOCs. These precursors were the basis for the ozone SIP analysis for the ozone NAA, and are therefore used for this general conformity determination. LMDC has determined that the only predicted emissions due to the Selected Project would include direct emissions from engines operating on-site during construction, and indirect emissions from construction-related vehicles traveling to and from the site.[1]

[1] Pursuant to the direction of the Interagency Consultation Group, LMDC is coordinating with the

Continued

C. Presumption of Conformity

LMDC has reviewed the air quality analysis conducted for the Selected Project consistent with the requirement of 40 CFR part 93, "Determining Conformity of General Federal Actions to State or Federal Implementation Plans (SIP)."

LMDC has determined that maximum predicted direct and indirect emissions of CO and PM_{10} from the federally funded portions of the Selected Project is predicted to be 58.0 and 3.2 tons per year, respectively. The CO and PM_{10} emissions would be below the prescribed level of 100 tons per year as defined at 40 CFR 93.153; therefore, no further conformity determination was deemed necessary for CO or PM_{10}.

The Selected Project would be located in an area designated as a severe ozone non-attainment area under the 1-hour average ozone NAAQS. The direct and indirect emissions during construction of the federally-funded portions of the Selected Project were predicted to exceed the prescribed level for severe ozone non-attainment areas (25 tons per year of NO_X). Therefore, LMDC has reviewed the local NO_X and VOC emissions modeling analyses for the Selected Project and has determined the following:

• The methods for estimating direct and indirect emissions from the Selected Project meet the requirements of 40 CFR 93.159. The emissions scenario used in the air quality analysis is expected to produce the greatest off-site impacts on a daily and annual basis. Non-road engine emissions were predicted using the NONROAD model—the latest EPA model for determining emissions from non-road engines. On-road emissions were predicted using the MOBILE6 model—the latest EPA model for predicting emissions from on-road vehicles. Resuspension of road dust by on-road vehicles was estimated using the latest EPA guidance set forth in "AP–42—Compilation of Emission Factors." All of the above emissions modeling procedures were conducted based on the latest EPA guidance.

• The federally-funded portion of the Selected Project was predicted to result in the following emissions of NO_X and VOCs (total tons per year):

	Year					
	2004	2005	2006	2007	2008	2009–2013
NO_X	4.2	61.4	39.6	19.2	16.1	None.
VOCs	0.4	6.2	3.6	1.5	1.3	None.

• Pursuant to 40 CFR 93.158(a)(5)(i)(A), the New York State Department of Environmental Conservation has determined and documented that the total of direct and indirect VOC and NO_X emissions from the federally-funded portions of the Selected Project, together with all other emissions in the non-attainment area, would not exceed the emissions budget specified in the "New York State Implementation Plan for Ozone—Phase II Alternative Attainment Demonstration."

• The Selected Project does not cause or contribute to any new violation, or increase the frequency or severity of any existing violation, of the standards for the pollutants addressed in 40 CFR 93.158.

• The Selected Project does not violate any requirements or milestones in the ozone SIP.

Based on these determinations, the federally-funded portions of the Selected Project are presumed to conform to the applicable SIPs for the project area. The activities that are presumed to conform include construction-related activities of the portions of the Selected Project that may be federally-funded.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Dated: August 9, 2004.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 04–18724 Filed 8–16–04; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4861–N–03]

Notice of Funding Availability (NOFA) for Revitalization of Severely Distressed Public Housing; Availability of Additional Fiscal Year (FY) 2003 Funds for HOPE VI Demolition Grants and Reopening of NOFA Application Due Date

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of additional FY2003 funding availability for HOPE VI Demolition Grants and Reopening of Application Due Date.

SUMMARY: On October 21, 2003, HUD published a notice of funding availability (NOFA) announcing the availability of approximately $40 million in FY2003 funds for the HOPE VI Demolition Program. This notice announces the availability of approximately an additional $20 million in FY2003 funds for HOPE VI Demolition grants, and reopens the due date for submission of Demolition Grant applications under the NOFA. HUD will award the additional FY2003 funds in accordance with the application submission and selection requirements contained in the October 21, 2003, NOFA, as corrected by the technical correction published on December 9, 2003.

DATES: Demolition grants applications will be accepted until September 17, 2004. An applicant that submitted an application for HOPE VI Demolition grant funding by the original February 18, 2004, applicant deadline, but that was not selected for a grant award because the applicant had not yet received demolition approval by the application deadline is not required to submit a new application. The applicant need only submit evidence that the application's targeted units have been approved by HUD for demolition.

ADDRESSES: Original signed applications must be sent to Mr. Milan Ozdinec, Deputy Assistant Secretary for Public Housing Investments, Room 4130, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000. Applicants are directed to section III(C) of the October 21, 2003, NOFA for additional requirements regarding the delivery of applications.

FOR FURTHER INFORMATION CONTACT: Caroline Clayton, Urban Revitalization

New York State Department of Transportation, New York State Department of Environmental Conservation, EPA, and the Metropolitan Planning Organization in order to make transportation data from the operational phase of the Selected Project available for inclusion in the regional transportation Best Practices model and in the regional Transportation Improvement Program (TIP).

Division, Office of Public and Indian Housing, Room 4130, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000; telephone (202) 401–8812 (this is not a toll-free number). Individuals with speech or hearing impairments may access this telephone number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 2003 (68 FR 60178), HUD published a NOFA announcing the availability of $574 in FY2003 funds for the HOPE VI Program. Of this amount, approximately $447.8 million was made available for the HOPE VI Revitalization Program and $40 million for the HOPE VI Demolition Program. The remaining funds were made available for other purposes including Neighborhood Networks, technical assistance and Housing Choice Voucher Assistance.

Two technical corrections were subsequently published for the October 21, 2003, NOFA. The first was published on October 24, 2003 (68 FR 61044), and corrected two typographical errors contained in the NOFA concerning application due dates. The second technical correction, which was published on December 9, 2003 (68 FR 68644), notified applicants of the government-wide requirement that all applicants for Federal grants and cooperative agreements must provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their applications, and also made several other corrections to the NOFA.

II. This Notice

This notice announces the availability of approximately an additional $20 million in FY2003 funds for HOPE VI Demolition Grants, and reopens the due date for a period of 30 days for submission of Demolition Grant applications under the October 21, 2003, NOFA. HUD will award the additional FY2003 funds in accordance with the application and submission requirements contained in the October 21, 2003, NOFA, as corrected by the December 9, 2003, technical correction. Applicants must refer to the October 21, 2003, NOFA and the December 9, 2003, technical correction for information regarding application submission procedures, application thresholds, application and grant limitations, the application selection process, post award requirements, and other requirements applicable to the HOPE VI Demolition Program.

A copy of the October 21, 2003, NOFA may be downloaded at: *http://www.access.gpo.gov/su_docs/fedreg/a031021c.html.*

A copy of the December 9, 2003, technical correction to the HOPE VI NOFA may be downloaded at: *http://www.access.gpo.gov/su_docs/fedreg/a031209c.html.*

An applicant that submitted an application for HOPE VI Demolition grants funding by the original February 18, 2004, deadline, but that was not selected for a grant award solely because the applicant had not received demolition approval by the application deadline is not required to submit a new application. The applicant need only submit evidence that the application's targeted units that have been approved by HUD for demolition. Such evidence must be submitted in accordance with the application submission requirements, and must be received by HUD by the application deadline date. All other applicants must submit a complete application, in accordance with the requirements described in the October 21, 2003, NOFA and the December 9, 2003, technical correction.

Dated: August 13, 2004.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 04–18942 Filed 8–13–04; 2:21 pm]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1320–EL; WYW150318]

Notice of Availability of the Record of Decision for the South Powder River Basin Coal Final Environmental Impact Statement, Little Thunder Lease by Application Tract, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for South Powder River Basin Coal Final Environmental Impact Statement (FEIS); Little Thunder Lease by Application Tract.

ADDRESSES: The document will be available electronically on the following Web site: *http://www.wy.blm.gov/.* Copies of the ROD are available for public inspection at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.
- Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Janssen, Wyoming Coal Coordinator, at (307) 775–6206 or Ms. Julie Weaver, Land Law Examiner, at (307) 775–6260. Both Mr. Janssen's and Ms. Weaver's offices are located at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

SUPPLEMENTARY INFORMATION: As stated in the FEIS, a ROD will be issued for each of the five Federal coal tracts considered for leasing in the South Powder River Coal FEIS. The ROD covered by this Notice of Availability is for coal tract Little Thunder (WYW150318) and addresses leasing an estimated 695.3 million tons of in-place Federal coal administered by the BLM Casper Field Office underlying approximately 5,083.50 acres in Campbell County, Wyoming. This tract includes 1,100.7 acres of Thunder Basin National Grasslands.

Because the Assistant Secretary of the Interior, Lands and Minerals Management has concurred in this decision, it is not subject to appeal to the Interior Board of Land Appeals, as provided in 43 CFR part 4. This decision is the final action of the Department of the Interior.

Robert A. Bennett,

State Director.

[FR Doc. 04–18847 Filed 8–13–04; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of new information collection (1010–NEW).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR part 250, subpart I, Platforms and Structures.

DATES: Submit written comments by October 18, 2004.

ADDRESSES: The ability to submit comments is now available through MMS's Public Connect on-line commenting system and is the preferred method for commenting. Interested parties may submit comments on-line at *https://ocsconnect.mms.gov*. From the Public Connect "Welcome" screen, you will be able to either search for Information Collection 1010–NEW or select it from the "Projects Open for Comment" menu.

Alternatively, interested parties may mail or hand-carry comments to the Department of the Interior, Minerals Management Service, Mail Stop 4024, 381 Elden Street, Herndon, Virginia 20170–4817; Attention: Rules Processing Team (RPT). Please reference "Information Collection 1010–NEW" in your comments and include your name and return address. **NOTE:** We are no longer accepting comments sent via e-mail.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team at (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations and the Notice to Lessees (NTL's) that will request the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: Notice to Lessees, Assessment of Existing OCS Platforms.

OMB Control Number: 1010–NEW.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Specifically, the OCS Lands Act (43 U.S.C. 1356) requires the issuance of "* * * regulations which require that any vessel, rig, platform, or other vehicle or structure * * * (2) which is used for activities pursuant to this subchapter, comply * * * with such minimum standards of design, construction, alteration, and repair as the Secretary * * * establishes * * *." The OCS Lands Act (43 U.S.C. 1332(6)) also states, "operations in the [O]uter Continental Shelf should be conducted in a safe manner * * * to prevent or minimize the likelihood of * * * physical obstruction to other users of the water or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health." These authorities and responsibilities are among those delegated to MMS under which we issue regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This information collection request addresses the regulations at 30 CFR part 250, subpart I, Platforms and Structures.

The MMS OCS Regions use the information submitted under subpart I to determine the structural integrity of all offshore structures and ensure that such integrity will be maintained throughout the useful life of these structures. We use the information to ascertain, on a case-by-case basis, that the platforms and structures are structurally sound and safe for their intended use to ensure safety of personnel and pollution prevention.

Currently, lessees are required to conduct these platform assessments and evaluations (API RP 2A–WSD, 21st edition, incorporated by reference April 21, 2003 (68 FR 193521), into 30 CFR 250.900(g)), but the regulations under Subpart I do not require lessees to submit the results to MMS. Therefore, with this information collection request, MMS is requesting the submission of the results of platform assessments and evaluations. Upon OMB approval of this collection, MMS will issue an NTL that requests lessees to submit their results of platform assessments and evaluations on a voluntary basis. MMS will use this information to verify that lessees have conducted assessments of existing platforms in an appropriate and timely manner to evaluate the risk of allowing existing platforms to finish their originally approved purposes; more specifically, we will use the information submitted through the NTL to:

- Verify that existing platforms comply with design criteria in accordance to API RP 2A–WSD (21st edition), "Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms—Working Stress Design," and to evaluate the risk of allowing existing platforms to finish their originally approved purpose.
- Review reports that relate to framing patterns, soil data, exposure category, initiator data, assessment screening, design level analysis, and ultimate strength analysis.
- Review mitigation plans and platform applications for platforms that fail the ultimate strength analysis.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.196, "Data and information to be made available to the public." No items of a sensitive nature are collected. Submissions are voluntary.

Frequency: Submission occurs periodically based on assessment.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Reporting and Recordkeeping "Hour" Burden: We estimate that the reporting burden for this collection is 154,400 burden hours. The oil and gas industry and MMS recognize that some existing platforms may not comply with the design criteria required for new platforms. Design criteria were developed to provide a way to evaluate the risk of allowing existing platforms to finish their originally approved purpose. The following discussion details the individual components and the respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

- MMS estimates that 3,400 platforms in the Gulf of Mexico (GOM) OCS will require submittal of framing patterns, soil data, exposure category, initiator data, and the assessment screening and report. Estimate 16 hours per submittal. Total burden = 54,400 hours.
- MMS estimates that 800 platforms will fail the assessment screening and require a design level analysis and report. Estimate 50 hours per submittal. Total burden = 40,000 hours.
- MMS estimates that 400 platforms will fail the design level analysis and require an ultimate strength analysis and report. Estimate 100 hours per submittal. Total burden = 40,000 hours.
- MMS estimates that 200 platforms will fail the ultimate strength analysis and require mitigation and a platform application. Estimate 100 hours per submittal. Total burden = 20,000 hours.
- Program = 154,400 hours.

Estimated Reporting and Recordkeeping "Non-Hour Cost"

Burden: We have identified no "non-hour cost" burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the "non-hour cost" burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Policy: MMS's practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor this request to the extent allowable by law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: August 10, 2004.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 04–18767 Filed 8–16–04; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–512]

In the Matter of Certain Light-Emitting Diodes and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Amending the Complaint and Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") (Order No. 6) amending the complaint and notice of investigation to add an additional patent.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3090. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 10, 2004, based on a complaint filed by OSRAM GmbH and OSRAM Opto Semiconductors GmbH, both of Germany. 69 FR 32609 (June 10, 2004). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diodes and products containing same by reason of infringement of claims 1, 3, 6, 7, and 10–13 of U.S. Patent No. 6,066,861; claims 1, 3, 6, 7, 10–13, and 15 of U.S. Patent No. 6,245,259; claims 1–2, 6–7, 11–12, and 15 of U.S. Patent No. 6,277,301; claims 1, 5–10, and 13–16 of U.S. Patent No. 6,376,902; claims 1 and 5–8 of U.S. Patent No. 6,469,321; claims 1, 5–8, 10–13, and 16–19 of U.S. Patent No. 6,573,580; claim 4 of U.S. Patent No. 6,576,930; claims 2–5, 7, and 10 of U.S. Patent No. 6,592,780; and claims 1, 3, 6–7, 10, 12–15, 17, and 21 of U.S. Patent No. 6,613,247. The complaint and notice of investigation named three respondents, including respondent Dominant Semiconductors Sdn. Bhd. ("Dominant").

On July 2, 2004, complainants filed a motion pursuant to Commission rule 210.14 to amend the complaint and notice of investigation to assert claims 1–3 and 5 of U.S. Patent No. 6,716,673 against Dominant, representing that Dominant did not oppose the motion. The Commission investigative attorney supported the motion. On July 21, 2004, the ALJ issued the subject ID granting complainants' motion. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: August 11, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–18764 Filed 8–16–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–521]

In the Matter of Certain Voltage Regulator Circuits, Components Thereof and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 16, 2004, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Linear Technology Corporation of Milpitas, California. A letter supplementing the complaint was filed on August 9, 2004. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain voltage regulator circuits, components thereof and products containing same by reason of infringement of claims 1–6, 31, 34–35, 41, 44–48, and 51–57 of U.S. Patent No. 5,481,178 and claims 1–19, 31, 34, and 35 of U.S. Patent No. 6,580,258. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: David H. Hollander, Jr., Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2746.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2003).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 11, 2004, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain voltage regulator circuits, components thereof, or products containing same by reason of infringement of one or more of claims 1–6, 31, 34–35, 41, 44–48, and 51–57 of U.S. Patent No. 5,481,178 and claims 1–19, 31, 34, and 35 of U.S. Patent No. 6,580,258, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Linear Technology Corporation, 1630 McCarthy Boulevard, Milpitas, California 95035.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Monolithic Power Systems, Inc., 983 University Avenue, Building A, Los Gatos, California 95032.

(c) David H. Hollander, Jr., Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

A response to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such response will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting the response to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter a final determination containing such findings, and may result in the issuance of a limited exclusion order or cease and desist order or both directed against the respondent.

Issued: August 12, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–18829 Filed 8–16–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 011–2004]

Privacy Act of 1974; System of Records

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of Modifications to System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Drug Enforcement Administration (DEA), Department of Justice, is modifying its Privacy Act system of records entitled: "Automated Records and Consolidated Orders System/Diversion Analysis and Detection System" (ARCOS/DADS), JUSTICE/DEA–003. This system of records was last published in the **Federal Register** on April 28, 2000 (65 FR 24986). However, in error, a page of text was omitted in the last publication. This modified notice provides the text missing from the previous publication and makes updates in other parts of the notice.

DATES: This notice will be effective September 27, 2004.

SUPPLEMENTARY INFORMATION: Information added, which was missing in the last publication include the

"Purpose" section of the notice and the "Routine Uses" section of the notice.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility of the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit comments by September 27, 2004. The public, OMB, and Congress are invited to submit comments to: Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, 1331 Pennsylvania Ave., NW., Washington, DC 20530 (1400 National Place Building).

In accordance with 5 U.S.C. 552a (r), the Department has provided a report to OMB and Congress.

Dated: August 6, 2004.

Paul R. Corts,

Assistant Attorney General for Administration.

DEPARTMENT OF JUSTICE
JUSTICE/DEA–003

SYSTEM NAME:

Automated Records and Consolidated Orders System/Diversion Analysis and Detection System (ARCOS/DADS).

SECURITY CLASSIFICATION:

Not Classified.

SYSTEM LOCATION:

Drug Enforcement Administration, 700 Army Navy Drive, Arlington, VA 22202. Field offices are identified on the DEA website at *www.dea.gov*.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons registered with the DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970. This includes any person who manufactures, manages, distributes, or proposes to manufacture, manage, or distribute any controlled substance or List 1 chemical, and every person who dispenses or proposes to dispense any controlled substance. Typically, these persons include licensed professionals such as doctors, dentists, pharmacists, or pharmaceutical manufacturers, as well as importers and chemical manufacturers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information contained in this system consists of documentation of individual business transactions between individuals who handle controlled substances at every level, from manufacturers down to ultimate consumers. Records include copies of controlled substances inventories, drug codes, deletion and adjustment reports, receipts, purchase orders, and prescriptions, and include the date of the transaction, the name, quantity, and quality of the chemicals/substances purchased or dispensed, the parties to the transaction, and the DEA registrant numbers. This information provides an audit trail of all manufactured and/or imported controlled substances. Information can be retrieved from this system of records by use of various data elements such as name, address, DEA registrant number, name of business, or social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained pursuant to the reporting requirements of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826(d)) and to fulfill the United States treaty obligations under the Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances of 1971.

PURPOSE:

This system is used to track and report the transfer of pharmaceuticals and to detect potential diversion.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system may be disclosed to the following categories of users for the purposes stated:

A. Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate federal, state, local, foreign, or tribal, law enforcement authority or other appropriate agency charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing such law.

B. To the International Narcotics Control Board as required by United States treaty obligations.

C. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

D. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

E. To the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

G. The Department of Justice may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All automated data files associated with ARCOS/DADS are maintained in the Department of Justice Data Center and the Drug Enforcement Administration Data Center.

RETRIEVABILITY:

Records on individuals are retrieved by name and DEA registration number.

SAFEGUARDS:

The portion of the records maintained in DEA headquarters is protected by twenty-four hour guard service and electronic surveillance. Access to all DEA facilities is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to DEA employees who have appropriate security clearances on a need to know basis. Access to automated records requires user identification numbers which are issued to authorized DEA employees.

RETENTION AND DISPOSAL:

Input data received from registrants is maintained for 60 days for backup purposes and then destroyed by shredding or electronic erasure. ARCOS master inventory records are retained

for eight consecutive calendar quarters. As the end of a new quarter is reached, the oldest quarter of data is purged from the record. ARCOS transaction history will be retained for a maximum of five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, Washington, DC 20537. Inquiries should include inquirer's name, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Information is obtained from registrants under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826(d)).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). These exemptions are codified at 28 CFR 16.98. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e).

[FR Doc. 04–18827 Filed 8–16–04; 8:45 am]
BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[Docket No. ATF 11N; ATF O 1120.2A]

Delegation Order—Authority To Make Determinations on Notices of Clearance, Letters of Clearance, or Denial, and Appeals of Letters of Denial Under 18 U.S.C. 843(h)

1. *Purpose.* This order delegates certain authorities of the Director to subordinate Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) officials to make determinations on Notices of Clearance, Letters of Clearance, Letters of Denial, and Appeals of Letters of Denial under 18 U.S.C. 843(h) for responsible persons and employee possessors listed on explosives licenses and permits.

2. *Cancellation.* ATF O 1120.2, Delegation Order—Authority to Make Determinations on Notices of Clearance, Letters of Clearance, Letters of Denial, and Appeals of Letters of Denial under 18 U.S.C. 843(h), dated May 5, 2003, is canceled.

3. *Delegation.* Under the authority vested in the Director, ATF, by Department of Justice Final Rule [AG Order No. 2650–2003] as published in the **Federal Register** on January 31, 2003, and by Title 28 CFR 0.130 through 0.131, the Chief, Federal Explosives Licensing Center is to make determinations relating to Notices of Clearance and Letters of Clearance, and to make determinations relating to Letters of Denial and Appeals of Letters of Denial.

4. *Redelegation.* The authority delegated above may not be redelegated.

5. *Questions.* Questions concerning this order may be directed to the Firearms, Explosives and Arson Services Division at (202) 927–8300.

Date Signed: August 5, 2004.

Carl J. Truscott,

Director.

[FR Doc. 04–18777 Filed 8–16–04; 8:45 am]
BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,620]

NVF Company, Fabrication Division, Wilmington, DE; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 23, 2004, the company official requested administrative reconsideration of the Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice was signed on June 2, 2004 and published in the **Federal Register** on July 7, 2004 (69 FR 40983).

The Department reviewed the request for reconsideration and has determined that the petitioner has provided additional information. Therefore, the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion: After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 9th day of August, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18739 Filed 8–16–04; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,312]

Clear-Com Communication Systems, a Subsidiary of Vitec, Emeryville, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 23, 2004 in response to a petition filed on behalf of workers at Clear-Com Communication Systems, Emeryville, California.

The petitioners have requested that the petition be withdrawn. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of August 2004.

Linda G. Poole

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18734 Filed 8–16–04; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,773]

Lebanite Corporation, Hardboard Division, Now Known as Oregon Panel Products, Inc., Lebanon, OR; Notice of Termination of Amendment to Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued an Amended Certification of Eligibility to Apply for Worker Adjustment Assistance on June 14, 2004 applicable to workers of Lebanite Corporation, Hardboard Division, Now Known As Oregon Panel Products, Inc., Lebanon, Oregon. The notice was published in the **Federal Register** on July 1, 2004 (69 FR 39971).

At the request of the petitioners, the Department amended the certification

for workers of the subject facility to include workers of what was thought to be a successor company, Oregon Panel Products, LLC, Lebanon, Oregon. The workers were engaged in the production of high density hardboard.

New information shows that although operations at the subject facility were undertaken by Oregon Panel Products, LLC, there is no successor-in-interest status. There was a three month break in operations between the shutdown of the Lebanite Corporation, and the start up of Oregon Panel Products. Workers separated from employment at the subject facility had their wages reported under a separate unemployment insurance (UI) tax account for Oregon Panel Products, LLC.

Furthermore, the workers of Oregon Panel Products, LLC, Lebanon Oregon are covered by another petition instituted on June 2, 2004 (TA–W–55,009).

Accordingly, the Department is terminating the amendment to properly reflect this matter.

The amendment to TA–W–52,773 is hereby terminated, and the original notice applicable to TA–W–52,773 is hereby re-issued as follows:

• All workers of Lebanite Corporation, Hardboard Division, Lebanon, Oregon, who became totally or partially separated from employment on or after November 1, 2002, through October 29, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 5th day of August 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18740 Filed 8–16–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,149]

Oregon Panel Products, LLC Lebanon, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 28, 2004 in response to a petition filed on behalf of workers of Oregon Panel Products, LLC, Lebanon, Oregon.

The petitioning group of workers is covered by a certification of petition TA–W–55,009 issued on August 5, 2004. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 5th day of August 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18736 Filed 8–16–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,009]

Oregon Panel Products, LLC, Lebanon, OR; Notice of Revised Determination on Reopening

On June 2, 2004, the Department, on its own motion, reopened its investigation for the former workers of the subject firm.

The initial investigation was terminated on the basis that the petitioning group of workers was covered by an active certification issued on October 29, 2003 (TA–W–52,773), which remained in effect and had been amended to reflect what was believed to be a name change of the subject facility.

The Department obtained new information that revealed that there is no successor-in-interest status for Oregon Panel Products, LLC. Therefore, the investigation is being reopened.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C 2273), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for Trade Adjustment Assistance, the group eligibility requirements in either paragraph (a)(2)(A) or (a)(2)(B) of Section 222 of the Trade Act must be met. It is determined in this case that the requirements of (a)(2)(A) of Section 222 have been met.

The investigation was initiated on June 2, 2004 in response to a petition filed by a company official on behalf of workers of Oregon Panel Products, LLC, Lebanon, Oregon. The workers at the subject firm produced hardboard.

The findings of the investigation on reopening revealed that sales and employment at the subject firm decreased absolutely with the closure of the facility in May 2004.

The Department of Labor surveyed the subject firm's major customers regarding their purchases of hardboard. The survey revealed increases in imports of hardboard during the period under investigation.

In addition, Unites States aggregate imports of hardboard increased significantly during the period under investigation.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion: After careful review of the facts obtained in the investigation, I determine that increases of imports of articles like or directly competitive with hardboard produced at Oregon Panel Products, LLC, Lebanon, Oregon contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

"All workers of Oregon Panel Products, LLC, Lebanon, Oregon who became totally or partially separated from employment on or after October 27, 2003 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974."

Signed in Washington, DC, this 5th day of August 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18737 Filed 8–16–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,004]

Solutia, Inc. Performance Products Division, Anniston, AL; Notice of Revised Determination on Reconsideration

By letter dated July 28, 2004 a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination signed on June 21, 2004 was based on the finding that imports of paranitrophenol did not contribute importantly to worker separations at the subject plant and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on August 3, 2004 (69 FR 46574).

To support the request for reconsideration, the company official supplied additional information. Upon further review and contact with the subject firm's major customer, it was revealed that the customer significantly increased its import purchases of paranitrophenol while decreasing its purchases from the subject firm during the relevant period. The imports accounted for a meaningful portion of the subject plant's lost sales and production.

Conclusion: After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Solutia, Inc., Performance Products Division, Anniston, Alabama, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Solutia, Inc., Performance Products Division, Anniston, Alabama, who became totally or partially separated from employment on or after May 28, 2003 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, DC this 5th day of August 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18738 Filed 8–16–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,270]

Niagara Mohawk Power Corporation, Batavia, NY, and Other Locations in Western NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 19, 2004, in response to a worker petition filed by a county official on behalf of workers at Niagara Mohawk Power Corporation, Batavia, New York, and other locations in western New York.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 2nd day of July 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–18735 Filed 8–16–04; 8:45 am]

BILLING CODE 4510–30–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), this notice announces that the Merit Systems Protection Board (MSPB) request for a three-year renewal of its Generic Clearance Request for Voluntary Customer Surveys under Executive Order 12862, "Setting Customer Service Standards," and in accord with 44 U.S.C. 3506 has been forwarded to the Office of Management and Budget (OMB) for review and comment. Surveys under this approval are assigned OMB Control Number 3124–0012.

In this regard, we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this form is estimated to vary from 5 minutes to 30 minutes per response, with an average of 15 minutes, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

ESTIMATED ANNUAL REPORTING BURDEN

5 CFR section	Annual number of respondents	Frequency per response	Total annual responses	Hours per response (average)	Total hours
1201 and 1209	2,000	1	1,500	.25	375

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the address shown below. Please refer to OMB Control No. 3124–0012 in any correspondence.

DATES: Comments must be received on or before September 16, 2004.

ADDRESSES: Comments concerning the paperwork burden should be addressed to Dr. DeeAnn Batten, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419, by e-mail to *deeann.batten@mspb.gov*, or by calling (202) 653–6772, ext. 1411, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for MSPB, 725–17th Street NW., Washington, DC 20503.

Bentley M. Roberts, Jr.

Clerk of the Board.

[FR Doc. 04–18778 Filed 8–16–04; 8:45 am]

BILLING CODE 7401–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04–102]

NASA Advisory Council, Earth System Science and Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

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 forthcoming meeting of the NASA Advisory Council, Earth System Science and Applications Advisory Committee (ESSAAC).

DATES: Thursday, September 9, 2004, 8:30 a.m. to 5:30 p.m. and Friday, September 10, 2004, 8:30 a.m. to 4 p.m.

ADDRESSES: Holiday Inn, Discovery II Room, 500 C Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory J. Williams, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0241.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Welcome/Opening Remarks
—NASA Overview
—Science Mission Directorate Overview
—Exploration Vision Discussion
—Research Strategy, Including Computational Modeling Priorities
—Information Technology Investment Review
—Data & Information Management Plan Progress
—Education Program Status
—Committee Deliberations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of key participants. Visitors will be requested to sign a visitor's register.

R. Andrew Falcon,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 04–18824 Filed 8–16–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request use of a voluntary survey of visitors to the National Archives Experience (NAE) in Washington, DC. The information will be used to determine how the various components of NAE affect visitors' level of satisfaction with the NAE and how effectively the venues communicate that records matter. The information will support adjustments in our offerings that will improve the overall visitor experience. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before October 18, 2004 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–837–3213; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: National Archives Experience—Visitors Survey.

OMB number: 3095–OOXX.

Agency form number: N/A.

Type of review: Regular.

Affected public: Individuals who visit the National Archives Experience in Washington, DC.

Estimated number of respondents: 5,250.

Estimated time per response: 12 minutes.

Frequency of response: On occasion (when an individual visits the National Archives Experience in Washington, DC).

Estimated total annual burden hours: 1,050 hours.

Abstract: The information collection is prescribed by EO 126862 issued September 11, 1993, which requires Federal agencies to survey their customers concerning customer service. The general purpose of this voluntary data collection is to (1) provide baseline data concerning the effectiveness of the National Archives Experience and its several venues in enhancing visitors' understanding that records matter, (2) measure customer satisfaction with the NAE, and (3) identify additional opportunities for improving the customers' experience.

Dated: August 10, 2004.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 04–18592 Filed 8–16–04; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 16, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax No. 703–518–6669. e-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: 12 CFR 703 Investment and Deposit Activities.

OMB Number: 3133–0133.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: To ensure that federal credit unions make safe and sound investments, the rule requires that they establish written investment policies and review them annually, document details of the individual investments monthly, ensure adequate broker/dealer selection criteria and record credit decisions regarding deposits in certain financial institutions.

Respondents: Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 5,732.

Estimated Burden Hours Per Response: 46.15 hours.

Frequency of Response: Recordkeeping. Reporting. On Occasion. Quarterly.

Estimated Total Annual Burden Hours: 264,529 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 11, 2004.

Becky Baker,

Secretary of the Board.

[FR Doc. 04–18773 Filed 8–16–04; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 16, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Written Reimbursement Policy.

OMB Number: 3133–0130.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Each Federal Credit Union (FCU) must draft a written reimbursement policy to ensure that the FCU makes payments to its director within the guidelines that the FCU has established in advance and to enable examiners to easily verify compliance by comparing the policy to the actual reimbursements.

Respondents: All federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 5,732.

Estimated Burden Hours Per Response: .50 hours.

Frequency of Response: Other. Once and update.

Estimated Total Annual Burden Hours: 2879.50.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 11, 2004.

Becky Baker,

Secretary of the Board.

[FR Doc. 04–18779 Filed 8–16–04; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 16, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6489, *e-mail: mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Credit Committee Records.

OMB Number: 3133–0058.

Form Number: N/A.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description. The standard FCU Bylaws require an FCU to maintain records of its loan approvals and denials.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 5,732.

Estimated Burden Hours Per Response: 8 hours.

Frequency of Response: Recordkeeping. Other, twice a month.

Estimated Total Annual Burden Hours: 45,856 hours.

Estimated Total Annual Cost: $770,839.36.

By the National Credit Union Administration Board on August 11, 2004.

Becky Baker,

Secretary of the Board.

[FR Doc. 04–18780 Filed 8–16–04; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 16, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, e-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Federal Credit Union (FCU) Membership Applications and Denials.

OMB Number: 3133–0052.

Form Number: N/A.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Article II, section 2 of the FCU Bylaws requires persons applying for membership in an FCU to complete an application. The Federal Credit Union Act directs the FCU to provide the applicant with written reasons when the FCU denies a membership application.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 1,433.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Recordkeeping, Reporting and On occasion.

Estimated Total Annual Burden Hours: 1,433.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 11, 2004.

Becky Baker,

Secretary of the Board.

[FR Doc. 04–18781 Filed 8–16–04; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted final annual fee rates of 0.00% for tier 1 and 0.063% (.00063) for tier 2 for calendar year 2004. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the final fee rate on class II revenues for calendar year 2004 shall be one-half of the annual fee rate, which is 0.0315% (.000315).

FOR FURTHER INFORMATION CONTACT: Bobby Gordon, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone 202/632–7003; fax 202/632–7066 (these are not toll-free numbers), or send E-mails to: *Fees@NIGC.Gov.*

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 514), as amended, provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the final rate being adopted today are effective for calendar year 2004. Therefore, all gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission by December 31, 2004.

Gary Pechota,

Chief of Staff, National Indian Gaming Commission.

[FR Doc. 04–18816 Filed 8–16–04; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 70—Domestic Licensing of Special Nuclear Material.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Generally, renewal applications are submitted every ten years and for major fuel cycle facilities updates of the safety demonstration section are submitted every two years. Nuclear material control and accounting information is submitted in accordance with specified instructions.

5. *Who is required or asked to report:* Applicants for and holders of specific NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

6. *An estimate of the number of responses:* 1,256 (655 plus 601 recordkeepers).

7. *The estimated number of annual respondents:* 372.

8. *The number of hours needed annually to complete the requirement or*

request: 89,465 (81,765 reporting hours + 7,700 recordkeeping hours) or an average of 125 hours per response (81,765 reporting burden hours/655 responses) and an average of 13 hours per recordkeeper (7,700 recordkeeping burden hours/601 recordkeepers).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Part 70 establishes requirements for licenses to own, acquire, receive, possess, use, and transfer special nuclear material. The information in the applications, reports, and records is used by NRC to make licensing and other regulatory determinations concerning the use of special nuclear material. The revised estimate of burden reflects the addition of requirements for documentation for termination or transfer of licensed activities, and modifying licenses.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–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 should be directed to the OMB reviewer listed below by September 16, 2004. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

OMB Desk Officer, Office of Information and Regulatory Affairs (3150–0009), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 11th day of August 2004.

For the Nuclear Regulatory Commission.

Beth St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 04–18730 Filed 8–16–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company, et al.

Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Carolina Power & Light Company (the licensee) to withdraw its December 8, 2003, application for proposed amendment to Facility Operating License No. NFP–63 for the Shearon Harris Nuclear Power Plant, Unit 1, located in Wake and Chatham Counties, North Carolina.

The proposed amendment would have revised the Technical Specifications to allow a one-time revision to the steam generator (SG) inservice inspection frequency requirements to allow a 40-month inspection interval after the first inservice inspection following SG replacement rather than after two consecutive inspections resulting in C–1 classification.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 17, 2004 (69 FR 7519). However, by letter dated August 6, 2004, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 8, 2004 and the licensee's letter dated August 6, 2004, 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 O1 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 e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 10th day of August 2004.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–18732 Filed 8–16–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 AND 50–414]

Duke Energy Corporation; Concerning the Application for Irradiation of Mixed Oxide Lead Test Assemblies at Catawba Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to the Facility Operating Licenses to permit the use of mixed oxide (MOX) lead test assemblies (LTAs) in one of the two Catawba units and is considering the granting of exemptions from (1) the requirements of Title 10 of the Code of Federal Regulations (10 CFR) Part 50.44(a), 10 CFR 50.46(a)(1) and 10 CFR Part 50, Appendix K with respect to the use of M5™ fuel rod cladding; (2) 10 CFR 50.46(a)(1) and Appendix K to Part 50 with respect to the use of MOX fuel; and (3) certain physical security requirements of 10 CFR Parts 11 and 73 that are usually required at fuel fabrication facilities for the protection of strategic quantities of special nuclear material. A similar request for an exemption from the requirements of 10 CFR Part 50.44(a) with respect to the use of M5™ fuel rod cladding is not being granted since 10 CFR Part 50.44 has been changed and an exemption from it is no longer necessary. The amended license and exemptions would apply to Renewed Facility Operating License Nos. NPF–35 and NPF–52, issued to Duke Energy Corporation (Duke, the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, (Catawba) located in York County, South Carolina. Therefore, pursuant to 10 CFR 51.21, the NRC is issuing this environmental assessment (EA) and finding of no significant impact (FONSI).

1.0 Introduction

The NRC staff has organized the discussion and evaluation to provide users with the context of the proposed action, supporting information that is available for tiering, the independent analyses performed, technical bases, and NRC conclusions. The following

structure was crafted to aid in its presentation:

1.0 Introduction
2.0 Background
3.0 Need for and Description of the Proposed Action
4.0 Non-Radiological Environmental Impacts of the Proposed Action
5.0 Radiological Environmental Impacts of the Proposed Action
6.0 Irreversible or Irretrievable Commitment of Resources
7.0 Unavoidable Adverse Impacts
8.0 Mitigation
9.0 Cumulative Impacts
10.0 Alternatives to the Proposed Action
11.0 Agencies and Persons Consulted
12.0 References
13.0 Finding of No Significant Impact

On the basis of the EA that follows, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement (EIS) for the proposed action.

By letter dated February 27, 2003, as supplemented by letters dated September 15, September 23, October 1 (two letters), October 3 (two letters), November 3 and 4, December 10, 2003, and February 2 (two letters), March 1 (three letters), March 9 (two letters), March 16 (two letters), March 26, March 31, April 13, April 16, May 13, and June 17, 2004, Duke submitted a license amendment request that, if granted, would authorize the irradiation of four mixed uranium and plutonium oxide MOX LTAs at either Catawba, or McGuire Nuclear Station (McGuire), Units 1 and 2, to support the U.S. Department of Energy (DOE) program for the disposition of fissile material. The DOE is responsible for implementing the national policy for disposition of fissile material. Duke has requested that the NRC staff's review only consider Catawba, as the proposed action because it no longer needed the option of conducting an LTA irradiation program at McGuire (Reference 6). In a previous, separate licensing action to support the renewal of the operating licenses for Catawba, Duke provided an environmental report (ER) (Reference 3); the ER provides useful background information about the site and its environs.

The proposed action involves issuance of three exemptions (for the use of M5™ cladding, instead of zircaloy; for fuel in the form of mixed uranium and plutonium oxide, rather than uranium oxide; and from certain physical security requirements usually required at fabrication facilities for the protection of strategic quantities of special nuclear material) and a license amendment for accompanying changes to the Catawba Technical Specifications (TSs) contained in Appendix A of each of the Catawba Nuclear Station operating licenses.

The NRC staff has prepared this EA to comply with its National Environmental Policy Act (NEPA) responsibilities to evaluate the environmental impacts resulting from Duke's proposed action. An EA is a concise public document prepared by the NRC to: (1) Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a FONSI; (2) aid the Commission's compliance with NEPA when no EIS is necessary; and (3) facilitate preparation of an EIS when one is necessary.

The NRC has completed a number of environmental reviews for activities that can inform this action and for activities specifically at the Catawba site. These reviews were published as environmental statements (ESs), EISs, or EAs, which were considered during the preparation of this assessment. In particular, in 1983, the NRC issued the final ES (FES) related to the operation of Catawba, NUREG–0921 (Reference 18). In 2002, the NRC issued a site-specific supplement to the Generic EIS for license renewal of nuclear plants regarding Catawba, NUREG–1437, Supplement 9 (Reference 32) (hereafter referred to as Supplement 9). In 1999, the NRC issued a final addendum to the Generic EIS for license renewal of nuclear plants regarding the potential impacts of transporting spent nuclear fuel in the vicinity of a single high-level waste repository, NUREG–1437, Addendum 1 (Reference 26). In 2001, the NRC issued the final EIS on the construction and operation of an independent spent fuel storage installation in Utah, NUREG–1714 (Reference 30). Finally, in 2003, the NRC issued a draft EIS on the construction and operation of a MOX fuel fabrication facility in South Carolina, NUREG–1767 (Reference 33).

DOE has issued a number of environmental documents that provide useful insights to the assessment of issues involved in this proposed action. In fulfilling its responsibility for developing and implementing a framework for the disposition of fissile material, the DOE has issued its final programmatic EIS (PEIS) on storage and disposition of weapons-usable fissile materials, DOE/EIS–0229 (Reference 12). A supplemental analysis was issued by DOE in November 2003, specifically addressing the fabrication of MOX LTAs in Europe, DOE/EIS–0229–SA3 (Reference 16), hereafter referred to as Supplement Analysis 3. The DOE has issued its final EIS on surplus plutonium disposition (SPD), or SPD EIS, DOE/EIS–0283 (Reference 13). A supplemental analysis to the SPD EIS was issued by DOE in April 2003, specifically addressing changes to the SPD program as it eliminated some of the alternatives, DOE/EIS–0283–SA1 (Reference 15), hereafter referred to as Supplement Analysis 1, and modified its Record of Decision (ROD). The ROD indicated that the disposition program would implement the National policy that was embodied in the September 2000 Agreement between the Government of the United States and the Government of the Russian Federation Concerning Management and Disposition of Plutonium Designated as No Longer Required for Defense Purposes and Related Cooperation. Finally, in 2002, DOE issued the final EIS on the geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste in Nevada, DOE/EIS–0250 (Reference 14).

This EA focuses on whether the proposed action could result in a significant environmental impact different from the ones considered by the NRC staff in earlier environmental reviews. The assessment considers whether changes have occurred in the human environment in the Catawba vicinity since the NRC staff previously considered environmental issues there. In a number of issue areas, the NRC references work that was documented in other publicly available environmental documents, for example, the EISs referenced above. In Supplement 9, the NRC staff evaluated the environmental impacts expected to result from continued operation and maintenance of the two Catawba facilities for an additional 20 years beyond the original license period. The Catawba plant operations for the proposed action would be conducted within the current license time frame; the NRC environmental reviews for this time frame were considered in the NRC FES and Supplement 9.

2.0 Background

2.1 The Plant and Its Environs

Catawba is located on 158 ha (391 acres) in York County, South Carolina, approximately 29 km (18 mi) southwest of Charlotte, North Carolina. Rock Hill, South Carolina, the nearest city, is about 10 km (6 mi) south of the site. Catawba is situated on a peninsula that protrudes into Lake Wylie, a man-made lake created by the Wylie Dam on the Catawba River. The lake was initially impounded in 1904. Present full pond was obtained in 1924 when an increase

in the dam height raised the water level and increased the size of the lake. Duke either owns the land under the lake or the flood rights to that land. The lake level fluctuates in accordance with hydroelectric generation needs. Lake Wylie is a source of drinking water for several municipalities and supports extensive recreational use by fishermen, boaters, water skiers, and swimmers. As Lake Wylie is situated in both North Carolina and South Carolina, both States are involved in the protection, from a watershed perspective, of Lake Wylie's water quality. Lake Wylie exhibits thermal and oxygen dynamics similar to other southeastern reservoirs of comparable size, depth, flow conditions, and trophic status. Lake Wylie supports a good warm-water fishery.

Each reactor is a pressurized light-water reactor (LWR) with four steam generators (SGs) producing steam that turns turbines to generate electricity. Duke refuels each Catawba nuclear unit on an 18-to 24-month schedule. Catawba has approximately 1200 full-time workers and site contractors employed by Duke during normal plant operations. During refueling periods, site employment increases by as many as 500 workers for temporary duty over a 30-to 40-day period. At the behest of the DOE and its fissile material disposition program, Duke has requested that NRC authorize it to use four MOX fuel LTAs for up to three refueling cycles. The four LTAs contemplated under this action would be used in lieu of four uranium dioxide fuel assemblies out of 193 assemblies in the reactor core. The LTAs would not require a physical modification to the reactors or to any support structures, laydown areas or storage facilities, nor would it result in any change in infrastructure or in any land disturbance on the Catawba site.

Catawba consists of two reactor buildings, two turbine buildings, two diesel generator buildings, six mechanical draft cooling towers, one shared service building, one auxiliary building, one water chemistry building, and one switchyard. The cooling water intake and discharge structures and standby nuclear service water pond are shared features. The reactors each have four reactor coolant loops, each of which contains a SG that produces steam and turns turbines to generate electricity. Each unit is designed to operate at core power levels up to 3411 megawatts (thermal) (MW[t]), with a corresponding net electrical output of approximately 1129 megawatts (electric) (MW[e]). The nuclear steam supply system for each unit and the Unit 2 SGs were supplied by Westinghouse Electric Corporation. The current Unit 1 SGs, installed in 1996, were supplied by Babcock & Wilcox International.

The reactor containment is housed in a separate free-standing steel containment structure within a reinforced concrete shield building. The containment employs the ice condenser pressure-suppression concept, and is designed to withstand environmental effects and the internal pressure and temperature accompanying a postulated loss-of-coolant accident or steam-line break. Together with its engineered safety features, the containment structure for each unit is designed to adequately retain fission products that may escape from the reactor coolant system (RCS).

The Catawba reactors are licensed for fuel that is slightly enriched uranium dioxide, up to 5 percent by weight uranium-235. The Catawba reactor core has several different fuel designs that will reside in the core with the MOX LTAs. They will include the Westinghouse Robust Fuel Assembly design and the Westinghouse Next Generation fuel design.

Catawba uses water from Lake Wylie for cooling and service water. Lake Wylie is the seventh of 11 impoundments in the 410-km (255-mi) Catawba-Wateree Project managed by Duke and licensed by the Federal Energy Regulatory Commission (FERC). Lake Wylie extends 45 km (28 mi) upstream from Wylie Dam to Mountain Island Dam. Flow through the Catawba-Wateree Project is managed by Duke to optimize hydroelectric generation, provide flood control, meet FERC minimum release requirements, and maintain a constant and reliable water supply for thermoelectric generating stations, surrounding communities, and industry. The average daily withdrawal from Lake Wylie for the cooling water and other service water systems is 386 million liters per day (L/d) (102 million gallons per day [MGD]). Water from Lake Wylie is taken in through two intake structures. The low-pressure service water (LPSW) intake structure is located on the Beaver Dam Creek arm of Lake Wylie. Trash racks and traveling screens are used to remove trash and debris from this intake water. The intake structure is designed for a maximum water velocity of 0.15 m/s (0.5 ft/s) in front of the trash racks at the maximum design drawdown of Lake Wylie. The LPSW system supplies water for various functions on the secondary side of the plant. The nuclear service water (NSW) intake structure also is located in the Beaver Dam Creek arm. This intake supplies cooling water to various heat loads in the primary side of the plant and supplies water to the standby NSW pond. Catawba does not use cooling ponds for normal operations; however, it does have a standby NSW pond. The purpose of this pond is to provide an ultimate heat sink in the event of a rapid decline in water level in Lake Wylie. The pond is isolated from the plant service water during normal plant operations. The average daily discharge back into Lake Wylie from Catawba is 230 million L/d (60.7 MGD). The consumptive water losses result from evaporation and drift from the six mechanical-draft cooling towers that provide cooling for the condenser circulating water system.

The discharge structure is located on the Big Allison Creek arm of Lake Wylie. This structure is designed to allow warm discharge water to float on the surface with a minimum amount of mixing. Approximately 1.48 million L/d (0.39 MGD) from the conventional waste water treatment system and from the sewage treatment system is discharged to Lake Wylie. Catawba obtains potable water from the city of Rock Hill, South Carolina. In addition, there are a total of three groundwater supply wells at the Catawba site. These wells supply water on a periodic basis to remote locations and for seasonal irrigation. The average annual groundwater withdrawal rate from these wells is 1.89 L/s (30 gallons per minute [gpm]).

Catawba uses liquid, gaseous, and solid radioactive waste management systems to collect and process the liquid, gaseous, and solid wastes that are the by-products of operations. These systems process radioactive liquid, gaseous, and solid effluents before they are released to the environment. The waste gas and solid waste systems are common to both units. Portions of the liquid radioactive waste system are shared. The waste disposal systems for Catawba meet the design objectives of 10 CFR Part 50, Appendix I (Numerical Guide for Design Objectives and Limiting Conditions for Operation to Meet the Criterion "As Low as is Reasonably Achievable" for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents). These systems control the processing, disposal, and release of radioactive liquid, gaseous, and solid wastes. Radioactive material in the reactor coolant is the source of gaseous, liquid, and solid radioactive wastes in LWRs. Radioactive fission products build up within the fuel as a consequence of the fission process. These fission products mostly are contained in the sealed fuel rods, but small quantities escape and contaminate the reactor coolant. Neutron activation

of the primary coolant system also is responsible for coolant contamination.

Nonfuel solid waste results from treating and separating radionuclides from gases and liquids and from removing contaminated material from various reactor areas. Solid wastes also consist of reactor components, equipment, and tools removed from service, as well as contaminated protective clothing, paper, rags, and other trash generated from plant design modifications and operations and routine maintenance activities. Solid waste may be shipped to a waste processor for volume reduction before disposal at a licensed burial site (Reference 3). Spent resins and filters are stored or packaged for shipment to a licensed offsite processing or disposal facility.

Routine maintenance performed on plant systems and components is necessary for safe and reliable operation. Maintenance activities conducted at Catawba include inspection, testing, and surveillance to maintain the current licensing basis of the plant and to ensure compliance with environmental and safety requirements. Certain activities can be performed while the reactor is operating, but others require that the plant be shut down. Long-term outages are scheduled for refueling and for certain types of repairs or maintenance, such as replacement of a major component. Fuel rods that have exhausted a certain percentage of their fuel and are removed from the reactor core for disposal are called spent fuel. Duke refuels each of the Catawba units every 18 to 24 months (Reference 3). Each outage is typically scheduled to last approximately 30 to 40 days, and the outage schedules are staggered so that both units are not shut down at the same time. Typically, one-third of the core is replaced at each refueling.

Catawba has five 230-kV transmission lines leaving the site from the switch yard (References 3 and 18). The five lines are contained within rights-of-way ranging from 35 to 46 m (115 to 150 ft) in width and from 1 to 40 km (0.7 to 24.4 mi) in length covering a total of 75.7 km (42.4 mi) and approximately 295 ha (730 ac) (References 3 and 18). The rights-of-way extend out from Catawba to the north, south, and west. The lines and rights-of-way were constructed or rebuilt between 1973 and 1983. Duke owns less than 10 percent of the rights-of-way and has easements for the remaining 90 percent. Vegetation in the rights-of-way is managed through a combination of mechanical and herbicide treatments (Reference 3). Initial treatments include mowing and/or treatment with Arsenal (imazapyr) and Accord (glyphosate). Spot treatments then are applied once every 3 years using Arsenal, Accord, Garlon4A, and Krenite. Herbicide treatments in wetlands are limited to Arsenal and Accord, which are approved for use in wetlands. In addition, Duke cooperates with the South Carolina Department of Natural Resources regarding protection of rare species and partners with The Wildlife Federation on vegetation management in some portions of the rights-of-way.

2.2 Supporting DOE Analyses

DOE has issued a number of environmental documents that provide useful insights to the assessment of issues involved in this proposed action. In fulfilling its responsibility for developing and implementing a framework for the disposition of fissile material, DOE has issued its final PEIS on storage and disposition of weapons-usable fissile materials, DOE/EIS–0229 (Reference 12). A supplemental analysis to the PEIS was issued by DOE in November 2003, specifically addressing the fabrication of MOX LTAs in Europe, DOE/EIS–0229-SA3 (Reference 16), hereafter referred to as Supplement Analysis 3. The DOE has issued its final EIS on SPD, or SPD EIS, DOE/EIS–0283 (Reference 13). A supplemental analysis to the SPD EIS was issued by DOE in April 2003, specifically addressing changes to the SPD program as it eliminated some of the alternatives, Supplement Analysis 1. Finally, in 2002, DOE issued the final EIS on the geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste in Nevada, DOE/EIS–0250 (Reference 14).

As background, in the following, the NRC staff summarizes the DOE analyses regarding transportation risk of the LTAs to Catawba. The transportation and associated impacts of the MOX LTAs to Catawba are not related to the proposed action; the complete analysis is included in Supplement Analysis 3. The LTAs would be shipped by truck from one of three marine military ports near the Atlantic Ocean: Charleston Naval Weapons Station (South Carolina), Yorktown Naval Weapons Station (Virginia) or Naval Station Norfolk (Virginia). The ultimate selection of the porting facility will be made by DOE and would influence the transportation risk because transportation routing and distance, the accident statistics for the states through which the route passes, and the population distribution along transportation corridors would be different, depending on which port is selected. The LTAs would be shipped from the selected marine port by truck.

If the proposed action is approved, then, once the LTAs are inserted into the reactor and are irradiated, the DOE proposes to take possession of a small portion of the irradiated fuel and to conduct post-irradiation examination and testing at one of its National laboratories. The irradiated LTAs that remain at Catawba are expected to be managed in a manner similar to other spent fuel and are expected to be shipped to a high-level waste repository for ultimate disposition; because LTAs will be used in lieu of other fuel assemblies, the total number of spent fuel rods that have to be managed by Duke at Catawba would be reduced by the small number that will return to the DOE under this campaign. As part of this action to assess the impacts of transporting the spent fuel rods to a high-level waste repository, the NRC staff will assume that DOE will not remove any of the spent fuel rods from the LTAs, but will ship complete fuel assemblies to a permanent geologic repository.

3.0 Need for and Description of Proposed Action

Duke proposes three exemptions (for the use of M5™ cladding instead of zircaloy; for fuel in the form of mixed uranium and plutonium oxide, rather than uranium oxide; and from physical security requirements usually required at fabrication facilities for the protection of strategic quantities of special nuclear material) and a license amendment to the TSs in Appendix A of the Catawba operating licenses. The need for these changes is that they will permit the insertion of four LTAs containing mixed uranium dioxide (UO_2) and plutonium dioxide (PuO_2), also referred to as MOX, fuel into one of the Catawba reactor cores and thus support the U.S. Department of Energy (DOE) program for the disposition of fissile material. It is important to note that the action is not "batch," or routine widescale use of MOX fuel at Catawba or any other reactor. The irradiation of four MOX LTAs is part of DOE's program for fissile material disposition.

The physical design and material composition of each LTA is identical (within manufacturing tolerances); the physical design is based on the Framatome Advanced Mark BW design. The fuel assembly upper and lower nozzles are 304L stainless steel. The lower nozzle has a debris filter which is A–286 steel alloy. The grid straps located axially along the fuel assembly are either Inconel 718 or M5™ zirconium alloy. The hold down springs

on the fuel assembly top nozzle are Inconel 718. The fuel rod cladding is M5™ zirconium alloy as well as the rod upper and lower end caps. The fuel rod is filled with helium gas and contains a plenum spring manufactured from either 302 or 304 stainless steel.

With the exception of the M5™ cladding, the materials used in the fuel assembly structural components are typical of those currently or previously in use at Catawba. The M5™ alloy is a proprietary zirconium based alloy, composed primarily of zirconium and niobium, that has demonstrated superior corrosion resistance and reduced irradiation growth relative to both standard and low tin zircaloy. Although Catawba has not previously used the M5™ alloy, the alloy has been used in at least four other pressurized-water reactors (PWRs).

The fuel pellet contains a mixture of UO_2 and PuO_2, thus, the term MOX. The fuel is manufactured through a sintering process like that used for the current fuel which consists of only UO_2. The current fuel is referred to as low-enriched uranium (LEU) fuel. The fuel proposed in this application is referred to as MOX fuel and has only been used in a limited number of applications in PWRs in the U.S. However, reactors located in Europe have more than 35 years of experience with MOX fuel. As of 1998, three European fabrication plants have produced more than 435,000 MOX fuel rods, which have been used in 35 different PWRs. The plutonium for use in the Catawba fuel will be obtained from highly-enriched material blended down to a fissile content useful for reactor operations. By contrast, the European MOX fuel is recycled from commercial operating reactor fuel. The source of the fuel feedstock determines its grade; Catawba fuel has been referred to as "weapons grade" and the European fuel as "reactor grade." The Catawba fuel will be chemically polished to meet specifications for reactor operations and, therefore, "grade" does not have a bearing on the presence of impurities.

During manufacturing, the composition of the LEU fuel is approximately 3 percent to 5 percent of the U–235 isotope with the balance of the uranium almost completely consisting of the U–238 isotope. During reactor operations a substantial portion of the uranium in LEU fuel is converted into plutonium. The conversion of uranium to plutonium in LWR fuel, whether LEU or MOX, is a function of burnup. An LEU fuel assembly begins its life with an inventory of U–238 and U–235 and ends its life with an inventory that includes Pu isotopes, the remaining U–235 and U–238, and other fission products. A MOX fuel assembly begins its life with an inventory of uranium and Pu isotopes; it ends its life with the remaining uranium and Pu isotopes and other fission products. At a burnup of 50 MWd/MT (megawatt-days/metric ton), a fuel assembly fabricated with MOX is estimated to contain approximately 13 kg of plutonium, whereas an LEU assembly with the same burnup would contain approximately 6 kg of plutonium. Therefore, even with just the current LEU fuel in Catawba, and in all operating LWRs of this design, plutonium already exists in substantial quantities.

No other primary or secondary plant structures, systems or components are affected by this application. None of the plant structures, systems or components, including waste systems, will be modified and none of these systems will be operated in a different manner or with different operating limits because of the proposed action. The proposed use of the MOX assemblies does not represent the introduction of any new sources of compounds, materials or elements beyond the new clad alloy or the MOX fuel. In addition, Duke is not requesting any changes to the TSs on coolant system specific activity or the radioactive effluent controls program nor is it planning any changes to the detailed radioactive effluent controls in the selected licensee commitments in Chapter 16 of the updated final safety evaluation report (UFSAR).

4.0 Non-Radiological Environmental Impacts of the Proposed Action

The NRC staff has completed a number of environmental reviews for activities specifically at the Catawba site. These reviews were published as ESs, EISs, or EAs. These reviews were considered during the completion of this assessment and provide a current baseline of non-radiological and radiological environmental analyses that serve as a platform to consider whether, and if so, how the human environment can be affected by the proposed action. In particular, in 1983, the NRC issued the final EIS related to the operation of Catawba, NUREG–0921 (Reference 18). In 2002, the NRC issued the final supplement to the Generic EIS for license renewal of nuclear plants, regarding Catawba, NUREG–1437, Supplement 9. In this assessment, the NRC staff has focused its attention on whether the proposed irradiation of four MOX LTAs has the potential to change how an environmental resource may be affected and whether the environmental impacts of the proposed action are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.1 Surface and Groundwater Use

Catawba uses water from Lake Wylie, an impoundment on the Catawba River for the source of main condenser cooling and service water at Catawba. There are three groundwater supply wells on the Catawba site that are used on a periodic basis to supply remote locations and for seasonal irrigation. The proposed action is not expected to change the manner in which the facility is operated nor does it increase surface or groundwater usage from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.2 Water Quality

Pursuant to the Federal Water Pollution Control Act of 1977 (the Clean Water Act), the South Carolina Department of Health and Environmental Control (SCDHEC) regulates the impacts of non-radiological effluents discharged from Catawba via a National Pollutant Discharge Elimination System (NPDES) permit. Adherence by the licensee to the provisions of the permit maintains water quality standards in Lake Wylie and in the vicinity that could potentially be affected by operation of Catawba. The current NPDES wastewater permit for Catawba, issued on April 30, 2001, expires on June 30, 2005.

The proposed action is not expected to change the types, characteristics, or quantities of non-radiological effluents discharged to the environment. There will be no change in the use or discharge of biocides or other chemicals at Catawba as a result of the proposed action. As discussed above, this application is for the use of four MOX fuel LTAs to be irradiated in the reactor core. Aside from the LTAs isolated in the reactor core, the proposed action will not introduce any materials or chemicals into the plant that could affect the characteristics or types of non-radiological effluents. In addition, the method of operation of non-radiological waste systems will not be affected by the proposed change. There are no known mechanisms associated with a change in fuel isotopic content that would alter the non-radiological effluent quantity. None of the parameters

regulated under the Clean Water Act will be changed by the proposed action. The proposed action is not expected to change the manner in which the facility is operated nor does it alter water quality from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.3 Thermal Effluents

The proposed action will not change the licensed power level for Catawba. There will be no increase in the amount of heat that is produced by the facility and subsequently discharged via cooling tower blowdown to Lake Wylie. Therefore, there will be no change to the discharge temperature and no increase in the impact of thermal effluents on aquatic biota. The proposed action is not expected to change the manner in which the facility is operated nor does it alter thermal effluents that may affect aquatic biota from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.4 Impingement and Entrainment

The proposed action does not involve an increase in the licensed thermal power level for Catawba that would require additional cooling. Because there will be no increase in the volume of water drawn into the plant, there will be no incremental impact on aquatic biota associated with the withdrawal of cooling water from Lake Wylie. The proposed action is not expected to change the manner in which the facility is operated nor does it alter impingement of adult or juvenile fish or on the entrainment of fish eggs and larvae from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.5 Air Quality

Transmission lines have been associated with the production of minute amounts of ozone and oxides of nitrogen as a result of corona discharges from the breakdown of air near high-voltage conductors. Through the years, line designs have been developed that greatly reduce corona effects. The transmission lines associated with the Catawba facility meet the 1997 version of National Electric Safety Code and corona effects are minimal on those lines.

SCDHEC has issued a Clean Air Act air emissions and operating permit to Catawba for the release of controlled amounts of effluents to the atmosphere resulting from operation of the emergency diesel generators (EDGs) and other equipment on the site. The Charlotte, North Carolina, metropolitan area has not been identified as a non-attainment or maintenance area, therefore, no assessment of the vehicle exhaust emissions anticipated at the time of peak workforce is required by the Clean Air Act. The proposed use of the MOX LTAs will not result in an increase in station electrical output or a change in the operation of the station EDGs or other equipment.

The proposed action is not expected to change the manner in which the facility is operated nor does it alter air quality, either as a result of release of increased amounts of effluents to the atmosphere or as a result of corona associated with the transmission lines for Catawba, from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.6 Noise

The proposed action will not result in any increase in ambient noise level either on-site or beyond the site boundary. When noise levels are below the levels that result in hearing loss, impacts have been judged primarily in terms of adverse public reactions to the noise. As noted in the Generic EIS for License Renewal, NUREG–1437 (Reference 24), no nuclear plants have offsite noise levels sufficient to cause hearing loss. Generally, power plant sites do not result in offsite levels more than 10 dB(A) above background. Noise level increases more than 10 dB(A) would be expected to lead to interference with outdoor speech communication, particularly in rural areas or low-population areas, such as Catawba, where the background noise level is in the range of 45–55 dB(A). Generally, noise surveys around major sources of noise such as large highways and airports have found that, when the background noise level increases beyond 60–65 dB(A), noise complaints increase significantly. Noise levels below 60–65 dB(A) are generally considered to be of small significance. The principal sources of noise at Catawba are the result of operation of mechanical draft cooling towers, transformers, and loudspeakers. These noise sources are not perceived by large numbers of people offsite. In addition, these sources of noise are sufficiently distant from critical receptors outside the plant boundaries that the noise is attenuated to nearly ambient levels and is scarcely noticeable.

The proposed action is not expected to change the manner in which the facility is operated nor does it alter ambient noise level onsite or beyond the site boundary at Catawba from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.7 Thermophilic Organisms

Thermophilic organisms are known to inhabit cooling tower basins and natural bodies of water in the southern latitudes of the U.S., including water bodies in the vicinity of Catawba. Waste heat from power plant facilities could stimulate the growth of these organisms, some of which are known to be potentially harmful to man.

The use of MOX LTAs will not change the licensed power level at Catawba. There will be no increase in the amount of heat that is produced by the facility and subsequently discharged via cooling tower blowdown to Lake Wylie that would change the discharge temperature or that would increase the impact of thermal discharges on thermophilic organisms. The proposed action is not expected to change the manner in which the facility is operated nor would it alter the abundance of pathogenic thermophilic microbiological organisms due to heated discharges from Catawba from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.8 Aquatic Ecology

Recently, in Supplement 9, the NRC staff evaluated and disclosed the impacts resulting from the current mode of operation and that are expected to

occur during the extended term of the renewed operating licenses at Catawba. The NRC staff has considered the potential impacts of the proposed action on water use and quality, impingement and entrainment, thermal effluents, and thermophilic organisms. The proposed action is not expected to change the manner in which the facility is operated nor does it alter any resource components associated with aquatic ecology at Catawba from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.9 Terrestrial Ecology

Recently, in Supplement 9, the NRC staff evaluated and disclosed the impacts resulting from the current mode of operation and that are expected to occur during the extended term of the renewed operating licenses at Catawba. The NRC staff has considered the potential impacts of the proposed action on cooling tower operation, transmission line operation and maintenance, and on-site or off-site land use. The proposed action is not expected to change the manner in which the facility is operated nor does it alter any resource components associated with terrestrial ecology at Catawba from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.10 Threatened or Endangered Species

On the basis if its conclusions of no impact on aquatic or terrestrial resources as discussed above, the NRC staff concludes that the proposed use of four MOX fuel LTAs at Catawba will have no effect on any Federally-listed threatened or endangered species or their designated critical habitat.

4.11 Socioeconomic Impacts

The licensee plans to implement additional security measures to support activities associated with the proposed action, from the time the material (MOX) arrives on site until it is irradiated. Duke has not identified the need to hire additional staff to support the proposed action. Catawba already has over 1200 full-time workers employed by Duke and site contractors during normal plant operations. During refueling periods, site employment increases by as many as 500 workers for temporary duty over a 30-to 40-day period. Even if a limited number of additional security personnel were hired to implement the proposed action, it will not significantly increase the number of licensee staff or contractors employed at the facility; therefore, there would be no noticeable impact on housing or transportation that might result from an increase in workforce. Likewise, there will be no need for additional public services, such as for public safety, public utilities, social services, or education. Finally, no impacts are expected on tourism and recreation or taxes as a result of the proposed action. The proposed action is not expected to change the manner in which the facility is operated nor does it alter any resource components associated with socioeconomics in the Catawba vicinity from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.12 Offsite Land Use

The land occupied by Catawba is in unincorporated York County. York County and its municipalities currently have land use plans and zoning requirements that govern development activities within the county. Duke has not identified the need to hire additional staff to support the proposed action. Catawba already has over 1200 full-time workers employed by Duke and site contractors during normal plant operations. During refueling periods, site employment increases by as many as 500 workers for temporary duty over a 30- to 40-day period. Even if a limited number of additional personnel were hired to implement the proposed action, it will not significantly increase the number of licensee staff or contractors employed at the facility. The proposed action will not have any impact on the local infrastructure, such as transportation or housing in the Catawba vicinity that might result from an increased workforce. Because there will not be any need to augment the local infrastructure, the proposed change will not be accompanied by any land-disturbing activities offsite. The proposed action is not expected to change the manner in which the facility is operated nor does it alter any resource components associated with land use in the Catawba vicinity from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.13 Cultural Resources and Historic Properties

The proposed action will not result in any changes in off-site land use or in any land-disturbing activities. There will be no physical changes to the existing facility or disturbances to undeveloped portions of the site. The NRC staff concludes that the use of MOX lead test assemblies at Catawba will not have environmental impacts on cultural resources and historic properties. The proposed action is not expected to change the manner in which the facility is operated nor does it alter any resource components associated with cultural resources and historic properties in the Catawba vicinity from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.14 Aesthetics

As noted above, the proposed action will not require any physical changes to the existing facility or be accompanied by any land-disturbing activities, either off-site or on-site. Also, the proposed change will not result in any changes in land use plans or zoning requirements in unincorporated York County or its municipalities. The proposed action is not expected to change the manner in which the facility is operated nor does it alter any resource components associated with aesthetics or viewsheds in the Catawba vicinity from that previously considered by the NRC staff in the final EIS (Reference 18) and Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the final EIS and Supplement 9.

4.15 Summary

In summary, the proposed irradiation of four MOX LTAs at Catawba would not result in a significant change in non-radiological impacts in the areas of surface or groundwater use, chemical or thermal discharges, intake effects, air quality, noise, thermophilic organisms, aquatic or terrestrial ecology, threatened

or endangered species, socioeconomics, off-site land use, cultural resources or historic properties, aesthetics, or environmental justice. No other non-radiological impacts were identified or would be expected. Therefore, based on the above discussions, the NRC staff concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

5.0 Radiological Environmental Impacts of the Proposed Action

5.1 Gaseous Effluents

The licensee has evaluated the potential impacts that could result from the proposed use of MOX LTAs on the type or amount of gaseous radioactive effluents that could be released from the Catawba facility. This evaluation includes a consideration of fuel cladding performance and fuel integrity considerations and is based on the similarity of MOX fuel to the present LEU fuel, both from a fuel design and a fission product inventory perspective. The analysis takes into account the replacement of four out of 193 fuel assemblies with the assemblies containing MOX fuel; this action considers the four MOX LTAs.

As fuel is irradiated, both activation and fission products are created. The activation products that are created are a function of impurities and the chemistry of the reactor coolant and the neutron flux that the materials encounter. Thermal neutron flux is significantly lower in MOX fuel than in LEU fuel, which would tend to lower activation products. However, for four lead assemblies, this is expected to be an insignificant effect.

The outer surfaces of the fuel assemblies which are exposed to the RCS are the same materials which have been used at Catawba for many years. The exception is the introduction of the M5™ alloy. This material is a zirconium-based alloy and is more corrosion resistant than currently-used zirconium-based alloys. Therefore, the fuel assembly surfaces exposed to reactor coolant should not interact to produce any different quantity or type of radioactive material in the RCS.

The performance of M5™ cladding is expected to meet or exceed that of the current zircaloy cladding. Therefore, there is not expected to be any increase in the quantity of failed fuel rods. In the event of failed fuel rods, the MOX fuel could release fission products from the gap into the RCS. However, the chemical volume and control system and radioactive waste systems are designed to cope with fuel rod failures. The same fission products present from the failure of a LEU fuel rod would be present for the failure of a MOX fuel rod. Only slight differences in curie content of respective isotopes would be expected in the event of a cladding failure.

Fission product inventories and fuel gap inventories are of the same order of magnitude in both MOX fuel and LEU fuels. In particular, the amount of iodine and noble gas that would be released into the reactor coolant in the event of a leaking fuel rod would be similar. Additionally, any liquid or gaseous effluents would be processed by the plant liquid waste and waste gas systems prior to release to the environment. These waste treatment systems would limit radioactive discharges to the environment as a result of hold-up for decay, filtering, and demineralization. The plant treatment systems are capable of treating these radioactive effluents because the types of radioactive material in MOX and LEU fuel are the same and the curie content of MOX fuel is of the same order of magnitude as LEU fuel. Thus, the licensee is expected to maintain the same level of radioactive control and to remain within the same regulatory limits with the MOX fuel as for the LEU fuel.

Therefore, based on the materials and performance capabilities of the fuel and plant systems, there is no basis to expect any change in gaseous effluent characteristics typical of normal plant operations. In addition, Duke has not requested any changes to the TSs limits on RCS specific activity or to the radioactive effluent controls program and is not planning any changes to the selected licensee commitments of Chapter 16 of the UFSAR. These requirements and commitments place limits on various isotopes and specify requirements for monitoring and surveillance, thereby limiting the release of gaseous radioactive effluents from the Catawba facility.

The NRC staff concludes that there will be no anticipated changes in the type or amount of gaseous radiological effluents resulting from the use of MOX fuel lead assemblies compared to the current LEU fuel. The licensee will continue to maintain its radioactive gaseous effluents within license conditions and regulatory limits. Therefore, there will be no additional environmental impacts as a result of gaseous radioactive effluents from the proposed action.

5.2 Liquid Effluents

Duke has evaluated the potential impacts that could result from the proposed use of MOX lead assemblies on the type or amount of liquid radioactive effluents that could be released from the Catawba facility. This evaluation includes a consideration of fuel cladding performance and fuel integrity considerations and is based on the similarity of MOX fuel to the present LEU fuel, both from a fuel design and a fission product inventory perspective. The analysis takes into account the replacement of four out of 193 fuel assemblies with fuel assemblies containing MOX fuel.

As fuel is irradiated, both activation and fission products are created. The activation products that are created are a function of impurities and the chemistry of the reactor coolant and the neutron flux that the materials encounter. Impurities in the reactor coolant and reactor coolant water chemistry are independent of the fuel type, whether MOX or LEU. Thermal neutron flux is significantly lower in MOX fuel than in LEU fuel, which would tend to lower activation products. However, for four lead assemblies, this is expected to be an insignificant effect.

There are no expected changes to liquid radioactive effluents as a result of the proposed action. As discussed above, with the exception of the M5™ alloy cladding on the MOX fuel rods in the LTAs, the outer surfaces of the fuel assemblies which are exposed to the RCS and several other components are very similar to the materials that have been used at Catawba for many years. The M5™ alloy material is a zirconium-based alloy and is more corrosion resistant than currently used zirconium-based alloys. Therefore, the fuel assembly surfaces exposed to reactor coolant should not interact to produce any different quantity or type of radioactive material in the RCS.

The cladding performance of M5™ is expected to meet or exceed that of the current zircaloy cladding, therefore, there is not expected to be any increase in the quantity of failed fuel rods. In the event of failed fuel rods the MOX fuel could release fission products from the gap into the RCS. However, the chemical volume and control system and radioactive waste systems are designed to cope with fuel rod failures. The same fission products present from the failure of a LEU fuel rod would be present for the failure of a MOX fuel rod. Only slight differences in curie content of respective isotopes are expected.

Therefore, based on the materials and performance capabilities of the fuel and plant systems there is no basis to expect any change in liquid effluent characteristics typical of normal plant

operations. In addition, Duke is not requesting any changes to the TSs on RCS specific reactivity or the radioactive effluent controls program, nor is it planning any changes to the detailed radioactive effluent controls in the selected licensee commitments section of Chapter 16 of the UFSAR. These requirements and commitments place limits on the concentration of radioactive material released in liquid effluents and specify requirements for monitoring and surveillance, thereby limiting the release of liquid radioactive effluents from the Catawba facility. Therefore, there will be no additional environmental impacts as a result of liquid radioactive effluents from the proposed action.

5.3 Waste Management and Solid Radioactive Waste

The introduction of the four LTAs should have minimal impact on solid waste. As discussed above, there is no change to radioactive liquid effluents and no need for liquid effluent cleanup that would generate additional solid radioactive waste in the form of resins or evaporator bottoms. There would be no expected impact on primary system filters or resins associated with normal plant operations.

The quantity of waste associated with a pool side post-irradiation examination program which will be conducted for the MOX fuel assemblies is minimal and consistent with other post-irradiation examinations performed during refueling outages. This waste would be small volumes of low-level waste such as disposable portions of anti-contamination clothing.

The proposed action would not result in an increase in authorized power level, therefore, there will be no increase in the amount of water required to remove heat from the reactor. This means that there will be no need for additional water treatment in the secondary system that could lead to an increase in the amount of spent resins and evaporator bottoms.

The proposed action would not increase the number of fuel rods irradiated in the reactor. Four assemblies containing MOX fuel will replace four LEU assemblies in the reactor core. No additional fuel assemblies will be irradiated. Therefore, this will not result in an increase in the volume of solid radioactive waste from fittings, endcaps, and springs for fuel assemblies.

The spent fuel storage racks will not be changed; therefore there will be no change in the volume of irradiated/contaminated material that will need to be disposed of in an off-site burial facility.

Therefore, based on the discussion above, the NRC staff concludes that the proposed action will have no impact on waste management and solid radioactive waste.

5.4 Occupational Dose

The licensee estimates that there will be slight increases in the radiation exposure of its workforce during the handling of MOX fuel during receipt and handling operations. The increase in dose is due to a higher dose rate from a fresh MOX fuel assembly as compared to a fresh LEU fuel assembly. The total neutron and gamma dose rate at 10 centimeters from the face of a fresh MOX fuel assembly averages about 6 mrem/hour, falling off to about 1.8 mrem/hour at 100 centimeters (Reference 5). This is a relatively low radiation field; however, it is larger than that associated with a LEU fuel assembly, which has virtually no radiation field at these distances.

The initial fuel receipt, handling, and inspection activities for the fresh MOX fuel LTAs could result in a conservatively estimated total occupational dose in the range of 0.020 to 0.042 person-rem (Reference 5). However, the licensee will use the application of the As Low As Reasonably Achievable principles to try to effect lower doses than are estimated. Radiation doses of this magnitude are well within regulatory occupational exposure limits and do not represent an impact to worker health. There are no other expected changes in normal occupational operating doses as a result of the proposed action.

Not included among the workforce on the Catawba site are the workers who will conduct hot-cell examinations of the irradiated MOX fuel after it has been taken from the Catawba reactor core and shipped to Oak Ridge National Laboratory (ORNL). In order to assess the impact of the proposed action on the workers at ORNL, the NRC staff has referenced DOE's SPD EIS to provide an assessment of the occupational doses resulting from post-irradiation examinations following irradiation of the LTAs. DOE has estimated the radiological consequences for the hot-cell examination of fuel assemblies at ORNL. There are an estimated 10 workers associated with the hot-cell examination work, each estimated to accumulate approximately .177 person-rem (Reference 9). The hot-cell post-irradiation examinations at ORNL will be conducted in accordance with DOE radiation protection programs and procedures Occupational doses in the range of 0.020 to 0.042 total person-rem as a result of poolside examination and 0.177 person-rem for each of the 10 workers performing hot-cell examinations at ORNL would be far below the regulatory limit for individual workers of 5 rem/year. Therefore, the NRC staff concludes that there will be no significant increase in occupational dose as a result of the proposed use of MOX LTAs at Catawba.

5.5 Dose to the Public

Dose to the public will not be changed by the use of four lead assemblies at Catawba during normal operations. As discussed above, there is no basis to contemplate an increased source of liquid, gaseous or solid radiological effluents that could contribute to increased public exposure during normal operations. The SPD EIS states that no change would be expected in the radiation dose to the general public from normal operations associated with disposition of MOX fuel at the proposed reactors (Reference 13). In addition, DOE has performed an analysis that demonstrates no incremental change in doses for 16 years of reactor operation.

For members of the public, the licensee estimates that there will be no detectable increase in public dose during normal operations with the MOX fuel assemblies (Reference 5). Use of the lead assemblies in the reactor core will not change the characteristics of plant effluents or water use. During normal plant operation, the type of fuel material will have no effect on the chemistry parameters or radioactivity in the plant water systems. The fuel material is sealed inside fuel rods that are seal-welded and leaktight. Therefore, there would be no direct impact on plant radioactive effluents and the associated radiation exposure.

5.6 Design-Basis Accident Consequences

The models used by Duke to assess design-basis accident (DBA) consequences reflect conservative assumptions to ensure that there is an adequate safety margin. In particular, the NRC staff notes that Duke assumed that plutonium concentration of the pins in the LTAs was 5 percent. The nominal LTA fuel design calls for 176 fuel pins with a plutonium concentration of 4.94 percent; 76 pins at 3.35 percent, and 12 pins at 2.40 percent. The nominal average plutonium concentration is 4.37 percent. Conservatively basing the calculation on 5 percent plutonium concentration provides margin to compensate for differences (*e.g.*, manufacturing tolerances and power

history differences) between the nominal design and the actual fuel as loaded in the core.

The differences in the initial fuel isotopics between MOX and LEU fuel are potentially significant to accident radiological consequences because the distribution of fission products created depends on the particular fissile material. If the fissile material is different, it follows that the distribution of fission products may be different. For example, one atom of I–131 is created in 2.86 percent of all U–235 fissions, whereas one atom of I–131 is created in 3.86 percent of all Pu-239 fissions. This shift in fission product distribution was assessed for its influence on postulated radiological consequences of DBAs.

Duke's application provided an accident source term for irradiated MOX fuel. The NRC staff compared that source term to data prepared by Sandia National Laboratory and performed independent calculations of core inventory using the ORIGEN–S code (as described in NUREG/CR–0200 (Reference 28). The NRC staff has determined that source term assumptions used by Duke in its analyses of the accident consequences of the use of the MOX LTAs are adequate and conservative for assessing the consequences of DBAs.

To address the impact of MOX fuel on gap fractions, Duke assumed an increase of 50 percent over that provided in Regulatory Guide 1.183 (Reference 23), for LEU fuel for each of the MOX LTAs. Duke provided information to support this assumption with comparative data from European MOX facilities. The NRC staff obtained the assistance of Pacific Northwest National Laboratory to confirm the adequacy of Duke's assumed increase in the gap fractions. Based upon its review, the NRC staff determined that the gap fraction increase assumed by Duke in its analyses is acceptable.

Duke has evaluated the radiological consequences of postulated DBAs involving MOX LTAs. Duke has categorized various DBAs on the basis of how many fuel assemblies would be affected by that event. Duke identified two major categories:

- Fuel-handling accidents (FHA) involving damage to a few fuel assemblies. These include fresh and irradiated FHAs (involving the drop of a single fuel assembly) and the weir gate drop (WGD) accident (causing damage to seven fuel assemblies). A small number of assemblies are involved such that if the four MOX LTAs were in the damaged population, they would comprise all or a significant portion of the damaged population. As such, these events are limiting with regard to the potential increase in dose that would result if they occurred while the MOX LTAs were in the core. [The loss of coolant accident (LOCA) discussed below is limiting with regard to the magnitude of the dose.]
- At-power accidents involving fuel damage to a significant portion of the entire core. These accidents range from the locked rotor accident with 11 percent core damage (21 assemblies damaged), to the rod ejection accident with 50 percent core damage (97 fuel assemblies damaged), to the large break loss-of-coolant accident (LOCA) with full core damage (all 193 fuel assemblies damaged). In this case, the relative effect of damaging all four MOX LTA is reduced as the fuel damage population increases. For example, in a DBA LOCA, all 193 fuel assemblies are postulated to be damaged and the four MOX LTAs constitute just 2 percent of all the fuel assemblies in the core.

The NRC staff considered the following additional category to further assess potential DBA consequences:

- Accident source term assumptions derived from RCS radionuclide concentrations, such as SG tube rupture, main steam line break, instrument line break, waste gas decay tank rupture, and liquid storage tank rupture (LST). Estimates of the radionuclide releases resulting from these events are based on pre-established administrative controls that are monitored by periodic surveillance requirements, for example: RCS and secondary plant-specific activity LCO, or offsite dose calculation manual effluent controls. Increases in specific activities due to MOX, if any, would be limited by these administrative controls. Because the analyses were based upon the numerical values of these controls, there is no impact on the previously analyzed DBAs in this category and no further discussion of these events is warranted.

The analysis of public doses for the Exclusion Area Boundary (EAB) and Low-Population Zone (LPZ) resulting from the two classes of accidents considered by Duke are discussed below. In addition, the NRC staff has evaluated the radiological consequences of affected DBAs on the operators in the control room.

5.6.1 Fuel-Handling Accidents

Duke has performed analyses of the dose consequences of FHAs, including: the drop of a single fresh fuel assembly; the drop of a single irradiated MOX fuel assembly during refueling; and a weir drop accident, which leads to damage of seven irradiated fuel assemblies including the four MOX fuel assemblies.

Fresh MOX LTA Drop

This accident analysis is not currently part of the Catawba licensing basis. Duke performed this analysis to assess the radiological consequences of a drop of a fresh MOX LTA prior to it being placed in the spent fuel pool (SFP). Duke stated that plutonium isotopes have a much higher specific activity than uranium isotopes and, if inhaled, could present a more severe radiological hazard. Although the configuration of the MOX pellets and LTA fuel rods provides protection against inhalation hazards, some plutonium could become airborne if the MOX LTA is damaged.

Duke performed an analysis to estimate the radiological consequences from a fresh MOX fuel drop accident. The approach for this analysis was consistent with the assumptions and methodologies that were used in the calculations supporting the MOX Fuel Fabrication Facility (MFFF) construction authorization request. The MOX MFFF application and review did not address the MOX fuel drop accident and although the guidance of NUREG/CR–6410 has not been used previously for DBA analyses for power reactors, the NRC staff concludes that the overall methodology used in the MFFF review is appropriate for the present application.

The dose estimated by the licensee for the postulated drop of a single fresh MOX fuel assembly was 0.3 rem total effective dose equivalent (TEDE) at the EAB, which is a small fraction of the 10 CFR 50.67 dose criterion (*i.e.*, 25 rem TEDE at the EAB) and is, therefore, found to be acceptable. The NRC staff has evaluated the analysis provided by the licensee and concludes that the methodology and calculations have been applied in a conservative manner. Therefore, the NRC staff concludes that there will be no significant adverse environmental impact as a result of a fresh MOX fuel drop accident.

Irradiated MOX LTA Drop

Duke has calculated that the radiological consequences resulting from a FHA involving the drop of a single irradiated MOX fuel assembly would be 2.3 rem TEDE at the EAB, 0.34 rem TEDE at the edge of the LPZ, and 2.1 rem TEDE in the control room—increases of about 64 percent over the previous analysis for LEU fuel.

The NRC staff performed confirmatory analyses of the spent FHA using the MOX LTA source term that it generated using the SCALE SAS2H computer code (as described in NUREG/CR–0200, (Reference 28)). For the irradiated FHA, the source term reflected the decay of

the radionuclides for a 72-hour period after shutdown of the reactor prior to moving fuel and, conservatively, was increased (multiplied) by a radial peaking factor of 1.65. The results of the NRC staff's analyses confirmed the results obtained by Duke. The doses estimated by the licensee for the postulated spent FHA are a small fraction of the 10 CFR 50.67 dose criterion and are, therefore, acceptable and will not result in a significant adverse environmental impact.

Weir Gate Drop

Duke has calculated the radiological consequences resulting from a FHA involving the drop of a weir gate, which is assumed to damage 7 fuel assemblies, including all four MOX fuel assemblies. The calculated doses would be 3.5 rem TEDE at the EAB, 0.5 rem TEDE at the edge of the LPZ, and 3.3 rem TEDE in the control room. These dose estimates represent increases of about 58 percent over the previous analysis for LEU fuel, but are still well below the 10 CFR 50.67 dose criterion.

The NRC staff performed confirmatory analyses of the weir gate drop accident using the MOX LTA source term that it generated using the SCALE SAS2H computer code. For this accident, the source term for the four MOX assemblies and the three LEU assemblies reflected the decay of the radionuclides for 19.5 days after shutdown of the reactor prior to moving fuel and, conservatively, was increased (multiplied) by a radial peaking factor of 1.65 (Reference 36). The results of the NRC staff's analyses confirmed the results obtained by Duke. The doses estimated by the licensee for the postulated accident were below the 5 rem TEDE criterion specified in 10 CFR 50.67 and are, therefore, acceptable and will not have a significant adverse environmental impact.

5.6.2 At-Power Accidents

The current licensing basis analyses assume that all fuel assemblies (193) are affected by a LOCA. For the locked-rotor accident, 11 percent of the core (21 assemblies) is assumed to be affected; for the rod-ejection accident, 50 percent of the core (97 assemblies) is assumed to be affected. For these events, Duke assumes that the four MOX LTAs are in the affected fuel population displacing four LEU assemblies. Because the dose is directly proportional to the fuel assembly inventory and gap fractions, the impact on the previously analyzed accident doses is based on quantifying the change in fission product release due to replacing up to four LEU fuel assemblies with the MOX LTAs. Although the consequences of these accidents could be determined by updating the current licensing basis analyses, Duke elected to perform a comparative evaluation, which the NRC staff has independently verified.

Duke selected the thyroid dose due to I–131 as the evaluation benchmark because the thyroid dose is typically more limiting than the whole body dose in that there is less margin between calculated thyroid doses and its associated dose criterion. Also, I–131 is generally the most significant contributor to thyroid dose due to its abundance and long decay half-life. Duke has determined that the I–131 inventory in a MOX LTA is 9 percent greater than that of an equivalent LEU fuel assembly.

Loss-of-Coolant Accident

For the LOCA, the four MOX LTAs represent 2.1 percent of the 193 assemblies in the core and the potential increase in the iodine release and the thyroid dose would be 1.32 percent. The previously-calculated thyroid dose would increase to 90.2 rem at the EAB and to 25.3 rem at the LPZ, which is well below the 300 rem dose criterion of 10 CFR 100.11.

Locked-Rotor Accident

For the locked-rotor accident, the four MOX LTAs represent 19 percent of the 21 assemblies in the core assumed to be involved in the postulated accident and the potential increase in the iodine release and the resulting thyroid dose would be 12 percent. The previously-calculated thyroid dose would increase to 4.1 rem at the EAB and to 1.3 rem at the LPZ, which is well below the 300 rem dose criterion of 10 CFR 100.11.

Rod-Ejection Accident

For the rod-ejection accident, the four MOX LTAs represent 4.1 percent of the 97 assemblies in the core assumed to be involved in the postulated accident and the potential increase in the iodine release and the resulting thyroid dose would be 2.63 percent. The previously-calculated thyroid dose would increase to 1.03 rem at the EAB and to 0.1 rem at the LPZ, which is well below the 300 rem dose criterion of 10 CFR 100.11.

5.6.3 Control Room Dose

Control room dose is the only occupational dose that has been previously considered for DBA conditions. The at-power accident with the most severe consequences for the control room operators is the LOCA; the control room doses from postulated locked-rotor or rod-ejection accidents are bounded by the calculated control room dose from the LOCA. Duke determined that the control room thyroid dose after a postulated LOCA that could be attributable to the irradiation of four MOX fuel LTAs would increase by 1.32 percent to 5.37rem. This is below the dose criterion set forth in 10 CFR Part 50, Appendix A, Criterion 19, and is not considered significant.

Duke determined that the radiological consequences to workers in the control room following a postulated WGD accident would result in a calculated dose to control room operators of 3.3 rem TEDE. While this is an increase of 58 percent over the dose previously analyzed for LEU fuel, it remains below the 5 rem TEDE criterion specified in 10 CFR 50.67. The change in calculated doses to control room operators attributable to the use of the four MOX fuel LTAs does not represent a significant environmental impact.

5.6.4 Conclusion

The most-limiting DBA (a LOCA) would result in a calculated off-site dose at the EAB of 90.2 rem to the thyroid and 25.3 rem to the thyroid at the edge of the LPZ. These doses represent increases of less than 1.32 percent of the dose previously calculated for LEU fuel and remain well below the limit of 300 rem thyroid specified in 10 CFR 100.11 for off-site releases. The calculated change in dose consequences at the EAB and at the LPZ that could be attributable to the use of the four MOX fuel LTAs is not significant.

The NRC staff concludes that the environmental impact resulting from incremental increases in EAB, LPZ, and control room dose following postulated DBAs that could occur as a result of the irradiation of four MOX LTAs does not represent a significant environmental impact.

5.7 Fuel Cycle Impacts

The source of fissionable material is outside of the fuel cycle (coming, as it does, from the pits of dismantled nuclear warheads that are excess to the strategic stockpile). Therefore, the proposed irradiation of four MOX LTAs at Catawba would preclude use of four LEU assemblies. This would have only negligible impact on the fuel cycle.

5.8 Transportation of Fresh Fuel

The transportation of the unirradiated MOX fuel assemblies is the responsibility of the DOE and has been addressed by the DOE in Supplement Analysis 3, regarding the fabrication of MOX fuel LTAs in Europe and their return to the U.S. In Section 5.2 of Supplement Analysis 3, the truck

transportation risks from U.S. ports to Catawba, the methodology used, and the summary results are described.

DOE indicates that LTAs will be one shipment using Safe Secure Trailer/SafeGuards Transports (SST/SGTs); DOE stated that the shipment would be made in SST/SGTs because unirradiated MOX fuel in large enough quantities is subject to security concerns similar to those associated with weapons-grade plutonium (Reference 13). The SST/SGT is a specially designed component of an 18-wheel tractor-trailer vehicle that has robust safety and security enhancements.

The risks and consequences associated with exposures to transportation workers and persons residing near or sharing transportation links with shipments of radioactive material packages during routine transport operations or as a result of accidents were assessed by DOE using the RADTRAN 5 computer code (Reference 29); see, Chapter 5 of Supplement Analysis 3 (Reference 16). For incident-free transportation risk, DOE used the RADTRAN 5 code to calculate the dose and corresponding risk based on the external dose rate from the shipping vehicle, the transportation route and population density along the route. For accident transportation risk, DOE used the State-specific accident rates between the marine ports and Catawba, and a conditional accident frequency-severity relationship that considered the route conditions. DOE used the accident rate for SST/SGT transport and the accident severity category classifications of NRC's NUREG–0170 (Reference 17). DOE also calculated the non-radiological accident risks.

The radiological risk of transporting the four fresh MOX LTAs is an estimate of the number of latent cancer fatalities (LCFs) and is small for both the public and the driver. Table 2 (Page 17 of Supplement Analysis 3) indicates that for incident-free transportation of the fresh MOX LTAs, the radiological risk to the crew which corresponds to shipping from the Naval Station Norfolk port in Virginia, is a maximum of 4.0×10^{-6} LCFs. DOE indicates that the maximum radiological risk to the public for incident-free transportation is 3.2×10^{-6} LCFs, associated with shipping from Naval Station Norfolk or Yorktown Naval Weapons Station. For accidents, in Table 2 DOE provides an estimate of the radiological risk in terms of LCFs. Non-radiological risks are stated as expected number of accident fatalities from non-radiological factors. The accident risk analysis does not distinguish between the crew and the public. For postulated accidents, the radiological risk is calculated to be a maximum of 2.1×10^{-7} LCFs, which corresponds to transporting the MOX LTAs to Catawba from either the Naval Station Norfolk port or the Yorktown Naval Weapons Station port. The maximum non-radiological risk is calculated to be 1.7×10^{-4} which also corresponds to shipping from Naval Station Norfolk or Yorktown Naval Weapons Station. For both normal and accident conditions, no fatalities associated with incident free or accidents during transportation are expected.

5.9 Transportation of Spent Fuel

Radiological risks during routine transportation would result from the potential exposure of people to low levels of external radiation near a loaded shipment, either stationary or in transit. Any irradiated MOX fuel rods that are not shipped offsite for post irradiation examination will be stored on-site until they are shipped to a permanent high-level waste repository. A shipping container must have a certificate of compliance (COC) issued by the NRC. As specified in 10 CFR Part 71 Subpart D, the applicant for a COC must submit a Safety Analysis Report (SAR) which the NRC staff then reviews against a number of standards. After review, the NRC staff issues a safety evaluation report (SER) describing the basis of approval.

The only disposal site currently under consideration in the U.S. is the proposed geologic repository in Nevada (Reference 14). For purposes of complying with NEPA requirements, it is assumed that spent MOX LTAs would eventually be shipped to the proposed repository in Nevada. However, the DOE's application for a license to operate the repository has not yet been submitted to the NRC. There is no assurance that the DOE's application, if submitted, would be approved, but it is reasonable to use the Nevada repository as a surrogate for this assessment.

On a per-kilometer-traveled basis, the NRC reported that the routine radiological and vehicle-related transportation risks for spent MOX fuel would be similar to those estimated for fresh MOX fuel, plutonium metal, or transuranic radioactive waste (Reference 33). The transportation risks of LEU spent nuclear fuel and spent MOX fuel transport, in particular, were estimated in the DOE final EIS concerning disposal of spent nuclear fuel and high-level waste in Nevada (Reference 14). DOE reported that under the mostly legal-weight truck scenario, approximately 53,000 truck shipments were estimated to result in approximately 12 LCFs to workers, 3 LCFs to the public, and 5 traffic fatalities.

The NRC has assessed the transportation impacts of a campaign of batch MOX fuel use in conjunction with an application for the construction and operation of a MOX fuel fabrication facility (Reference 33); the NRC's impact evaluation from that assessment is used to put the spent MOX LTA transportation risks into proper context. It should be noted that the NRC has not received an application requesting widescale or batch use of recycled plutonium for use in MOX fuel for any commercial reactor, and the NRC has not made any determination regarding any proposal for such use. In NUREG–1767 (Reference 33), the NRC estimated the transportation risks of the spent MOX fuel based on average shipment risks calculated from the DOE results (Reference 14); the estimates show that no fatalities would be expected. Shipment of all of the spent MOX fuel generated under a batch use scenario would result in approximately 598 shipments (Reference 33). Further, assuming three assemblies per cask, the campaign might be expected to result in approximately 0.1 worker LCFs, 0.03 public LCFs, and 0.05 transportation fatalities. Under this proposed action, only four MOX LTAs are contemplated. Even if the number of shipments were minimized to ship the highest concentration of MOX spent fuel, *i.e.*, all four assemblies in two casks, and, using the results of the aforementioned assessment, the MOX LTAs might be expected to result in a small fraction (*i.e.*, $2 \div 598$) of the quantified risk estimates, above, and not discernible from earlier NRC analyses involving solely LEU spent fuel.

DOE proposes to take possession of a small portion of the irradiated fuel (*i.e.*, spent fuel) from Catawba and to conduct post-irradiation examination and testing at one of its national laboratories. DOE described these activities in the SPD EIS (Reference 13). The transportation risks for this limited amount of spent MOX fuel that would be shipped to ORNL in Tennessee from Catawba is considered to be bounded by the risk estimates from the spent MOX LTAs. Apart from the smaller quantities involved for the post-irradiation examination and testing, the total number of kilometers traveled from Catawba to ORNL is less than that from Catawba to any contemplated repository.

In light of the above, no significant impacts would be expected from the shipment of either the spent MOX LTAs to a repository or the shipment of a

small portion of the spent MOX LTAs to ORNL. Furthermore, the estimated risks are only a very small fraction of the radiological annual transport risks estimated in NUREG–0170, the NRC's Final EIS on the transportation of radioactive material (Reference 17). The NRC has determined that the impact from normal transportation and accidents is small.

5.10 Severe Accidents

Environmental issues associated with postulated severe accidents are discussed in the Final Environmental Impact Statement for Catawba, NUREG–0921 (Reference 18), the Generic Environmental Impact Statement for License Renewal of Nuclear Plants (GEIS), NUREG–1437, Volumes 1 and 2 (Reference 24) and in Supplement 9 to NUREG–37, the site-specific supplement. Severe nuclear accidents are those accidents that are more severe than DBAs because they could result in substantial damage to the reactor core, whether or not there are serious off-site consequences. In the environmental reviews identified above, the NRC staff assessed the impacts of severe accidents, using the results of existing analyses and site-specific information to conservatively predict the environmental impacts of severe accidents for Catawba.

Severe accidents initiated by external phenomena such as tornadoes, floods, earthquakes, and fires have not traditionally been discussed in quantitative terms in FESs and were not specifically considered for the Catawba site in the GEIS (Reference 24). However, in the GEIS, the NRC staff did evaluate existing impact assessments performed by NRC and by the industry at 44 nuclear plants in the U.S. and concluded that the risk from beyond design-basis earthquakes at existing nuclear power plants, including Catawba, was small. [The NRC's standard for significance was established using the Council on Environmental Quality's terminology for "significantly" (40 CFR 1508.27, which requires consideration of both "context" and "intensity"). "Small" in this context means "environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource."] The NRC staff did conclude in the GEIS that the risks from other external events were adequately addressed by a generic consideration of internally initiated severe accidents.

As part of its ongoing licensing reviews, the NRC staff also reviewed Revision 2b of the Catawba Probabilistic Risk Assessment (PRA) (Reference 4), which is a full scope Level 3 PRA. In this case, the Catawba PRA included the analysis of internal as well as external events. The internal events analysis was an updated version of the Individual Plant Examination (IPE) model (Reference 1), and the external events analysis was based on the Individual Plant Examination for External Events (IPEEE) model (Reference 2). The calculated total core damage frequency (CDF) for internal and external events in Revision 2b of the Catawba PRA is 5.8×10^{-5} per year. Internal event initiators represent about 80 percent of the total CDF and were composed of transients (24 percent of total CDF), loss of coolant accidents (29 percent of total CDF), internal flood (24 percent of total CDF), and reactor pressure vessel rupture (2 percent of total CDF). Remaining contributors together accounted for less than 3 percent of total CDF. External event initiators represented about 20 percent of the total CDF and are composed of seismic initiators (15 percent of total CDF), tornado initiators (4 percent of total CDF), and fire initiators (2 percent of the total CDF). Duke estimated the dose to the population within 80 km (50 mi) of the Catawba site from all initiators (internal and external) to be 0.314 person-sieverts (Sv) (31.4 person-rem) per year (Reference 3); internal events account for approximately 0.21 person-Sv (21 person-rem). Early and late containment failures accounted for the majority of the population dose.

In its most recent review of severe accidents for the purpose of determining whether mitigation alternatives were warranted, the NRC staff considered the following major elements:

- The Level 1 and 2 risk models that form the basis for the September 1992 IPE submittal (Reference 1);
- The major modifications to the IPE models that have been incorporated in Revision 2b of the PRA (Reference 4);
- The external events models that form the basis for the June 1994 IPEEE submittal (Reference 2); and
- The analyses performed to translate fission product release frequencies from the Level 2 PRA model into offsite consequence measures (Reference 3).

The NRC staff's review of the Catawba IPE was described in an NRC safety evaluation dated June 7, 1994 (Reference 22). In that review, the NRC staff evaluated the methodology, models, data, and assumptions used to estimate the CDF and characterize containment performance and fission product releases. The NRC staff concluded that Duke's analysis met the intent of Generic Letter (GL) 88–20 (Reference 19) and NUREG–1560 (Reference 25), which means the IPE was of adequate quality to be used to look for design or operational vulnerabilities. The NRC staff's review primarily focused on the licensee's ability to examine Catawba for severe accident vulnerabilities and not specifically on the detailed findings or quantification estimates. Overall, the NRC staff concluded that the Catawba IPE was of adequate quality to be used as a tool in searching for areas with high potential for risk reduction and to assess such risk reductions, especially when the risk models are used in conjunction with insights, such as those from risk importance, sensitivity, and uncertainty analyses.

The NRC staff's review of the Catawba IPEEE was described in a SER dated April 12, 1999 (Reference 27). Duke did not identify any fundamental weaknesses or vulnerabilities to severe accident risk with regard to the external events. In the SER, the NRC staff concluded that the IPEEE met the intent of Supplement 4 to GL 88–20 (Reference 21), and that the licensee's IPEEE process was capable of identifying the most likely severe accidents and severe accident vulnerabilities.

The NRC staff reviewed the process used by Duke to extend the containment performance (Level 2) portion of the IPE to the off-site consequence (Level 3) assessment. This included consideration of the source terms used to characterize fission product releases for each containment release category and the major input assumptions used in the off-site consequence analyses. The NRC staff reviewed Duke's source term estimates for the major release categories and found these predictions to be in reasonable agreement with estimates of NUREG–1150 (Reference 20) for the closest corresponding release scenarios. In Supplement 9, the NRC staff concluded that the assignment of source terms was acceptable. The differences in the source terms for a severe accident involving substantial damage to the core solely with LEU fuel assemblies or substituting four LEU assemblies with MOX LTAs are indistinguishable, given the uncertainty, and would result in no appreciable change in the risk estimates.

The plant-specific evaluation included the Catawba reactor core radionuclide inventory, emergency response evacuation modeling based on Catawba evacuation time estimate studies, release category source terms from the Catawba PRA, Revision 2b, analysis (same as the source terms used in the IPE), site-specific meteorological data for a representative year, and projected population distribution within

a 80 km (50 mi) radius (Reference 4). The NRC staff confirmed that Duke used appropriate values for the consequence analysis and reported the results of its risk evaluation for Catawba in Supplement 9. The NRC staff concluded that the methodology used by Duke to estimate the CDF and offsite consequences for Catawba was adequate.

In the license renewal GEIS (Reference 24), the NRC staff concluded that the probability-weighted consequences from atmospheric releases associated with severe accidents was judged to be of small significance for all plants, including Catawba. The NRC staff concluded that, for both the drinking water and aquatic food pathways, the probability-weighted consequences from fallout due to severe accidents is of small significance for all plants, including Catawba. The NRC staff concluded that the probability-weighted consequences from groundwater releases associated with severe accidents was judged to be of small significance for all plants, including Catawba.

Nothing about the proposed action would significantly change either the probability or consequences of severe accidents. The small percentage of non-LEU fuel assemblies that could be involved in a severe accident would not result in an appreciable change in the risk estimates. The proposed action is not expected to change the manner in which the facility is operated nor does it alter Catawba's risk profile for severe accidents analyzed in the GEIS for license renewal (Reference 24) and, more recently, its assessment of mitigation alternatives in Supplement 9. Therefore, the NRC staff concludes that the environmental impacts of the proposed use of MOX LTAs are bounded by the environmental impacts previously evaluated in the GEIS and Supplement 9.

5.11 Decommissioning

Once a nuclear power generating facility permanently ceases commercial operation, the licensee is required to begin decommissioning. Decommissioning is the process of removing a facility or site safely from service and reducing residual radioactivity to a level that permits either the release of the property for unrestricted use and termination of the license or release of the property under restricted conditions and termination of the license. In November 2002, the NRC staff issued Final Supplement 1 to NUREG–0586, entitled "Generic EIS on Decommissioning of Nuclear Facilities," (Reference 31) regarding the decommissioning of power reactors. Supplement 1 to the GEIS for decommissioning comprehensively evaluated all environmental impacts related to the radiological decommissioning of nuclear power facilities. By rule, if a licensee anticipates the need to perform activities that have not been previously considered or activities with impacts greater than those considered in the decommissioning GEIS, then it must obtain NRC approval with a license amendment request. At this time, Duke has not identified and the NRC staff is unaware of any activities that are dissimilar from those assessed in NUREG–0586 that might occur as a result of the LTA campaign. Therefore, the NRC staff has determined that the impacts associated with the decommissioning of a facility that would irradiate four MOX LTAs would be bounded by the impacts predicted by Supplement 1 to NUREG–0586 (Reference 31).

Decommissioning impacts are primarily related to the activities associated with the decontamination and dismantlement of the structures, systems, and components of the facility. The use of the MOX fuel LTAs will not change the scope or impact of those activities. During decommissioning, the primary system is typically decontaminated using a chemical flush. Contamination in the primary system is removed by the chemical flush and deposited in ion exchange resins that are permanently disposed in licensed burial facilities. Decommissioning of the facility would not result in the generation of any significant increase in liquid or solid radioactive waste. No increases in offsite or occupational exposure would be expected. No significant quantities of contaminated or activated additional structural material would be generated during decommissioning because of the use of the lead assemblies.

Therefore, the NRC staff concludes that the decommissioning of the facility after use of the lead assemblies would not result in impacts that are significantly different from a facility undergoing decommissioning that did not use the lead assemblies. Furthermore, the impacts of decommissioning the Catawba facility after the irradiation of four MOX fuel LTAs are bounded by the impacts evaluated in NUREG–0586, Supplement 1 (Reference 31).

5.12 Summary

The proposed irradiation of four MOX fuel LTAs at Catawba would not significantly increase the probability or consequences of accidents, would not introduce any new radiological release pathways, would not result in a significant increase in occupational or public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant environmental radiological impacts associated with the proposed action.

6.0 Irreversible or Irretrievable Commitment of Resources

The NRC staff has considered the commitment of resources related to operation of Catawba. These resources include materials and equipment required for plant maintenance and operation, the nuclear fuel used by the reactors, and ultimately, permanent offsite storage space for the spent fuel assemblies. As described in Supplement 9, the most significant resource commitments related to operation of the Catawba facility are the fuel and the permanent storage space. The resource commitments to be considered in this assessment are associated with the proposed irradiation of four MOX fuel LTAs in the reactor core of one of the Catawba facilities. Aside from the plutonium in the MOX fuel (20.2 kg Pu per assembly), all of the materials that are to be used would be used if the action were not to proceed.

7.0 Unavoidable Adverse Impacts

The NRC staff has considered whether the proposed action would cause significant unavoidable adverse impacts and concludes that the proposed irradiation of four MOX fuel LTAs will have no environmental non-radiological impacts and only minor radiological impacts. Therefore, the NRC staff concludes that there will be no significant adverse impacts as a result of the proposed action.

8.0 Mitigation

The NRC staff has evaluated the impacts that would accrue from the proposed action. The NRC staff has concluded that there will be no environmental non-radiological impacts and only minor radiological impacts. Therefore, the NRC staff concludes that mitigation is not warranted or necessary to minimize the impacts of this action.

9.0 Cumulative Impacts

The NRC staff considered potential cumulative impacts during its evaluation of the proposed action. For the purposes of this analysis, past actions were those related to the resources at the site at the time of the plant licensing and construction;

present actions are those related to the resources at the site at the time of current operations of the power plant; and future actions are considered to be those that are reasonably foreseeable through the end of plant operation. The impacts of the proposed action are combined with other past, present, and reasonably foreseeable future actions at Catawba regardless of what agency (Federal or non-Federal) or person undertakes such other actions. These combined impacts are defined as "cumulative" in 40 CFR 1508.7 and include individually minor, but collectively significant, actions taking place over a period of time. The NRC staff concludes that the proposed action would add only minute, incremental effects to those already accruing from current operation at Catawba using LEU fuel.

10.0 Alternatives to the Proposed Action

The NRC staff has evaluated a number of reasonable alternatives to the proposed action, including the no-action alternative. Two of the alternatives involve use of the reactors at two other Duke facilities, McGuire and Oconee Nuclear Station. A fourth alternative involves a different scheme than is currently proposed for transporting all of the rods from the irradiated MOX fuel LTAs offsite for post-irradiation examination (PIE) at ORNL.

10.1 No-Action Alternative

The NRC staff has considered the no-action alternative. If the four MOX fuel LTAs are not irradiated in one of the Catawba reactors, four LEU fuel assemblies with comparable performance characteristics will be used. The impacts resulting from the proposed action and the no-action alternative are similar.

10.2 Use of the McGuire Nuclear Station, Units 1 and 2 as an Alternative

MOX fuel lead assembly irradiation at a McGuire unit is a technically feasible alternative to using MOX LTA fuel at Catawba. McGuire and Catawba share the same fuel assembly design, and the RCS operating parameters are similar among all four units. All of the reactors are base loaded, with approximately 18 month intervals between refueling. All four reactors have the same rated thermal power—3411 MW(t) nominal. In addition, transportation modes and means of delivery to the two plants are the same.

Due to these and other similarities, there is a *de minimis* difference in the environmental impacts of MOX fuel lead assembly use at McGuire as compared to MOX fuel lead assembly use at Catawba. The ER on MOX fuel lead assembly use submitted to the NRC in support of the license amendment request (Reference 5), is applicable to both plants. Duke's responses to NRC requests for additional information (Reference 7 and Reference 9) related to environmental consequences would be technically applicable to irradiation of the MOX LTAs at McGuire as well as at Catawba.

In a letter dated September 23, 2003, Duke amended its license amendment request to apply to Catawba only (Reference 6). This action was based on refueling schedule considerations and the desire to minimize the resource requirements associated with MOX fuel lead assembly licensing. While use of MOX fuel lead assemblies at McGuire remains technically feasible, these refueling schedule and resource considerations make Catawba preferable for use of the MOX fuel lead assemblies in the late spring of 2005. That date, in turn, is driven by lead assembly fabrication and transportation (Reference 10).

10.3 Use of Oconee Nuclear Station, Units 1, 2, and 3 as an Alternative

MOX fuel lead assembly irradiation at Oconee is not considered to be a technically feasible alternative to using MOX fuel lead assemblies at a Catawba unit. As described in Duke's license amendment request, the reason for the lead assembly program is to demonstrate the acceptable performance of MOX fuel derived from weapons grade plutonium in reactors. McGuire and Catawba are very similar in design to European reactors that have amassed decades of experience using reactor grade MOX fuel. Further, McGuire and Catawba are the facilities that have been proposed to and accepted by the DOE for the larger-scale irradiation of the MOX fuel. It should be noted that the NRC has not received an application for wide scale routine, or batch, use of MOX fuel in any reactor and the NRC has not made any determination regarding any proposal for wide scale routine, or batch, use.

McGuire and Catawba share the same fuel assembly design. By contrast, Oconee has a different fuel assembly design and a different RCS design than the McGuire and Catawba plants. Oconee fuel assemblies have a 15x15 lattice; McGuire and Catawba use 17x17 fuel. The fuel rod pitch is 0.568 inches at Oconee, versus 0.496 inches at McGuire and Catawba. Oconee has 177 fuel assemblies in each core; McGuire and Catawba have 193 fuel assemblies in each core. Oconee uses a fixed incore detector system with rhodium detectors to measure neutron flux; McGuire and Catawba use a movable incore detector system with fission chambers. Oconee is a Babcock and Wilcox-designed reactor; McGuire and Catawba are four-loop Westinghouse plants. The core thermal power level is 2568 MW(t) at Oconee, vs. 3411 MW(t) at McGuire and Catawba. RCS average temperature is 579 °F at Oconee, vs. 586 °F at McGuire and Catawba.

Duke considers that a lead assembly program with the prototypical fuel design under prototypical conditions is required prior to contemplating use of significant quantities of MOX fuel at McGuire or Catawba. The differences between McGuire/Catawba and Oconee, while not extreme, are great enough such that MOX fuel lead assembly use at Oconee would not be considered prototypical (Reference 10). For those same reasons, Duke considers it likely that NRC would not consider a MOX fuel lead assembly program at Oconee to be sufficient for NRC to authorize Duke to use significant quantities of MOX fuel at McGuire or Catawba. Therefore, Oconee is not a practical alternative for a MOX fuel lead assembly program.

Duke has stated that it knows of no technical reason that MOX fuel could not be used safely at Oconee (Reference 10). However, in the context of the ongoing U.S. program to dispose of surplus plutonium using MOX fuel, McGuire and Catawba are the only reactors selected for the program and the only technically feasible alternatives under Duke's control for a MOX fuel lead assembly program.

10.4 Offsite Storage of All MOX LTA Fuel Rods

As part of the MOX Fuel Project lead assembly program, a small number of irradiated MOX fuel rods will, at the direction of DOE, be transported to ORNL for post-irradiation examination (PIE). The fuel rods would be destructively examined at ORNL and eventually disposed of as waste. The remainder of the MOX fuel rods (approximately 1000 rods) would remain in the SFP at Catawba until they are accepted by DOE pursuant to the Nuclear Waste Policy Act, presumably to a permanent geologic repository.

Transportation of irradiated MOX fuel to an interim offsite location is beyond the scope of the Duke lead assembly license amendment application (Reference 10). Duke's application is specifically limited to the receipt and storage of MOX fuel as well as incore irradiation of the MOX fuel. The environmental impacts of irradiated

MOX fuel transportation and disposal have been addressed in other EISs. There are no specific plans in place to transport offsite all of the MOX fuel rods from the MOX fuel lead assemblies in conjunction with the offsite shipment of a limited number of rods to ORNL for PIE.

Nevertheless, the NRC staff requested that Duke consider an alternative involving a variation of the proposed DOE transportation of the irradiated MOX fuel rods in the LTAs (Reference 35). Duke could ship all of the MOX fuel assemblies to ORNL for storage even though there are no facilities for such storage at ORNL (Reference 10). Nevertheless, in this hypothetical case, following interim storage, ORNL could ship the four MOX fuel assemblies to another storage location. The difference in these approaches is minor from an environmental perspective. The alternative approach would eliminate the need for the direct shipment of four fuel assemblies from Catawba to Yucca Mountain, should Yucca Mountain eventually be licensed, however, offsetting this benefit is the shipment from Catawba to ORNL and from ORNL to Yucca Mountain and additional handling. Duke has stated that it expects that the difference between the alternatives would be negligible (Reference 10).

It should be noted that it is necessary to cool spent fuel assemblies in the SFP prior to shipping them offsite. Therefore, the alternative of shipping all of the fuel offsite would by necessity involve some period of onsite storage at Catawba. There is no conceivable alternative (other than no-action) that involves no spent MOX fuel assembly storage at Catawba (Reference 10).

If DOE were to transport all of the rods in the four MOX LTAs offsite, no irradiated MOX fuel would need to be stored on the Catawba site. The NRC staff concludes that the environmental impacts from this alternative would be similar to those for the proposed action.

11.0 Agencies and Persons Consulted

On July 30, 2004, the NRC staff consulted with the South Carolina State official, Mr. Mike Gandy of the Department of Health and Environmental Controls, regarding the environmental impact of the proposed action. The State official had no comments.

12.0 References

1. Duke letter to NRC, Catawba Individual Plant Examination (IPE) Submittal, September 10, 1992.

2. Duke letter to NRC, Individual Plant Examination of External Events (IPEEE) Submittal, Catawba Nuclear Station, June 21, 1994.

3. Duke letter to NRC, Applicant's Environmental Report—Operating License Renewal Stage Catawba Nuclear Station Units 1 and 2, June 12, 2001, ADAMS ML011660138.

4. Duke, Probabilistic Risk Assessment Revision 2b, Catawba Nuclear Station, April 18, 2001.

5. Duke letter to NRC, Proposed Amendments to the Facility Operating License and Technical Specifications to Allow Insertion of Mixed Oxide (MOX) Fuel Lead Assemblies and Request for Exemption from Certain Regulations in 10 CFR Part 50, February 27, 2003, ADAMS ML030760734.

6. Duke letter to NRC, Catawba and McGuire, Mixed Oxide Fuel Lead Assembly License Amendment Request, September 23, 2003, ADAMS ML032750033.

7. Duke letter to NRC, Catawba, Response to Request for Additional Information Regarding the Use of Mixed Oxide Lead Fuel Assemblies, November 3, 2003, ADAMS ML033210369.

8. Duke letter to NRC, Response to Request for Additional Information dated November 30, 2003, Regarding the Use of Mixed Oxide Lead Fuel Assemblies, December 10, 2003, ADAMS ML033510563.

9. Duke letter to NRC, Catawba, Response to Request for Additional Information, Mixed Oxide Fuel Assemblies (Environmental, Radiological, and Materials), February 2, 2004, ADAMS ML040510064.

10. Duke letter to NRC, Catawba, Response to Request for Additional Information Mixed Oxide Fuel Lead Assemblies (Environmental), March 1, 2004, ADAMS ML040710492.

11. Duke letter to NRC, Catawba, Amended Information Regarding Radiological Consequences for MOX Fuel Lead Assemblies, March 16, 2004, ADAMS ML040840483.

12. U.S. Department of Energy (DOE), DOE/EIS–0229, Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement, December 1996.

13. DOE/EIS–0283, Surplus Plutonium Disposition Environmental Impact Statement, 1 through 5, November 1999.

14. DOE/EIS–0250, Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada, February 2002.

15. DOE/EIS–0283–SA1, Supplemental Analysis and Amended Record of Decision—Changes Needed to the Surplus Plutonium Disposition Program, April 2003.

16. DOE/EIS–0229–SA3, Supplemental Analysis—Fabrication of Mixed Oxide Fuel Lead Assemblies in Europe, November 2003.

17. NRC NUREG–0170, Final Environmental Impact Statement on the Transportation of Radioactive Material by Air and Other Means, December 1977.

18. NRC NUREG–0921, Final Environmental Impact Statement Related to the Operation of Catawba Nuclear Station, Units 1 and 2, January 1983.

19. NRC Generic Letter 88–20, Individual Plant Examination for Severe Accident Vulnerabilities, November 23, 1988.

20. NRC NUREG–1150, Severe Accident Risks—An Assessment for Five U.S. Nuclear Power Plants, December 1990.

21. NRC Supplement 4 to Generic Letter 88–20, Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities," June 28, 1991.

22. NRC Letter to Duke, Safety Evaluation of Catawba Nuclear Station, Units 1 and 2, Individual Plant Examination (IPE) Submittal, June 7, 1994.

23. NRC Regulatory Guide 1.183, "Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors."

24. NRC NUREG–1437, Volumes 1 and 2, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, May 1996.

25. NRC NUREG–1560, Individual Plant Examination Program: Perspectives on Reactor Safety and Plant Performance, December 1997.

26. NRC NUREG–1437, Vol. 1, Addendum 1, Final Report—Generic Environmental Impact Statement—License Renewal of Nuclear Plants—Main Report—Section 6.3—Transportation Table 9.1, Summary of Findings on NEPA issues for license renewal of nuclear power plants, August 1999.

27. NRC Letter Duke, Catawba—Review of Individual Plant Examination of External Events (IPEEE), April 12, 1999.

28. NRC NUREG/CR–0200, Revision 6, Volume 1, SAS2H: A Coupled One-Dimensional Depletion and Shielding Analysis Module, March 2000.

29. Sandia National Laboratories, SAND 2000–1256, RADTRAN 5 Technical Manual, May 2000.

30. NRC NUREG–1714, Vol. 1, Final Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Toole County, Utah, December 2001.

31. NRC NUREG–0586, Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities, November 2002.

32. NRC NUREG–1437, Supplement 9 (Catawba) to the Generic Environmental Impact Statement for License Renewal of Nuclear Plants, December 2002.

33. NRC NUREG–1767, Draft Report for Comment—Environmental Impact Statement on the Construction and Operation of a Mixed Oxide Fuel Fabrication Facility at the Savannah River Site, South Carolina, February 2003.

34. NRC Letter to Duke, Catawba—Request for Additional information Regarding Mixed Oxide Lead Fuel Assemblies, December 16, 2003, ADAMS ML033500408.

35. NRC Letter to Duke, Catawba—Request for Additional Information Regarding Mixed Oxide Lead Fuel Assemblies, February 20, 2004, ADAMS ML040490683.

36. NRC Letter to Duke, transmitting safety evaluation for proposed amendments to the operating license, April 5, 2004, ADAMS ML040970046.

13.0 Finding of No Significant Impact

On the basis of the EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an EIS for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 27, 2003, as supplemented by letters dated September 15, September 23, October 1 (two letters), October 3 (two letters), November 3 and 4, December 10, 2003, and February 2 (two letters), March 1 (three letters), March 9 (two letters), March 16 (two letters), March 26, March 31, April 13, April 16, May 13, and June 17, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 10th day of August 2004.

For the Nuclear Regulatory Commission.

Edwin M. Hackett,

Project Director, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–18731 Filed 8–16–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Public Meeting of the Interagency Steering Committee on Radiation Standards With the International Commission on Radiation Protection

AGENCIES: U.S. Nuclear Regulatory Commission and U.S. Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will host a topical public meeting of the Interagency Steering Committee on Radiation Standards (ISCORS) with representatives from the International Commission on Radiation Protection (ICRP) on September 15, 2004, in Rockville, Maryland. The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards. Agencies represented as members of ISCORS include the following: NRC; U.S. Environmental Protection Agency; U.S. Department of Energy; U.S. Department of Defense; U.S. Department of Transportation; the Occupational Safety and Health Administration of the U.S. Department of Labor; U.S. Department of Homeland Security; and the U.S. Department of Health and Human Services. ISCORS meeting observer agencies include the Office of Science and Technology Policy, Office of Management and Budget, Defense Nuclear Facilities Safety Board, as well as representatives from both the States of Illinois and Pennsylvania.

The ICRP representatives, Dr. Roger Clarke, Chairman, and Dr. Lars-Erik Holm, Vice-Chairman, will be presenting the draft revision of the ICRP recommendations on radiation protection, currently available for public consultation at *http://www.icrp.org*. The objective of the meeting is to provide an opportunity for exchange of ideas and comments with the ICRP during the time the draft recommendations are available for public consultation. The tentative agenda includes an ICRP presentation followed by open, moderated discussion of the draft recommendations with attendees. There will be time on the agenda for members of the public to ask questions. The final agenda for the September 2004 meeting will be posted on the ISCORS Web site, *http://www.iscors.org*, shortly before the meeting. Space is limited and advanced registration is requested to assure attendance upon arrival. Attendees should plan to provide two forms of identification and arrive early in anticipation of security screening and related delays.

In the executive summary of the draft report, ICRP concluded that its recommendations should be based on a simple, but widely applicable, general system of protection that will clarify its objectives and will provide a basis for the more formal systems needed by operating managements and regulators. The report specifies that ICRP also recognizes the need for stability in regulatory systems at a time when there is no major problem identified with the practical use of the present system of protection in normal situations. The use of the optimization principle, together with the use of constraints and the current dose limits, has led to a general overall reduction in both occupational and public doses over the past decade. The ICRP now proposes to strengthen its recommendations by quantifying constraints for all controllable sources in all situations. Further, the system of protection now recommended by the ICRP is intended to be seen as a natural evolution of, and as a further clarification of, their 1990 Recommendations. Specifically, the draft report addresses the following areas: quantities used in radiation protection; biological aspects; the general attributes of the system of protection; levels of protection for individuals; optimization of protection; exclusion of sources; medical exposures; potential exposure; and protection of the environment.

DATES: The meeting will be held from 1 p.m. to 5 p.m. on Wednesday, September 15, 2004.

ADDRESSES: The meeting will be held in the ACRS hearing room, T2B3, at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION, CONTACT: Susanne Woods or Jennifer Davis, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7319; FAX (301) 415–5398; electronic mail to both *SRW@NRC.GOV* and *BJD1@NRC.GOV*.

SUPPLEMENTARY INFORMATION: Visitor parking around the NRC building is limited; however, the Two White Flint North building is located adjacent to the White Flint Metro Station on the Red Line.

Dated at Rockville, MD, this 11th day of August, 2004.

For the Nuclear Regulatory Commission.

Scott Flanders,

Deputy Director, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Performance, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 04–18733 Filed 8–16–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of August 16, 23, 30, September 6, 13, 20, 2004.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 16, 2004

Tuesday, August 17, 2004

9:25 a.m. Affirmation Session (Public Meeting).
a. Private Fuel Storage (Independent Spent Fuel Storage Installation) Docket No. 72–22–ISFSI.
b. Final Rule: Medical Use of Byproduct Material—Minor Amendments; Extending Expiration Date for Subpart J of Part 35.
c. Tennessee Valley Authority (Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 & 2, Browns Ferry Nuclear Plant, Units 1, 2, & 3), Docket Nos. 50–390–CivP; 50–327–CivP; 50–328–CivP; 50–259–CivP; 50–260–CivP; 50–296–CivP; LBP–03–10 (6/26/03) (Tentative).

9:30 a.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting). (Contact: John Zabko, (301) 415–2308.

This meeting will be webcast live at the Web address: *www.nrc.gov.*

1 p.m.—Discussion of Security Issues (Closed—Ex. 1).

Wednesday, August 18, 2004

9:25 a.m. Affirmation Session (Public Meeting).
a. Louisiana Energy Services, L.P. (National Enrichment Center) (Tentative).

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1).

Week of August 23, 2004—Tentative

There are no meetings scheduled for the Week of August 23, 2004.

Week of August 30, 2004—Tentative

There are no meetings scheduled for the Week of August 30, 2004.

Week of September 6, 2004—Tentative

Wednesday, September 8, 2004

9:30 a.m. Discussion of Office of Investigations (OI) Programs and Investigations (Closed—Ex. 7).

2 p.m. Discussion of Intragovernmental Issues (Closed—Ex. 1 & 9).

Week of September 13, 2004—Tentative

Tuesday, September 14, 2004

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1).

Week of September 20, 2004—Tentative

There are no meetings scheduled for the Week of September 20, 2004.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

SUPPLEMENTARY INFORMATION: By a vote of 3–0 on August 12, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that "Affirmation of Louisiana Energy Services, L.P. (National Enrichment Center)" be held August 18, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415–7080, TDD: (301) 415–2100, or by e-mail at *aks@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 ((301) 415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: August 12, 2004.

Dave Gamberoni,

Office of the Secretary.

[FR Doc. 04–18883 Filed 8–13–04; 9:41 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50175; File No. SR–CBOE–2004–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Incorporated Relating to the Exchange's Fee Schedule for Fiscal Year 2005

August 10, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, notice is hereby given that on July 1, 2004, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. On July 15, 2004, CBOE filed Amendment No. 1 to the proposed rule change.[3] On August 2, 2004, CBOE filed Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, has been filed by CBOE as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act[5] and Rule 19b–4(f)(2)[6] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to make various changes to its Fee Schedule for Fiscal Year 2005. The text of the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter, dated July 9, 2004, from Christopher Hill, Senior Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission. In Amendment No. 1, CBOE made technical corrections to the proposed rule text.

[4] *See* letter, dated July 30, 2004, from Christopher Hill, Senior Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division, Commission. In Amendment No. 2, CBOE made additional technical corrections to the proposed rule text, clarified the applicability of the Prospective Fee Reduction Program, corrected references to member Market-Makers, detailed the discount for crossed orders, clarified the ETF and Structured Products transaction fee cap, and clarified the Index Order Book Official execution fee reduction. Amendment No. 2 superseded and replaced the proposed rule change and Amendment No. 1 in their entirety.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

change is available at CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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. CBOE 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, Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to make certain fee reductions, additions and changes. The Exchange represents that the proposed rule change is the product of the Exchange's annual budget review, and that the fee changes were approved by the Exchange Board of Directors pursuant to CBOE Rule 2.22 and will take effect on July 1, 2004.

The Exchange proposes to amend the following fees.

a. Index Order Book Official Execution Fee Reduction and Simplification

For the second consecutive year, the Exchange proposes to reduce and simplify the rates it charges for execution of index orders from its public customer Order Book. Currently, these fees per contract are $0.60 for booked option contracts priced equal to or greater than $2, and $0.40 for those priced less than $2. The Exchange proposes to reduce these fees to a flat $0.25 per contract, regardless of the contract price.

b. Customer Index Large Trade Discounts Continued

The Exchange proposes to continue its current pilot plan providing a customer large trade discount in the form of a cap on customer transaction fees, to be in effect through December 31, 2004 for most CBOE index option products.[7] The Exchange represents that it determined the contract size at which the cap would be implemented after reviewing recent trading activity in each of the index products. Floor brokerage fees are not subject to the cap on fees.

Regular customer transaction fees will continue to be charged up to the following quantity of contracts per order, for the following underlying indexes:

1. Dow Jones indexes (including DIA)—charge only the first 7,500 contracts;

2. SPX—charge only the first 5,000 contracts; and

3. OEX (including XEO & OEF), NDX & other indexes (not including MNX)—charge only the first 3,000 contracts.

c. Fee Cap on Dividend Spread Transactions

The Exchange proposes that Market-Maker, firm and broker-dealer transaction fees for dividend spread transactions will be capped at $2,000 per dividend spread transaction. CBOE defines a dividend spread as any trade done to achieve a dividend arbitrage between any two deep-in-the-money options. The cap will be implemented through the Exchange rebating transaction fees for qualifying transactions. To qualify a transaction for the cap, a rebate request with supporting documentation will need to be submitted to the Exchange.

d. ETF and Structured Products Transaction Fee Cap

CBOE currently trades certain non-option products, including exchange traded funds ("ETFs"), such as index portfolio receipts or "IPRs" [8] and index portfolio shares or "IPSs",[9] as well as structured products.[10] CBOE represents that competition for order flow in some of these products is intense. The Exchange is proposing to implement a fee change to eliminate customer transaction fees and to cap market maker and member firm transaction fees at $100 per side of a transaction in these non-option products. The Exchange believes this change will bring CBOE's fees for these products more in-line with fees charged by its competitors. As a result, the Exchange believes that the fee change will help the Exchange to compete more effectively for order flow in these products.

e. Reduced Floor Broker Fees for Crossed Orders

The Exchange proposes to reduce the current $0.04 per contract floor brokerage fee by 50% when a floor broker crosses an order. Currently, in a crossed order, a floor broker is charged either $0.04 or $0.08 per contract, the lower amount if one side of the crossed order is an Equity or QQQ options customer (who is not assessed the floor brokerage fee). To be eligible for the discounted rate, the executing broker acronym, executing firm number and order ID data will need to be the same on both the buy and sell side of an order.

f. Fee Consolidation

To simplify parts of the Fee Schedule, the Exchange proposes to consolidate two sets of current fees. Neither consolidation will change the total fees paid.

(1) Technology Fee Consolidated With Member Dues

CBOE currently assesses a technology fee of $200 per month and member dues of $250 per month, billed separately on monthly invoices. The Exchange proposes to consolidate these charges as a combined member dues of $450 per month. Neither fee will change, but the separate billing for the technology fee will be eliminated.

[7] The MNX option class will not be included in this program since MNX customer fees were reduced in June 2002 to a flat rate of $0.15 per contract. *See* Securities Exchange Act Release No. 46045 (June 6, 2002), 67 FR 41284 (June 17, 2002) (noticing SR–CBOE–2002–28).

[8] As set forth in Interpretation .02 to CBOE Rule 1.1, the term index portfolio receipts or "IPRs" means securities that (a) represent an interest in a unit investment trust ("Trust") which holds the securities that comprise an index on which a series of IPRs is based; (b) are issued by the Trust in a specified aggregate minimum number in return for a "Portfolio Deposit" consisting of specified numbers of shares of stock plus a cash amount; (c) when aggregated in the same specified minimum number, may be redeemed from the Trust which will pay to the redeeming holder the stock and cash then comprising the Portfolio Deposit; and (d) pay holders a periodic cash payment corresponding to the regular cash dividends or distributions declared and paid with respect to the component securities of the stock index on which the IPRs are based, less certain expenses and other charges as set forth in the Trust prospectus. IPRs are "UIT interests" within the meaning of the Rules of the Exchange.

[9] As set forth in Interpretation .03 to CBOE Rule 1.1, the term index portfolio shares or "IPSs" means securities that (a) are issued by an open-end management investment company based on a portfolio of stocks designed to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index; (b) are issued by such an open-end management investment company in a specified aggregate minimum number in return for a deposit of specified number of shares of stock and/or a cash amount with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end management investment company which will pay to the redeeming holder stock and/or cash with a value equal to the next determined net asset value.

[10] Structured products currently traded at CBOE include the Salomon Smith Barney Holdings Inc. DJIA℠ Index Equity Linked Notes (DSB); Salomon Smith Barney Holdings Inc. S&P 500® Callable Equity Linked Notes (NSB); and the Salomon Smith Barney Holdings Inc. S&P 500® Equity Linked Notes (KSB). These products have an expiration date, are cash settled, have a limited number of outstanding shares, and trade like a stock pursuant to Chapter XXX of the CBOE Rules.

(2) Trade Match Fee Consolidated With Transaction Fee

Currently, Section 2 of the Fee Schedule imposes a $.05 per contract trade match fee on all transactions other than equity and QQQ customer orders. This fee will not change, but to simplify the presentation of transaction fees in the Fee Schedule, the Exchange will now include the $.05 per contract trade match fees as part of the per contract transaction fees listed in the Fee Schedule. As a result of this consolidation, the Exchange is deleting references to trade match fee in the Fee Schedule.

g. Trading Floor Booth Fee Changes

The current Fee Schedule includes a different rate for the rental of certain booths depending upon whether the firm renting the booth is a member of the Options Clearing Corporation (OCC). The Exchange has determined that this fee differential should be eliminated. Therefore, the Exchange proposes to set the following booth rental fees for all CBOE member organizations, regardless of their OCC status. Perimeter booths, which are currently $165 per month for OCC member firms and $300 per month for non-OCC member firms, will be $185 per month for all member organizations. Booths in the OEX pit, which are currently $330 per month for OCC member firms and $700 per month for non-OCC member firms, will be $330 per month for all member organizations. CBOE is amending the Fee Schedule to reflect these changes, as well as the fact that CBOE no longer has a trading floor (or trading floor booths) on its second floor.

To increase booth space rentals, a booth rental incentive plan will continue to be in effect for the period July through December 2004. All members and member firms may lease additional perimeter booth space at a rate of $100 per month per booth. The discounted price is applicable only to booths leased in excess of the quantity leased as of June 1, 2004. For new members and member firms, the first four booths will be assessed at the rate schedule effective July 1, 2004, and any additional booths in excess of the initial four will be assessed at the reduced lease rate during the incentive period. All booth fees discounted under the incentive plan will revert to regular rates on January 1, 2005.

h. Prospective Fee Reduction Program Continued

The Exchange proposes to modify and continue its Prospective Fee Reduction Program for fiscal year 2005, beginning on August 1, 2004. The Program is intended to limit fees in periods of high volume. CBOE represents that it has reviewed and adjusted the threshold for fee reductions, as it does each year, to account for the anticipated working capital needs of the Exchange for the coming year. Fee reductions will be in effect August 1, 2004 under the following scenarios:

If CBOE volume exceeds predetermined average contracts per day (CPD) thresholds at the end of any month on a fiscal year-to-date (YTD) basis, Market-Maker and DPM transaction fees, as well as floor brokerage fees, will be reduced in the subsequent month according to the schedule below:

FY05 YTD avg. CPD	Fees discount (percent)	Equities marketmaker reductions	QQQ/ Indexmarket maker reductions	DPM trans. fees reductions	Floor brokerage reductions
1,300,000	10	$.022	$.024	$.012	$.004
1,400,000	15	.033	.036	.018	.006
1,500,000	20	.044	.048	.024	.008
1,600,000	25	.055	.060	.030	.010
1,700,000	30	.066	.072	.036	.012
1,800,000	35	.077	.084	.042	.014
1,900,000	40	.088	.096	.048	.016
2,000,000	45	.099	.108	.054	.018

A circular will be distributed notifying the Membership of any fee reduction that may be in effect.

i. Miscellaneous Non-Substantive Updates and Revisions

CBOE notes minor changes in this filing to Fee Schedule Sections 4, 12, and 18, as well as one subsection of the final section of the Fee Schedule, entitled "Member Transaction Fee Policies and Rebate Programs." CBOE represents that these revisions are made to reconcile minor discrepancies between the Fee Schedule language that was submitted to the Commission for approval in previous rule change filings and the current Fee Schedule language. CBOE represents that the discrepancies appear to have been inadvertently made by Exchange staff who were trying to make the Fee Schedule more concise and easier to understand. The Exchange represents that in none of these cases was any change effected to the fees imposed under the Fee Schedule. Nevertheless, the Exchange represents that its Legal Division will formally remind Exchange staff that all future changes to the language of the Fee Schedule must be submitted to the Commission in the form of a rule change filing.

j. Transaction Fee Changes

In anticipation of changes to the Exchange's Hybrid Trading System (hereinafter referred to as "Hybrid 2.0"), the Exchange proposes the following changes to its transaction fees, which are all proposed to be effective as of July 1, 2004.[11]

(1) Market-Makers

The Exchange represents that, in recognition of the role that Market-Makers will continue to play in providing depth and liquidity to the Exchange's Hybrid 2.0 markets, as well as to help offset the extra costs that Market-Makers are incurring to trade via the Hybrid 2.0 trading system, the Exchange proposes to reduce the combined total of Market-Maker transaction and trade match fees by $.02 per contract, to a total of $.22 per contract in equity option classes. Market-Makers who will not be trading via the Hybrid 2.0 Trading System (including Non-Member market makers and Market-Makers trading in Index option classes, where Hybrid 2.0 will not be in use) will not receive the $.02 per contract reduction. For administrative reasons, the Exchange proposes to include in the fee reduction those equity option classes that will not

[11] The proposed rule change relating to the Exchange's Hybrid Trading System was recently approved by the Commission. *See* Securities Exchange Act Release No. 50003 (July 12, 2004), 69 FR 43028 (July 19, 2004).

initially trade on the Hybrid 2.0 platform, because it is anticipated that these equity option classes will eventually trade on the Hybrid 2.0 platform. In the meantime, given the small trading volume of these equity option classes, the Exchange represents that it would be logistically burdensome for the Exchange and its clearing members to distinguish these equity option classes for different fee treatment.

(2) DPM Fees

The Exchange proposes to reduce the transaction fees of current DPMs in Hybrid 2.0 option classes. DPMs who will not be trading via the Hybrid 2.0 Trading System (*i.e.*, the DPMs in the QQQs and several other Index option classes, where Hybrid 2.0 will not be in use) will not receive the per contract reduction.

CBOE represents that there are several reasons why these proposed reductions in DPM fees are reasonable and equitable in this context. CBOE represents that DPMs, in addition to being required to fulfill all the responsibilities of Market-Makers under CBOE Rule 8.7, are also responsible for fulfilling numerous additional responsibilities specified in CBOE Rule 8.85 that regular Market-Makers are not required to fulfill.[12] CBOE represents that, notwithstanding the substantial additional responsibilities of DPMs, CBOE DPMs have traditionally paid the same transaction fees as those of CBOE Market-Makers. The Exchange respectfully submits that such equal fees in the past have been a product of Exchange policy, rather than a requirement of the Act or other applicable law. CBOE believes that, due to the additional responsibilities borne by DPMs, it is reasonable and equitable under the Act for CBOE to assess lower transaction fees to DPMs than to Market-Makers.[13]

The Exchange believes that it is particularly appropriate to re-examine DPM fees at the present time, because parts of the Exchange's Hybrid 2.0 market structure initiative will effectively reduce the current compensation levels of DPMs in the future. CBOE believes that it is therefore equitable to reduce DPM transaction fees as a partial offset.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(4) of the Act,[15] in particular, in that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the foregoing proposed rule change, as amended, as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[16] and subparagraph (f)(2) of Rule 19b–4[17] thereunder. Accordingly, the proposed rule change, as amended, will take effect upon filing with the Commission. At any time within 60 days of August 2, 2004, the Commission may summarily abrogate such proposed 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–CBOE–2004–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–CBOE–2004–38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. 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–CBOE–2004–38 and should be submitted on or before September 7, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–18757 Filed 8–16–04; 8:45 am]

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[12] *See* CBOE Rule 8.85, "DPM Obligations."

[13] At the same time, as noted above, the Exchange also proposes to reduce Market-Maker fees under this plan.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b-4(f)(2).

[18] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on August 2, 2004, the date CBOE filed Amendment No. 2 to the proposed rule change. *See* 15 U.S.C. 78s(b)(3)(C).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50169; File No. SR–CBOE–2004–02]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto, and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto To Amend the Obvious Error Rule Relating to Options Quoted "No-Bid"

August 9, 2004.

On January 8, 2004, the Chicago Board Options Exchange, Inc. ("CBOE" 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 its obvious error rule, CBOE Rule 6.25. On February 2, 2004, CBOE submitted Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on March 31, 2004.[4] The Commission received no comments on the proposal. On June 10, 2004, CBOE filed Amendment No. 2 to the proposed rule change.[5] This order approves CBOE's proposed rule change, as amended, publishes notice of Amendment No. 2 to the proposed rule change, and grants accelerated approval to Amendment No. 2.

I. Description of the Proposal

The Exchange proposes to amend CBOE Rule 6.25 (Nullification and Adjustment of Electronic Transactions), which establishes six specific objective guidelines that may be used as the basis for adjusting or nullifying a transaction. The Exchange proposes to adopt one additional guideline, relating to options quoted "no-bid,"[6] which may be used as a basis for nullifying trades. Under this guideline, buyers of options series quoted no-bid at a nickel (*i.e.*, $0.05 offer) may request that their execution be nullified provided at least one strike price below (for calls) or above (for puts) in the same options class was quoted no-bid at a nickel at the time of execution.

According to CBOE, series of options quoted no-bid at a nickel are usually deep out-of-the-money series that have little, if any, chance of expiring in-the-money. CBOE asserts that for this reason, relatively few transactions occur in these series, and those that do are usually the result of error. As an example, CBOE notes that during expiration week with the underlying stock trading at $21, the DEC 40 calls likely will be quoted no-bid at a nickel. If the DEC 30s, 35s, and 40s are trading no-bid at a nickel, and a buyer inadvertently purchases the DEC 40 series calls at a nickel, then this transaction would qualify for nullification under the proposed rule, as there is at least one series below the 40s (*i.e.*, the 35s) also quoted no-bid at a nickel.

The Exchange believes that this type of transaction should qualify as an obvious error by virtue of the fact that strikes below (for calls) or above (for puts) are quoted no-bid at a nickel. According to CBOE, there is no legitimate reason why a buyer of calls would pay a nickel for the DEC 40s when the DEC 35s, which are not as far out-of-the-money, trade at the same price.

The Exchange also proposes to restrict applicability of the "no-bid at a nickel rule" to electronic transactions only by amending the introductory text to CBOE Rule 6.25. Trades occurring in open outcry would not qualify for nullification under this proposal.

CBOE represents that this proposed rule is substantially similar to PCX Rule 6.87(g)(2)(F) and ISE Rule 720.05, with minor differences. The CBOE proposal differs slightly from the PCX rule in that CBOE requires the series in question to be offered at $0.05, while the PCX does not.[7] The CBOE proposal differs slightly from the ISE proposal in that the ISE rule requires at least three strikes below (calls) or above (puts) in the same class be zero bid at a nickel. CBOE, like the PCX, proposes to only require one series above or below be quoted no-bid at a nickel.

II. Discussion

The Commission has reviewed carefully the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an "obvious error" has occurred, and the nullification of a transaction because an obvious error is considered to exist, should be based on specific and objective criteria and subject to specific and objective procedures. The Commission believes that CBOE's proposed amendment to its obvious error rule establishes specific and objective criteria for determining when a trade is an obvious error for options quoted no-bid at a nickel in electronic transactions. Moreover, the proposal clearly specifies that such trades may be nullified pursuant to the Exchange's existing procedures governing the review of obvious error transactions. Finally, the Commission notes that the Exchange's proposed amendment to its obvious error rule for options quoted no-bid at a nickel is similar to the rules of other exchanges that the Commission has previously approved.[10]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Steve Youhn, Legal Division, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated January 30, 2004 ("Amendment No. 1"). Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] *See* Securities Exchange Act Release No. 49462 (March 23, 2004), 69 FR 16998.

[5] *See* Letter from Steve Youhn, Legal Division, CBOE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated June 9, 2004 ("Amendment No. 2"). Amendment No. 2 replaced and superseded the original proposal, as amended, in its entirety. In Amendment No. 2, the Exchange amended the proposed rule text to provide that buyers of options series quoted "no-bid" at a nickel (*i.e.*, $0.05 offer) may request that their execution be nullified provided that at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at a nickel at the time of execution.

[6] "No-bid" is synonymous with "zero-bid."

[7] For example, on PCX a series may be "no-bid," offered at $0.20. The ISE also requires an $0.05 offer.

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Securities Exchange Act Release Nos. 48097 (June 26, 2003), 68 FR 39604 (July 2, 2003) (approving File No. SR–ISE–2003–10); and 48538 (September 25, 2003), 68 FR 56858 (October 2, 2003) (approving File No. SR–PCX–2002–01).

Pursuant to Section 19(b)(2) of the Act,[11] the Commission may not approve any proposed rule change, or amendment thereto, prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding. The Commission hereby finds good cause for approving Amendment No. 2 to the proposal prior to the 30th day after publishing notice of Amendment No. 2 in the **Federal Register**. The revisions made to the proposal in CBOE's Amendment No. 2, which sets forth specific and objective criteria for determining whether an electronic transaction in an option quoted no-bid at a nickel is an obvious error, are based on rules of other exchanges that the Commission previously has approved.[12] Thus, the Commission believes that no new issues are raised by the proposal. Accordingly, pursuant to Section 19(b)(2) of the Act,[13] the Commission finds good cause to approve Amendment No. 2 prior to the thirtieth day after notice of the Amendment is published in the **Federal Register**.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the proposed amendment 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*.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–CBOE–2004–02. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. 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–CBOE–2004–02 and should be submitted on or before September 7, 2004.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–CBOE–2004–02), as amended, be, and hereby is, approved, and that Amendment No. 2 to the proposed rule change be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–18758 Filed 8–16–04; 8:45 am]

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[11] 15 U.S.C. 78s(b)(2).

[12] *See supra* note 10.

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–50177; File No. SR–NYSE–2004–33)

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto To Amend Exchange Rule 345A ("Continuing Education for Registered Persons")

August 10, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 28, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. On August 4, 2004, the NYSE filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 345A ("Continuing Education for Registered Persons" or the "Rule") to rescind all currently effective exemptions from required participation in the Regulatory Element programs. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

Rule 345A.

Continuing Education for Registered Persons

(a) Regulatory Element—No member or member organization shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the continuing education requirements of Section (a) of this Rule.

(*1*) Each registered person shall complete the Regulatory Element of the continuing education program on the occurrence of their second registration anniversary date and every three years thereafter or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within one hundred twenty days after the person's registration anniversary date. A person's initial registration date, *also known as the "base date"*, shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element of the program shall be determined by the Exchange for each registration category of persons subject to the rule.

[(1) Persons who have been continuously registered for more than ten years as of the effective date of this Rule are exempt from the requirements of this rule relative to participation in the Regulatory Element of the continuing education program, provided such persons have not been subject to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Darla Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 3, 2004 ("Amendment No. 1"). In Amendment No. 1, the NYSE made technical corrections and clarifications to the filing.

any disciplinary action within the last ten years as enumerated in subsection (a)(3)(i)–(ii) of this Rule. However, persons delegated supervisory responsibility or authority pursuant to Rule 342 and registered in such supervisory capacity are exempt from participation in the Regulatory Element under this provision only if they have been continuously registered in a supervisory capacity for more than ten years as of the effective date of this rule and provided that such supervisory person has not been subject to any disciplinary action under subsection (a)(3)(i)–(ii) of this Rule.

In the event that a registered person who is exempt from participation in the Regulatory Element subsequently becomes the subject of a disciplinary action as enumerated in subsection (a)(3)(i)–(ii), such person shall be required to satisfy the requirements of the Regulatory Element as of the date the disciplinary action becomes final is the person's initial registration anniversary date.]

(2)—No Change

(3) [Re-entry into program] *Disciplinary Actions*—Unless otherwise determined by the Exchange, a registered person will be required to [re-enter] *re-take* the Regulatory Element of the program and satisfy the program's requirements in their entirety in the event such person:

(i) becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the Securities Exchange Act of 1934 (see also Rule 346(f));

(ii) becomes subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

(iii) is ordered pursuant to a disciplinary proceeding to [re-enter] *re-take* the *Regulatory Element* [continuing education program] by any securities governmental agency or securities self-regulatory organization.

[Re-entry] *A re-taking of the Regulatory Element* shall commence with [initial] participation within one hundred twenty days of the registered person becoming subject to the statutory disqualification, in the case of (i) above, or the completion of the sanction or the disciplinary action becoming final, in the case of (ii) and (iii) above. The date that the disciplinary action becomes final will be deemed the person's [initial registration anniversary] *new base* date for purposes of this Rule.

(b)(1)—.50—No Change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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

NYSE Rule 345A provides, in part, that no member or member organization shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the Regulatory Element of the continuing education requirement set forth in this Rule. As described in more detail below, the Regulatory Element component of NYSE Rule 345A [4] requires registered persons to complete a standardized compliance-based program at prescribed intervals. NYSE Rule 345A also provides for the Firm Element component of continuing education,[5] requiring "covered registered persons" to regularly participate in specialized programs designed to enhance their professional skills.

NYSE proposes to rescind all currently effective exemptions from required participation in Regulatory Element programs.

Background

The Regulatory Element currently requires each subject registered person to complete a standardized, computer-based, interactive continuing education program within 120 days of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. The purpose is to help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales practice-related industry issues. There are three Regulatory Element programs: The S201 Supervisor Program, the S106 Series 6 Program, and the S101 General Program for Series 7 and all other registrations. Persons who fail to complete the Regulatory Element are deemed inactive and may not perform in any capacity or be compensated in any way requiring registration.

"Grandfathered" Exemptions

Persons who were continuously registered, without a serious disciplinary action,[6] for more than ten years as of the Rule's effective date (*i.e.*, July 1, 1995) were initially, and continue to be, exempt from Regulatory Element requirements.

"Graduated" Exemptions

The Rule initially required that subject registered persons complete a Regulatory Element program on their second, fifth, and tenth registration anniversary dates. Once the tenth anniversary program requirement was satisfied, the registered person became exempt from Regulatory Element requirements going forward (absent a serious disciplinary event). For instance, a person who became registered July 2, 1985 could "graduate" from future Regulatory Element obligations by completing a single program in July 1995, thereby satisfying their tenth anniversary requirement.

Amendments to NYSE Rule 345A discontinued this "graduation" exemption as of July 1998,[7] but registered persons who were "graduated" prior to these amendments continue to be exempt from Regulatory Element requirements. Of approximately 685,000 actively registered persons, about 135,000 are currently exempted from ongoing Regulatory Element obligations.

Discussion and Proposal

Initially, the rationale for the Regulatory Element exemptions was that, because the material to be covered would involve regulatory subject matter, individuals registered for more than ten

[4] *See* NYSE Rule 345A(a).

[5] *See* NYSE Rule 345A(b). The Firm Element applies to any registered person who has direct contact with customers in the conduct of a member's or member organization's securities sales, trading or investment banking activities, and to the immediate supervisors of such persons, and to registered persons who function as supervisory analysts, and research analysts as defined in NYSE Rule 344 (collectively "covered registered persons").

[6] For purposes of NYSE Rule 345A, a "disciplinary action" includes statutory disqualification as defined in Section 3(a)(39) of the Act; suspension or imposition of a fine of $5,000 or more; or being subject to an order from a securities regulator to re-enter the Regulatory Element program. *See* Rule 345A(a)(3)(i)–(iii).

[7] *See* Securities Exchange Act Release No. 39712 (March 3, 1998), 63 FR 11939 (March 11, 1998)(File No. SR–NYSE–97–33).

years without a significant disciplinary action were, by virtue of their business tenure, sufficiently familiar with applicable regulatory requirements. Currently, if an exempted person becomes subject to a significant disciplinary action, the Rule requires "re-entry" into the Regulatory Element program.[8]

As part of its ongoing commitment to communicate and reinforce the importance of compliance with just and equitable principles of trade, the Exchange, on behalf of the Securities Industry/Regulatory Council on Continuing Education (the "Council"),[9] is in the process of developing a Regulatory Element module that focuses specifically on ethics. Although Regulatory Element programs have consistently included ethical considerations in a variety of business scenarios, it has been determined that the importance of ethical conduct should be more prominently featured and more emphatically stressed in the Regulatory Element. Accordingly, participants will be required to make decisions in the context of, for example, peer pressure, the temptation to rationalize, or a lack of clear-cut guidance from existing rules or regulations. In addition, there have been significant new Exchange and industry rules, growth in the types of products and services offered by firms, and areas of regulatory emphasis which the Regulatory Element covers in its curriculum. Subjecting persons who have been exempt from this requirement will be beneficial to them and their firms, as it will help keep them current and knowledgeable on such changes.

Consistent with this new emphasis, the Council believes that there is great value in exposing all registered industry participants to the full benefit of Regulatory Element programs. Accordingly, the Council recommended at its December 2003 meeting that SRO Rules (*e.g.*, NYSE Rule 345A) be amended to eliminate existing exemptions from the Regulatory Element and to require all "grandfathered" and "graduated" persons to fully participate in future standardized continuing education programs, according to the Rule's prescribed schedule.[10]

The NYSE believes that NASD and other SRO Council members are likewise pursuing amendments to their respective rules. The Exchange will coordinate with the staffs of these SROs so that all such amendments are harmonized.

Due to changes that would have to be made to the CRD System, the proposed amendments are expected to become effective on April 4, 2005. Application of the proposed amendments would be based on existing requirements of NYSE Rule 345A(a). As noted above, subject registered persons must complete their Regulatory Element requirement within 120 days of the second anniversary of their initial registration or "base date," and every three years thereafter. Accordingly, those registered persons who were eligible for "grandfathered" or "graduated" exemptions would be required to complete the Regulatory Element as their prescribed anniversaries occur on or after April 4, 2005. For example, a person whose initial registration date is April 4, 1985 would have to complete their Regulatory Element requirements within 120 days of April 4, 2005. A person whose initial registration date is July 1, 1983 would have to complete their Regulatory Element requirements within 120 days of July 1, 2006. Within 120 days of April 4, 2008, all currently exempt registered persons will have been brought back into the Regulatory Element cycle. Should the necessary CRD System changes be delayed, the effective date would be within 30 days of the implementation of such changes. In any case, NYSE membership will be notified via an Information Memo.

It is noted that a person's base date may be revised to be the effective date of a significant disciplinary action in accordance with NYSE Rule 345A(a)(3). NYSE Rule 345A(a)(3) has been amended to clarify that a person subject to a significant disciplinary action would be required to "re-take" rather than "re-enter" the Regulatory Element. A person's base date may also be revised to be the date on which a formerly registered person re-qualifies for association with a member or member organization by qualification exam.

2. Statutory Basis

The statutory basis for this proposed rule change is Section 6(c)(3)(B)[11] of the Exchange Act.[12] Under that section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations. Pursuant to this statutory obligation, the Exchange is rescinding all currently effective exemptions from required participation in the Regulatory Element programs provided by NYSE Rule 345A.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NYSE consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2004–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary,

[8] *See* Rule 345A(a)(3).

[9] As of the date of this filing, the Council consisted of eleven representatives from securities firms and representatives from six self-regulatory organizations ("SROs") including: The NYSE, the American Stock Exchange, the Chicago Board Options Exchange, the Municipal Securities Rulemaking Board, the National Association of Securities Dealers ("NASD"), and the Philadelphia Stock Exchange. The SEC and The North American Securities Administrators Association have liaisons to the Council. *See* Amendment No. 1, *supra* note 3.

[10] *See* proposed NYSE Rule 345A(a)(1). Note that the proposed amendments renumber existing paragraphs of the Rule; the Rule's prescribed schedule is currently found in NYSE Rule 345A(a).

[11] 15 U.S.C. 78f(c)(3)(B).

[12] 15 U.S.C. 78(a).

Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NYSE–2004–33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2004–33 and should be submitted on or before September 7, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–18759 Filed 8–16–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50174; File No. SR–PHLX–2004–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Its NASDAQ–100 Index Tracking Stock℠ Equity Transaction Charge To Replace the Total Shares Per Transaction Charge With a Single Per Share Charge

August 10, 2004.

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 July 30, 2004, 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, II, and III below, which Items have been prepared by the Exchange. The Phlx has designated this proposal as one changing a fee imposed by the Phlx under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its NASDAQ–100 Index Tracking Stock℠[5] (known as QQQ℠) equity transaction charge[6] to replace the total shares per transaction charge with a single per share charge, as described further below, for trades on or after August 2, 2004. Below is the text of the proposed rule change. Proposed new language is in *italics;* deletions are in brackets.

* * * * *

NASDAQ–100 INDEX TRACKING STOCK℠ FEE SCHEDULE

Phlx Fee Schedule		
Customer		
PACE		none[5]
Non-PACE		
Transaction [Charge] *Fee*	*$.0035 per share*	*[Rate per Share]*
[First 500 shares		$0.00
Next 2,000 shares		$0.0075
Remaining shares		$0.005]
$50 maximum fee per trade side.		

[5] However, this charge applies where an order, after being delivered to the Exchange by the PACE system is executed by the specialist by way of an outbound ITS commitment, when such outbound ITS commitment reflects the PACE order's clearing information, but does not apply where a PACE trade was executed against an inbound ITS commitment.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B,

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] Nasdaq–100®, Nasdaq–100 Index®, Nasdaq®, The Nasdaq Stock Market®, Nasdaq–100 Shares℠, Nasdaq–100 Trust℠, Nasdaq–100 Index Tracking Stock℠ and QQQ℠ are trademarks or service marks of The Nasdaq Stock Market, Inc. (Nasdaq) and have been licensed for use for certain purposes by the Philadelphia Stock Exchange pursuant to a License Agreement with Nasdaq. The Nasdaq–100 Index® (the Index) is determined, composed and calculated by Nasdaq without regard to the Licensee, the Nasdaq–100 Trust℠, or the beneficial owners of Nasdaq–100 Shares℠. Nasdaq has complete control and sole discretion in determining, comprising or calculating the Index or in modifying in any way its method for determining, comprising or calculating the Index in the future.

[6] The Exchange filed a proposed rule change, SR–Phlx–2004–40, which amends the Summary of Equity Charges portion of the fee schedule by replacing the total shares per transaction charge with a single per share charge. *See* Exchange Act Release No. 34–50106 (July 28, 2004), 69 FR 47197 (August 4, 2004). The NASDAQ–100 Index Tracking Stock℠ fee schedule, which contains a duplicate tiered fee schedule as contained in the Summary of Equity Charges, was inadvertently omitted from that filing. This filing seeks to amend the replicated tiered fee schedule, which is displayed in the NASDAQ–100 Index Tracking Stock℠, in the same fashion as it was amended in the Summary of Equity Charges portion of the fee schedule.

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 Phlx states that the purpose of the proposed rule change is to remain competitive and foster growth of the equity floor brokerage business by seeking to increase volume. The proposal seeks to replace the current tiered fee schedule for non-PACE NASDAQ–100 Index Tracking Stock℠ equity transaction charges with a single per share charge of $.0035, subject to a cap of $50 per trade side.[7] Presently, such transaction charges are based on total shares per transaction. For example, for the first 500 shares the transaction fee is $0, for the next 2,000 shares the transaction fee is $.0075 on a per share basis, and thereafter, for any remaining shares the transaction fee is $.005 on a per share basis. This proposal would increase the fee for the first 500 shares transacted and decrease the fee for subsequent share volume.[8]

In addition, the term "charge" is being replaced with the term "fee" for the purpose of clarity.

2. Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members and will allow the equity floor to remain competitive and encourage growth.

[7] However, this fee applies where an order, after being delivered to the Exchange by the PACE system is executed by the specialist by way of an outbound ITS commitment, when such outbound ITS commitment reflects the PACE order's clearing information, but does not apply where a PACE trade was executed against an inbound ITS commitment. *See* footnote 5 of the Exchange's NASDAQ–100 Index Tracking Stock℠ Fee Schedule. PACE is the Exchange's automated order entry, routing and execution system. *See* Phlx Rules 229 and 229A. Telephone conversation between Angela Saccomandi Dunn, Counsel, Phlx, and David Liu, Attorney, Division of Market Regulation, Commission, on August 5, 2004.

[8] The fee is charged only to members of the Phlx. Telephone conversation between Angela Saccomandi Dunn, Counsel, Phlx, and David Liu, Attorney, Division of Market Regulation, Commission, on August 5, 2004.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[11] and Rule 19b–4(f)(2)[12] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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–2004–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to File Number SR–PHLX–2004–52. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of 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–2004–52 and should be submitted on or before September 7, 2004.

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–18756 Filed 8–16–04; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Andean Trade Preference Act (ATPA); Notice Regarding the 2004 Annual Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces the 2004 Annual Review of the Andean Trade Preference Act (ATPA). The deadline for the submission of petitions for the 2004 Annual ATPA Review is September 15, 2004. USTR will publish a list of petitions filed in response to this announcement in the **Federal Register**.

ADDRESSES: Submit petitions by electronic mail (e-mail) to *FR0442@ustr.gov*. If unable to submit petitions by e-mail, contact the Office of the Americas, Office of the United States Trade Representative (USTR), 600 17th St., NW., Washington, DC 20508, at (202) 395–9446.

FOR FURTHER INFORMATION CONTACT: Bennett M. Harman, Deputy Assistant

U.S. Trade Representative for Latin America, Office of the Americas, Office of the United States Trade Representative, 600 17th St., NW., Washington, DC 20508. The telephone number is (202) 395–9446 and the facsimile number is (202) 395–9675.

SUPPLEMENTARY INFORMATION: The ATPA (19 U.S.C. 3201–06), as renewed and amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) in the Trade Act of 2002 (Pub. L. 107–210), provides for trade benefits for eligible Andean countries. Consistent with Section 3103(d) of the ATPDEA, USTR promulgated regulations (15 CFR part 2016) (68 FR 43922) regarding the review of eligibility of articles and countries for the benefits of the ATPA, as amended. The 2004 Annual ATPA Review is the second such review to be conducted pursuant to the ATPA review regulations. To qualify for the benefits of the ATPA and ATPDEA, each country must meet several eligibility criteria, as set forth in sections 203(c) and (d), and section 204(b)(6)(B) of the ATPA, as amended (19 U.S.C. 3202(c), (d); 19 U.S.C. 3203(b)(6)(B)), and as outlined in the **Federal Register** notice USTR published to request public comments regarding the designation of eligible countries as ATPDEA beneficiary countries (67 FR 53379). Under section 203(e) of the ATPA, as amended (19 U.S.C. 3202(e)), the President may withdraw or suspend the designation of any country as an ATPA or ATPDEA beneficiary country, and may also withdraw, suspend, or limit preferential treatment for any product of any such beneficiary country, if the President determines that, as a result of changed circumstances, the country is not meeting the eligibility criteria.

The ATPA regulations provide the schedule of dates for conducting an annual review, unless otherwise specified by **Federal Register** notice. Notice is hereby given that, in order to be considered in the 2004 Annual ATPA Review, all petitions to withdraw or suspend the designation of a country as an ATPA or ATPDEA beneficiary country, or to withdraw, suspend, or limit application of preferential treatment to any article of any ATPA beneficiary country under the ATPA, or to any article of any ATPDEA beneficiary country under section 204(b)(1), (3), or (4) (19 U.S.C. 3202(b)(1), (3), (4)) of the ATPA, must be received by the Andean Subcommittee of the Trade Policy Staff Committee no later than 5 p.m. e.d.t. on September 15, 2004. Petitioners should consult 15 CFR 2016.0 regarding the content of such petitions.

Petitions must be submitted, in English, to the Andean Subcommittee, Trade Policy Staff Committee. Petitions will be available for public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked "Business Confidential" in large, bold letters at the top and bottom of every page of the document. The public version that does not contain business confidential information must be clearly marked either "Public Version" or "Non-Confidential" in large, bold letters at the top and bottom of every page.

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic mail (e-mail) submissions in response to this notice. E-mail submissions should be single copy transmissions in English, and the total submission including attachments should not exceed 50 pages. E-mail submissions should use the following subject line: "2003 Annual ATPA Review—Petition." Documents must be submitted as either WordPerfect (".WPD"), MSWord (".DOC"), or text (".TXT") file. Documents should not be submitted as electronic image files or contain imbedded images (for example, ".JPG", "PDF", ".BMP", or "GIF"), as these type of files are generally excessively large. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel, pre-formatted for printing on 8½ × 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

The file name of any document containing business confidential information attached to an e-mail transmission should begin with the characters "BC-", and the file name of the public version should begin with the characters "P-". The "P-" or "BC-" should be followed by the name of the person or party submitting the petition. Submissions by e-mail should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the submission. The e-mail address for submissions is *FR0442@ustr.gov*. Public versions of all documents relating to this review will be available for review shortly after the due date by appointment in the USTR Public Reading Room, 1724 F Street, NW., Washington, DC. Availability of documents may be ascertained, and appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Bennett M. Harman,

Deputy Assistant U.S. Trade Representative for Latin America.

[FR Doc. 04–18717 Filed 8–16–04; 8:45 am]

BILLING CODE 3190–W4–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Public Dialogue on Enhancing the Transatlantic Economic Relationship

AGENCY: Office of the U.S. Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: U.S. and European leadership agreed at the U.S.-EU Summit in June 2004 to look at new ways to further strengthen the transatlantic economic relationship, calling upon all interested U.S. and EU stakeholders to engage in a vigorous discussion of concrete ideas on how to further transatlantic economic integration. Over the coming months, the U.S. Administration will convene a number of public dialogue sessions, as well as participate in conferences and meetings, with the business, consumer, labor, environmental and academic communities, and other elements of civil society in order to stimulate proposals for possible subsequent adoption by governments. As part of this process, the U.S. Administration welcomes written public input on ideas for deepening transatlantic economic ties.

DATES: Written comments should be submitted no later than November 15, 2004.

Submissions: The U.S. government strongly encourages public input on this initiative. To facilitate expeditious handling, the public is strongly encouraged to submit documents electronically rather than by facsimile. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters "BC-", and the file name of the public version should

begin with the characters "P-". The "P-" or "BC-" should be followed by the name of the submitter. Submissions by e-mail should not include separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Electronic submissions should be sent to *FR0439@ustr.eop.gov*. Submissions by fax should be sent to the attention of Anita Thomas, Office of Europe and the Mediterranean, Office of the U.S. Trade Representative, at (202) 395–3974.

Public Dialogues: Public dialogue sessions will be organized in several U.S. cities later this year, with locations and dates to be posted at the following Web site *http://www.ustr.gov/World_Regions/Europe_Mediterranean/Transatlantic_Dialogue/Section Index.html*. For information on those sessions, the public is advised to follow links to "Transatlantic Stakeholders" on the Web sites of the USTR and the Departments of State and Commerce.

FOR FURTHER INFORMATION CONTACT: Questions relating to this notice should be addressed to Lisa Errion, Director for Central and Southeast Europe, Office of the U.S. Trade Representative, at (202) 395–3320.

SUPPLEMENTARY INFORMATION: Over the last 50 years, the economies of the United States and the European Union (EU) have become increasingly integrated. Today, the United States and EU share the largest bilateral trade and investment relationship in the world, providing jobs to millions of workers on each side of the Atlantic. Trade and investment remain at the core of the U.S.-EU relationship.

The United States and the European Union are each other's largest sources of foreign direct investment, with the 2002 stock of U.S. direct investment in the European Union reaching $700 billion and EU investment in the United States reaching $850 billion. In 2003, two-way transatlantic trade exceeded $390 billion. The total output of U.S. foreign affiliates ($333 billion in 2000) in Europe and of EU affiliates in the United States ($301 billion) is greater than the total GDP of most nations. The U.S. Administration continues to look for new ways to give the transatlantic relationship a new impetus and wishes to examine cooperative means and best practices that could enhance economic growth, job creation, and innovation, in particular in the most dynamic sectors of our economies.

Pursuant to the "U.S.-EU Declaration on Strengthening our Economic Partnership" agreed to by President Bush and his EU counterparts at the June 2004 US-EU Summit in Ireland, the United States welcomes and encourages the current lively and creative public debate on both sides of the Atlantic on how to enhance our already strong economic relationship. The Summit "Declaration on Strengthening our Economic Partnership" and White House fact sheet are available at *http://www.whitehouse.gov/news/releases/2004/06/*.

As part of its exploration of new ideas, U.S. agencies will in coming months convene a number of public dialogue sessions, as well as participate in other conferences and meetings, with the business, consumer, labor, environmental and academic communities, and other elements of civil society in order to outline proposals for possible adoption by governments. The U.S. government's objective is to stimulate concrete ideas from interested stakeholders for specific government actions that could enhance US-EU economic integration.

Topics which could be explored in this regard include (but are not limited to):

- Where should the U.S. and EU economic relationship be in 10 years and what steps should we take to meet these goals?
- Where are there opportunities for further and deeper cooperation?
- How can the U.S. and EU do more to advance competitiveness and innovation?
- What should be done to better mesh U.S. and EU regulatory approaches?
- How can we enhance transparency and public participation in economic policy formulation?
- What should be done to further liberalize transatlantic trade in services?
- How can the U.S. and EU cooperate more effectively in third markets, such as promoting transparency and protection of intellectual property rights?
- How can the U.S. and EU address remaining traditional market access barriers, such as tariff rates and customs procedures?

Mark Mowrey,

Deputy Assistant United States Trade Representative for Europe and the Mediterranean.

[FR Doc. 04–18716 Filed 8–16–04; 8:45 am]

BILLING CODE 3190–W4–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 120–SUR, Aircraft Surveillance Systems and Applications

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Advisory Circular (AC) 120–SUR, Aircraft Surveillance Systems and Applications. This proposed AC provides designers, manufacturers, installers and airplane operators, general information and acceptable method of compliance for the certification, airworthiness, and the operational approval of surveillance systems and associated applications.

DATES: Comments must be received on or before September 11, 2004.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR–130, 800 Independence Avenue, SW., Washington, DC 20591. ATTN: Mr. Paul Lipski. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Lipski, AIR–130, Room 815, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 385–4557, FAX: (202) 385–4651, Or, via e-mail at: *Paul.lipski@faa.gov*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed AC listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed AC may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date will be considered by the Director of the Aircraft Certification Service before issuing the final Advisory Circular.

Background

The Federal Aviation Administration (FAA), in a continuing effort to improve the safety, efficiency, and capacity of the National Airspace System, has been working with industry to develop and demonstrate new surveillance technologies such as Automatic Dependent Surveillance—Broadcast (ADS–B) through such efforts as Safe Flight 21 program, the Capstone program (currently being used in Alaska), and other United States National Airspace System (NAS) programs. To assist the aviation community in obtaining FAA approval of related systems and equipment needed to support these services, the Flight Standards and Aircraft Certification Services developed the proposed AC.

How To Obtain Copies

You may get a copy of the proposed AC from the Internet at: *http://www.airweb.faa.gov/rgl.* Once on the RGL Web site, select "Advisory Circular", then select the document by number. See section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address if requesting a copy by mail.

Issued in Washington, DC, August 12, 2004.

Brian A. Yanez,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 04–18819 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Revision No. 1 to the Approved Noise Compatibility Program for Bob Hope Airport, Burbank, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on Revision No. 1 to the approved noise compatibility program submitted by the Burbank-Glendale-Pasadena Airport Authority for Bob Hope Airport (formerly known as the Burbank-Glendale-Pasadena Airport) under the provisions of Title I of the Aviation Safety and Noise Abatement Act, as amended, (Public Law 96–193) (hereinafter referred to as "the Act") and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 31, 2000, the FAA determined that the noise exposure maps submitted by the Burbank-Glendale-Pasadena Airport Authority for Bob Hope Airport under Part 150 were in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's approval of Revision No. 1 to the Approved Noise Compatibility Program for Bob Hope Airport is August 4, 2004.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Acting Supervisor, Planning Section/Environmental Protection Specialist, AWP–611, Airports Division, Western-Pacific Region, Federal Aviation Administration. Mailing Address: P.O. Box 92007, Los Angeles, California 90009–2007, Street Address: 15000 Aviation Boulevard, Hawthorne, California 90261. Telephone: 310/725–3615. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to Revision No. 1 to the Approved Noise Compatibility Program for Bob Hope Airport (formerly known as Burbank-Glendale-Pasadena Airport), effective August 4, 2004. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979, as amended (herein after referred to as the "Act") (recodified as 49 U.S.C. 47504), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA as Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982, as amended. Where federal funding is sought, requests for project grants must be submitted to the FAA's Airports Division Office in Hawthorne, California.

The Burbank-Glendale-Pasadena Airport Authority submitted to the FAA on December 23, 1998, the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from May 1997 to November 1999. The Noise Exposure Maps for Bob Hope Airport (formerly known as Burbank-Glendale-Pasadena Airport) were determined by FAA to be in compliance with applicable requirements on January 31, 2000. Notice of this determination was published in the **Federal Register** on February 14, 2000.

The Bob Hope Airport study contained a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in 49 U.S.C. 47504 (formerly section 104(b) of the Act). The FAA began its review of the program on May 31, 2000, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program. FAA approved the program on November 27, 2000. Notice of this FAA's approval was published in the **Federal Register** on December 21, 2000.

Revision No. 1 to the approved NCP was submitted by the Burbank-Glendale-Pasadena Airport Authority on January 20, 2004. The FAA began its review of the revision to the approved program on March 11, 2004, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted revision to the approved program contained one proposed action for noise abatement, noise mitigation, land use planning and program management on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. Revision No. 1 to the approved program was approved, by the Associate Administrator for Airports, effective August 4, 2004.

Outright approval was granted for the new Land Use Planning Measure No. 7. "Provision for retention of property located in the northwest quadrant of the Airport within the 2003 65 CNEL noise exposure contour."

The determination is set forth in detail in the Record of Approval signed by the Associate Administrator for Airports on August 4, 2004. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Burbank-Glendale-Pasadena Airport Authority. The Record of Approval also will be available on-line at: *http://www.faa.gov/arp/environmental/14cfr150/index14.cfm.*

Issued in Hawthorne, California on August 5, 2004.

Mia Paredes Ratcliff,

Acting Manager, Airports Division, Western-Pacific Region, AWP-600.

[FR Doc. 04–18820 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–67]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 7, 2004.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2004–18747 at the beginning of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Jan Thor (425–227–2127), Transport Airplane Directorate (ANM–113), Federal Aviation Administration, 1601 Lind Ave, SW., Renton, WA 98055–4056; or John Linsenmeyer (202–267–5174), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85 and 11.91.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2004–18747.

Petitioner: Lockheed Martin Aircraft Center.

Section of 14 CFR Affected: 14 CFR 25.807.

Description of Relief Sought: Lockheed Martin Aircraft Center petitions for exemption from the requirements of 14 CFR 25.807 regarding emergency exits. Specifically, the requirements for overwing exits per paragraph g(1) and per ditching requirements of paragraph i(1). The Gulfstream Model GV–SP (G550) is equipped with a left, forward entry door/exit, and 2 pairs of 19 × 26-inch ellipse overwing exits approved under an equivalent safety finding. All of the exits combined are rated for a maximum of 19 passengers. The proposed modification will leave the forward entry door/exit unchanged; a fairing is added to the outside of the fuselage, which covers both pairs of the overwing exits. The forward pair of overwing exists will be disabled. The aft pair of overwing exits will remain and not be modified. The added fairing will have a hatch provided in it to allow use of the aft pair of overwing exits from both the inside and the outside. All of the active exits combined in this new configuration will be rated for a maximum of 6 passengers.

[FR Doc. 04–18836 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–66]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 27, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–200X-XXXXX] by any of the following methods:

- Web site: *http://www.dms.dot.gov.* 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 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am 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.

Docket: For access to the docket to read background documents or comments received, go to *http://www.dms.dot.gov* at any time or to 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.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 11, 2004.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2004–17448.

Petitioner: USA Jet Airlines, Inc.

Section of 14 CFR Affected: 14 CFR appendix I to part 121.

Description of Relief Sought: To permit USA Jet to use mechanics who are covered under their employer's Federal Aviation Administration-approved antidrug program on an independent basis to perform emergency maintenance on USA Jet aircraft when company personnel are unavailable.

[FR Doc. 04–18837 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–18647]

Notice of Receipt of Petition for Decision That Nonconforming 2004 360 Series Ferrari Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 2004 360 series Ferrari passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2004 360 series Ferrari passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is September 16, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

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

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies of Baltimore, Maryland ("JK") (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2004 360 series Ferrari passenger cars are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 2004 360 series Ferrari passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2004 360 series Ferrari passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

JK submitted information with its petition intended to demonstrate that non-U.S. certified 2004 360 series Ferrari passenger cars as originally manufactured, conform to many Federal

motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2004 360 series Ferrari passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. *102 Transmission Shift Lever Sequence,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Brake Fluid,* 118 *Power-operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 202 *Head Restraints,* 203 *Impact Protection for the Driver from the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Modification of the existing instrument cluster, or installation of entire U.S.-model instrument cluster assembly; (b) downloading of U.S.-version software information so that the vehicle complies with the standard.

No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model front and rear sidemarker lamp assemblies that incorporate side reflex reflectors; (b) installation of U.S.-model headlamp assemblies; (c) installation of U.S.-model taillamp assemblies, or modification of the existing taillamp assemblies to comply with the requirements of this standard.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Inscription of the required warning statement on the face of the passenger side rearview mirror, or replacement of the passenger side mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Downloading of U.S.-version software information so that the vehicle complies with the requirements of this standard.

Standard No. 201 *Occupant Protection in Interior Impact:* Inspection of all vehicles and installation, on vehicles that are not already so equipped, of trim components that are necessary to comply with the upper interior impact requirements of the standard.

Standard No. 208 *Occupant Crash Protection:* (a) Inspection of all vehicles and replacement of non-compliant seat belt assemblies with U.S.-model components; (b) downloading of U.S.-version software information so that the vehicle complies with the seat belt audible warning requirements of this standard.

Standard No. 209 *Seat Belt Assemblies:* Inspection of all vehicles and replacement of the seat belt assemblies with U.S.-model components on vehicles that are not already so equipped.

Standard No. 225 *Child Restraint Anchorage Systems:* Installation of U.S.-model tether anchorages in coupe model.

Standard No. 301 *Fuel System Integrity:* Replacement of any non U.S. model components with U.S.-model components so that the vehicle complies with the requirements of this standard.

Standard No. 401 *Interior Trunk Release:* Installation of U.S. model components to permit the trunk lid to be released from inside the trunk, so that the vehicle complies with the requirements of this standard.

In addition, the petitioner states that front and rear bumper reinforcements must be added to the vehicles to comply with the Bumper Standard found in 49 CFR Part 581. The petitioner states that it will use components that have already been tested to the requirements of the Bumper Standard when installed on 2001 360 Ferrari passenger cars that it believes are the same as 2004 360 Ferrari passenger cars with respect to conformity with this standard (As part of a Petition for a decision that nonconforming 2001 360 Series Ferrari Passenger Cars are eligible for importation (see NHTSA docket 2001–9628), JK submitted a report from MGA Research of Burlington, Wisconsin, dated March 7, 2002, which indicates that it tested a Ferrari 360 Spider to the requirements of Part 581 and that there was no damage to the vehicle during this testing. JK has represented this vehicle to be a non-U.S. certified 2001 Ferrari 360 that it modified to conform to the requirements of Part 581.).

In addition, a supplemental visible label must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565, and a reference and certification label must be affixed to the edge of the driver's side door to ensure compliance with the requirements of 49 CFR Part 567.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle, Safety Compliance.

[FR Doc. 04–18823 Filed 8–16–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 552 (Sub-No. 8)]

Railroad Revenue Adequacy—2003 Determination

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On August 12, 2004, the Board served a decision announcing the 2003 revenue adequacy determinations for the Nation's Class I railroads. No carrier is found to be revenue adequate.

EFFECTIVE DATE: This decision is effective August 12, 2004.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. (Federal Information Relay Service (FIRS) for the hearing impaired: 1 (800) 877–8339.)

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment equal to at least the current cost of capital for the railroad industry for 2003, determined to be 9.4% in *Railroad Cost of Capital—2003,* STB Ex Parte No. 558 (Sub-No. 7) (STB served June 28, 2004). This revenue

adequacy standard was applied to each Class I railroad, and no carrier was found to be revenue adequate for 2003.

The Board's decision is posted on the Board's Web site, *http://www.stb.dot.gov*. In addition, copies of the decision may be purchased from ASAP Document Solutions by calling 301–577–2600 or by e-mailing *asapdoc@verizon.net*.

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of the action is merely to update the annual railroad industry revenue adequacy finding. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Decided: August 11, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams,

Secretary.

[FR Doc. 04–18776 Filed 8–16–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to revise the Country Exposure Report (FFIEC 009) and the Country Exposure Information Report (FFIEC 009a), which are currently approved information collections. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the reports. The agencies will then submit the reports to OMB for review and approval.

DATES: Comments must be submitted on or before October 18, 2004.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number, will be shared among the agencies.

OCC: Comments should be sent to the Public Information Room, Office of the Comptroller of the Currency, Mailstop 1–5, Attention: 1557–0100, 250 E Street, SW., Washington, DC 20219. Due to delays in the OCC's mail service since September 11, 2001, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874–4448, or by e-mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Board: You may submit comments, identified by FFIEC 009, by any of the following methods:

- Agency Web Site: *http://www.federalreserve.gov*. Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov*. Include docket number in the subject line of the message.
- Fax: (202) 452–3819 or (202) 452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: Written comments should identify "Information Collection 3064–0017, FFIEC 009" as the subject and be submitted by any of the following methods:

- Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html*.
- E-mail: *Comments @FDIC.gov*.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, FDIC, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery/Courier: Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or electronic mail to *MMenchik@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Additional information or a copy of the collection may be requested from:

OCC: John Ference, Acting OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Cindy Ayouch, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Leneta G. Gregorie, Counsel, (202) 898–3719, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: *Proposal to revise the following currently approved collections of information:*

Report Title: Country Exposure Report and Country Exposure Information Report.

Form Number: FFIEC 009 and FFIEC 009a.

Frequency of Response: Quarterly.

Affected Public: Business or other for profit.

OCC:

OMB Number: 1557–0100.

Estimated Number of Respondents: 21 (FFIEC 009), 21 (FFIEC 009a).

Estimated Average Time per Response: 30 burden hours (FFIEC 009), 5.25 burden hours (FFIEC 009a).

Estimated Total Annual Burden: 2,520 burden hours (FFIEC 009), 441 burden hours (FFIEC 009a).

Board:

OMB Number: 7100–0035.

Estimated Number of Respondents: 31 (FFIEC 009), 16 (FFIEC 009a).

Estimated Average Time per Response: 30 burden hours (FFIEC 009), 5.25 burden hours (FFIEC 009a).

Estimated Total Annual Burden: 3,720 burden hours (FFIEC 009), 336 burden hours (FFIEC 009a).

FDIC:

OMB Number: 3064–0017.

Estimated Number of Respondents: 22 (FFIEC 009), 22 (FFIEC 009a).

Estimated Average Time per Response: 30 burden hours (FFIEC 009), 5.25 burden hours (FFIEC 009a).

Estimated Total Annual Burden: 2,640 burden hours (FFIEC 009), 462 burden hours (FFIEC 009a).

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 and 1817 (national banks), 12 U.S.C. 248(a), 1844(c), and 3906 (State member banks and bank holding companies); and 12 U.S.C. 1817 and 1820 (insured State nonmember commercial and savings banks). The FFIEC 009 information collection is given confidential treatment (5 U.S.C. 552(b)(4) and (b)(8)). The FFIEC 009a information collection is not given confidential treatment.

Abstract

The Country Exposure Report (FFIEC 009) is filed quarterly with the agencies and provides information on international claims of U.S. banks and bank holding companies that is used for supervisory and analytical purposes. The information is used to monitor country exposure of banks to determine the degree of risk in their portfolios and the possible impact on U.S. banks of adverse developments in particular countries. The Country Exposure Information Report (FFIEC 009a) is a supplement to the FFIEC 009 and provides publicly available information on material foreign country exposures (all exposures to a country in excess of 1 percent of total assets or 20 percent of capital, whichever is less) of U.S. banks and bank holding companies that file the FFIEC 009 report. As part of the Country Exposure Information Report, reporting institutions must also furnish a list of countries in which they have lending exposures above 0.75 percent of total assets or 15 percent of total capital, whichever is less.

Current Action

The agencies propose to revise the FFIEC 009 in order to harmonize U.S. data with data on cross-border exposures collected by other countries and disseminated by the Bank for International Settlements (BIS) as their "consolidated banking statistics." The proposed revisions should also provide additional information about U.S. banks' exposure to country risk, transfer risk, and foreign-exchange risk. The proposed revisions would collect additional detail on foreign-office claims of U.S. banks on local residents, including sector breakdowns and a currency split; a split between commitments and guarantees plus credit derivatives; and trade finance after adjustments for collateral and guarantees. Under the proposal, the definition of the public (*i.e.*, government) sector would be brought into agreement with the definition used in the Consolidated Reports of Condition and Income (Call Report) (forms FFIEC 031 and FFIEC 041) that banks file quarterly. No changes to the FFIEC 009a are proposed, although the change in the definition of the public sector on the FFIEC 009 would change the amounts reported in Columns 6 and 7 of the FFIEC 009a by corresponding amounts. The instructions to the FFIEC 009a reporting form would need to be changed, however, to reflect column changes on the FFIEC 009. In addition, comments are requested on the way claims are adjusted for collateral and guarantees.

In proposing these revisions, the FFIEC has attempted to be mindful of the fact that some of the revisions may increase reporting burden for reporters. In light of this, the FFIEC has looked for areas in which reporting burden might be reduced. As a consequence, the proposed revisions drop a number of items from the report. For example, reporters are no longer asked to report: Total cross-border claims on an immediate-counterparty basis, the maturity of claims in the one-to-five-year and over-five-year categories, risk redistribution of claims on the public sector separately from the non-bank private sector, commitments on an immediate-counterparty basis, and risk redistributions for commitments.

The agencies propose to implement changes to the FFIEC 009 effective with the March 2005 report date.

International Harmonization

As noted above, one of the reasons for requesting changes to the FFIEC 009 is to increase the degree of harmonization between U.S. data and data collected by other countries' central banks. Together, these data make up the BIS consolidated banking statistics, which are compiled by the BIS from data submitted by the G–10 [1] central banks and a number of other developed and developing country central banks. Beginning as of December 2004, the BIS will implement enhancements to these statistics. The enhancements will provide users with more data on an "ultimate-risk" basis—*i.e.*, after adjusting for collateral and third-party guarantees—including details on local claims and commitments and guarantees. Most of the participating central banks, including all of the G–10 central banks, agreed to collect the new data, and also to harmonize their existing data more closely with BIS guidelines. Therefore, some of the proposed revisions are intended to collect the new data that the BIS will begin compiling and other revisions are intended to bring U.S. data into agreement with the current BIS guidelines. As a result, when the enhanced statistics are implemented, they will reflect a significant harmonization of country exposure data across countries.

As a general rule, it is desirable for the United States to comply with international data collection efforts, especially when doing so does not cause undue burden on U.S. reporting institutions. The cost of complying with the new statistics will be considerably less for U.S. reporters than for reporters in many countries, because most of the data needed for the enhancements to the BIS statistics was already collected on the FFIEC 009, whereas many countries must collect a large amount of new data. U.S. compliance helps create international data that are comparable

[1] The Group of Ten is made up of eleven industrial countries (Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, the United Kingdom and the United States) which consult and cooperate on economic, monetary and financial matters.

across countries and are, therefore, more useful. If the United States were not to collect these additional data, it would be the only large country not in almost full compliance with the new statistics.

Proposed Revisions to the FFIEC 009 Reporting Form

Schedule 1: Country Exposure Report (Excluding Foreign Exchange and Derivative Products)

1. Redefine columns 1, 2, and 3. "Cross-Border Claims" by "Banks" (column 1), "Public" (column 2), and "Other" (column 3) would include "Foreign-Office Claims on Local Residents in Non-Local Currency" and would exclude local claims in the domestic currency subject to a risk reallocation. This change would improve, in a way that adds the least number of columns to the reporting form, harmonization of international data by bringing U.S. data into agreement with the BIS guidelines for the consolidated banking statistics. This change does not alter, nor does it reflect a change in, the definitions of country, cross-border, or transfer risks. Cross-border claims on an immediate-counterparty basis would be calculated as the sum of these columns less the proposed column 5. (See "5. Add a column." below.)

2. Delete column 4. "Cross-Border Claims: Total" (column 4) would be deleted in order to lower reporting burden. Total cross-border claims on an ultimate-risk basis are considerably more useful than immediate-counterparty data for assessing banks' exposure to country risk and can be calculated from the proposed reporting form.

3. Redefine and renumber column 5. "Cross-Border Claims: Estimated Breakdown of Column (4) by Time Remaining to Maturity: One Year and Under" (column 5) would include "Foreign-Office Claims on Local Residents in Non-Local Currency." This change would improve, in a way that adds the least number of columns to the reporting form, harmonization of international data by bringing U.S. data into agreement with the BIS guidelines for the consolidated banking statistics. This change does not alter, nor does it reflect a change in, the definitions of country, cross-border, or transfer risks. Column 5 would be renumbered to column 4 on the proposed reporting form.

4. Delete columns 6 and 7. "Cross-Border Claims: Estimated Breakdown of Column (4) by Time Remaining to Maturity" for "Over One Year to Five Years" (column 6) and "Over Five Years" (column 7) would be deleted in order to lower reporting burden. In addition, the distinction between the two maturity buckets is considered to be of marginal usefulness.

5. Add a column. The proposed column, "Immediate-Counterparty Basis: Foreign-Office Claims on Local Residents in Local Currency" (column 5), would be added to increase harmonization of international data by bringing U.S. data into agreement with BIS guidelines.

6. Rename and renumber column 8. "Cross-Border Claims: Claims Reported in Columns 1–3 with Head Office/Guarantor Located in Another Country" by "Bank" (column 8) would be renamed and renumbered "Redistribution of Claims To Adjust for Ultimate Risk: Outward Risk Transfers of Claims Reported in Columns 1, 2, 3 and 5 or on U.S. Residents" by "Claims on Banks" (column 6) on the proposed reporting form.

7. Combine columns 9 and 10. "Cross-Border Claims: Claims Reported in Columns 1–3 with Head Office/Guarantor Located in Another Country" by "Public" (column 9) and "Other" (column 10) would be combined into "Redistribution of Claims To Adjust for Ultimate Risk: "Outward Risk Transfers of Claims Reported in Columns 1, 2, 3 and 5 or on U.S. Residents" by "Claims on Non-Banks" (column 7) on the proposed reporting form. Distinguishing between risk redistributions to the public and the non-bank private sectors is considered to be of marginal usefulness, so the proposed reporting form combines these columns in order to lower reporting burden.

8. Rename and renumber column 11. "Cross-Border Claims: Redistribution of Guaranteed Amounts Reported in Columns 8–10 to Country of Head Office/Guarantor" by "Bank" (column 11) would be renamed and renumbered "Redistribution of Claims To Adjust for Ultimate Risk: Inward Risk Transfers of Claims Reported in Columns 6 and 7" by "Claims on Banks" (column 8) on the proposed reporting form.

9. Combine columns 12 and 13. "Cross-Border Claims: Redistribution of Guaranteed Amounts Reported in Columns 8–10 to Country of Head Office/Guarantor" by "Public" (column 12) and "Other" (column 13) would be combined into "Redistribution of Claims to Adjust for Ultimate Risk: Inward Risk Transfers of Claims Reported in Columns 6 and 7" by "Claims on Non-Banks" (column 9) on the proposed reporting form. Distinguishing between risk redistributions to the public and the non-bank private sectors is considered to be of marginal usefulness, so the proposed reporting form combines these columns in order to lower reporting burden.

10. Renumber column 14. "Net Due to (or Due from) Own Related Offices in Other Countries" (column 14) would become a Memorandum Item and be renumbered to column 21 on the proposed reporting form.

11. Delete column 15. "Commitments" (column 15) would be deleted in order to lower reporting burden. Immediate-counterparty commitments and guarantees are considered to be less useful than the ultimate-risk data.

12. Delete columns 16 and 17. "Commitments in Column (15) Head Office/Guarantor in Another Country" (column 16) and "Redistribution of Commitments in Column (16) to Country of Head Office/Guarantor" (column 17) would be deleted in order to lower reporting burden. The primary use for these columns was to compute commitments and guarantees on an ultimate-risk basis.

13. Add three columns. The proposed columns, "Ultimate-Risk Basis: Cross-Border Claims" by "Banks" (column 10), "Public" (column 11), and "Other" (column 12), would be added to collect directly data that must be calculated from the current reporting form, but that would not be able to be calculated from the proposed reporting form. Using the current reporting form, cross-border claims on an ultimate-risk basis (*i.e.*, after adjusting for guarantees and collateral) are calculated by adding the data in Columns 1, 2, 3, 11, 12, and 13 and subtracting the data in Columns 8, 9, and 10. These data are and will continue to be the one of the key numbers on the E.16 Statistical Release, Country Exposure Lending Survey, and are used for country risk analysis. The data will also continue to be the basis for the amounts reported on the FFIEC 009a. Other than the change in the definition of the public sector, there should be no difference between the amounts reported in these proposed columns and the amounts that would be calculated from the data on the current reporting form.

14. Split column 18 into three columns. "Local Country Claims on Local Residents" (column 18) would be split into three columns, "Ultimate-Risk Basis: Foreign-Office Claims on Local Residents" by "Banks" (column 13), "Public" (column 14), and "Other" (column 15), on the proposed reporting form. These columns would collect a breakdown of foreign-office claims on local residents by sector of the ultimate obligor. This breakdown would increase

harmonization of international data by bringing U.S. data into agreement with the BIS guidelines for the consolidated banking statistics. It would also improve the ability of U.S. data users to evaluate the exposures of foreign offices of U.S. banks to local residents.

15. Add a column. The proposed column, "Ultimate-Risk Basis: Foreign-Office Claims on Local Residents: Breakdown of Total of Columns 13, 14, and 15: Claims in Non-Local Currency" (column 16), would be added to improve the ability of U.S. data users to evaluate the exposures of foreign offices of U.S. banks to local residents.

16. Add two columns. The proposed columns, "Ultimate-Risk Basis: Cross-Border and Foreign-Office Commitments and Guarantees" by "Commitments" (column 17) and "Guarantees and Credit Derivatives" (column 18), would be added on the proposed reporting form. These proposed columns differ in two ways from commitments on an ultimate-risk basis that are derived from columns 15, 16, and 17 on the current reporting form (by adding columns 15 and 17 and then subtracting column 16). First, on the current reporting form, commitments are combined indistinguishably with guarantees (including credit derivatives); whereas on the proposed reporting form, commitments and guarantees (including credit derivatives) would each be reported separately. Second, the current reporting form collects only cross-border commitments and guarantees, whereas the proposed reporting form would collect cross-border commitments and guarantees plus foreign-office commitments to and guarantees on local residents. The proposed columns would increase harmonization of international data by bringing U.S. data into agreement with the BIS guidelines. In addition, the inclusion of foreign-office commitments to and guarantees on local residents would provide a more complete picture of the contingent exposures of U.S. banks to foreign residents. The breakout of commitments from commitments and guarantees (plus credit derivatives) would provide a more useful picture of the exposures of U.S. banks to foreign residents, because commitments have a different purpose and are likely to have a different risk profile than guarantees.

17. Split column 19 into two columns. "Local Country Liabilities" (column 19) would be split into two columns, "Foreign-Office Liabilities in Non-Local Currency" (column 19) and "Foreign-Office Liabilities in Local Currency" (column 20), on the proposed reporting form. Foreign office liabilities represent legal obligations of a foreign office and for which no payment is guaranteed at locations outside of the country of the office. Collecting foreign-office liabilities in local currency achieves greater harmonization of international data, by bringing U.S. data into greater agreement with BIS guidelines. In addition, data on foreign-office liabilities in local currency, together with the information collected in proposed columns 13, 14, 15, and 16 from which one can derive foreign-office claims on local residents in local currency, gives data users information about the net exposures of foreign offices of U.S. banks to local residents in local currency. The total of the two proposed columns—total foreign-office liabilities—is needed in order to calculate net local claims that is currently reported in column 2 of the FFIEC 009a.

18. Rename and renumber column 20. "Amounts Reported in Column (4) After Adjustments in Columns (8–13) that Represent Assets Held for Trading" (column 20) would be renamed and renumbered "Amounts Reported in Columns 10, 11, and 12 that are Assets Held for Trading" (column 22) on the proposed reporting form.

19. Redefine and renumber column 21. "Trade Financing Reported in Columns (4) and (15)" (column 21) would change to "Amounts Reported in Columns 10, 11, 12, 17, and 18 that are Trade Finance" (column 23). The proposed column differs from what is currently collected because the data would be collected on an ultimate-risk basis rather than immediate-counterparty basis. On the current reporting form, trade financing is to be reported for claims reported in columns 1, 2, 3, 4, and 15—*i.e.*, for cross-border claims and commitments (plus guarantees and credit derivatives) on an immediate-counterparty basis. On the proposed reporting form, it would be reported for cross-border claims and cross-border and foreign-office commitments and guarantees (plus credit derivatives) on an ultimate-risk basis. This change makes the reporting of trade finance more comparable with data on bank claims on an ultimate-risk basis.

Proposed Revisions to the FFIEC 009 Reporting Form

Schedule 2: Country Exposure Report—Foreign Exchange and Derivative Products

There are no revisions of substance that are proposed for Schedule 2. However, two changes are proposed for the language used in Schedule 2.

1. Replace "Revaluation Gains" and "Revaluation Losses" with "Positive Fair Values" and "Negative Fair Values." These changes are made for clarity, and are not intended to change the amounts reported on the form.

2. Rename columns 6 and 7. "Local Country Claims on Local Residents" (column 6) would be renamed "Foreign Office Claims on Local Residents" and "Local Country Liabilities" (column 7) would be renamed "Foreign Office Liabilities." The new terminology is more descriptive of what is being collected. No change is proposed to the definition of what is to be reported.

Proposed Revisions to the FFIEC 009 Instructions—Schedule 1

1. Change instructions so that claims are reported in columns 1, 2, 3, and 5 on only an immediate-counterparty basis—*i.e.*, according to the country of residence and sector of the borrower. The current FFIEC 009 instructions state that columns 1 through 7 should include, in addition to cross-border claims, "foreign office local and non-local currency claims on local residents that are guaranteed by residents of other countries," which are reported according to the country of residence of the guarantor, and that in Columns 1, 2, and 3, "if the credit is guaranteed by another sector in the same country, report the amount in the sector to which the respondent looks for the ultimate source of repayment." The proposed reporting form drops these instructions, and by doing so, would produce a more accurate measure of claims on an immediate-counterparty basis. This change would increase the harmonization of international data by bringing U.S. data into agreement with the BIS guidelines for the consolidated banking statistics.

2. Redefine public sector to conform to that used in the Call Reports. The definition of the public sector (used for columns 2, 9, and 12) in the current FFIEC 009 instructions is broader than the definition used in the Call Report instructions. The revised instructions would change the definition to conform to that used in the Call Report. Specifically, claims on government-owned commercial firms, which are defined as claims on the public sector under the current instructions, would not be considered to be claims on the public sector under the proposed revisions. This change, by achieving consistency of definitions with the Call Report, should reduce reporting burden. In addition, this change increases harmonization of international data, because this is the same definition recommended in the BIS guidelines.

The definition has the added advantage of logical consistency, because it treats government-owned commercial firms in the same manner as government-owned banks, which are excluded from the public sector under the current instructions. The "other" sector category (column 3, 10, and 13) is a residual category. Thus, changing the definition of the public sector would result in a change in the amounts reported in the "other" sector columns as well. The definition of the banking sector would not change.

Reporting institutions should note that the redefinition of the public sector, described above in the context of Schedule 1, would also affect the reporting of claims on the public sector in Schedule 2.

3. Change instructions to measure more accurately the redistribution of claims to adjust for ultimate risk (Columns 8 through 13). Columns 8 through 13 on the current reporting form reflect the redistribution of only cross-border claims, whereas the redistribution of foreign-office claims on local residents is included indistinguishably with cross-border claims. Under the proposed revisions, these columns would include the redistribution of cross-border claims and foreign-office claims on local residents. In addition, under the proposed revisions, within-country, inter-sectoral risk transfers should be reported, whereas the current instructions state that claims that are guaranteed by a resident of the same country as the borrower should be reported according to the sector of the guarantor, rather than that of the borrower. Together, these changes mean that these columns would fully reflect risk redistributions, thereby increasing the transparency of data reported by U.S. banks. The changes would also increase harmonization of international data by bringing U.S. data into agreement with the BIS guidelines for the consolidated banking statistics.

Proposed Revisions to the FFIEC 009 Instructions—Schedule 2

1. Change instructions so that exposures from derivative contracts are reported for all derivative contracts, not just for derivative contracts held for trading. The current instructions ask that revaluation gains on, *i.e.*, positive fair values of, derivative contracts be reported for only those contracts held for trading. This change would improve the ability of U.S. data users to assess the exposures of U.S. banks to foreign residents.

Comments

The FFIEC would like to solicit comments on the following issues related to the FFIEC 009, Schedule 1.

1. Request comment on whether the instructions for risk redistributions should be changed with regard to the treatment of resale agreements. In the proposed instructions (as in the current instructions), resale agreements are treated as collateralized claims—*i.e.*, a claim on the counterparty that is collateralized by the asset that is to be resold. The proposed instructions for risk transfers in the presence of collateral are:

Collateral is treated as a "guarantee" of a claim if the collateral is: (a) Tangible, liquid, and readily-realizable and (b) is both held and realizable outside of the country of residence of the borrower. Collateral can include investment grade debt instruments and regularly traded shares of stocks. In cases involving collateral other than stocks and debt securities, the sector and country of the "guaranteeing" party is the sector and country of residence of the institution holding the collateral. If the collateral is stocks or debt securities, the sector and country of the "guaranteeing" party is the sector and country of residence of the party issuing the security.

If the collateral consists of a basket of convertible currencies or investment grade securities of different countries, the exposure may be reported on the "Other" line (for example, "other Latin America") that most closely represents the geographical composition of the basket.

Comments are invited as to whether these proposed instructions should be modified such that a risk transfer is reported for resale agreements only if the country of the collateral (the asset to be resold) has a better risk rating than that of the immediate-counterparty.

2. Request comment on whether the instructions for risk redistributions should be changed with regard to the treatment of repayment structures that may mitigate transfer risk. Specifically, a bank may be able to structure a credit in a manner in which the primary source of repayment is not subject to transfer or country risks. Examples include transactions with local subsidiaries of multinationals that are structured to capture the cash flow from trade transactions outside of the country of the immediate-counterparty. Comments are invited on possible changes to the instructions to account for such issues, the analytical justification for making such changes, and the ability of reporters to comply with such instructions.

3. Request comment on the desirability of adding a column to collect foreign-office liabilities by country of residence of the creditor, which would be reported by only those institutions that meet the criteria to file the Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks (FR 2502q). Currently, thirty-eight institutions that file the FFIEC 009 also file 153 separate FR 2502q reports, one for each country of their foreign branches and each country of their foreign subsidiaries. On the FR 2502q, they report liabilities (and assets) by country of residence of the creditor (and borrower). This information is extremely useful to the Board and the U.S. Treasury Department when the U.S. government needs to review the magnitude of claims of foreign residents on U.S. banks, particularly at times of international crisis. If this additional column was added to the FFIEC 009, then the FR 2502q could be scaled back to collect data from foreign offices located only in off-shore financial centers. This would reduce the number of FR 2502q reports that would need to be filed by FFIEC 009 reporters from 153 to 56, reducing reporting burden, on net, for these reporters. Reporting burden for FFIEC 009 reporters that do not currently report the FR 2502q would not change, because they would be exempted from reporting this column.

The FFIEC would like to solicit comments on the following issue related to the FFIEC 009, Schedule 2.

4. Request comment on possible reporting of potential future credit exposures of derivative contracts. Specifically, comments are requested on the usefulness of data on potential future credit exposures of derivative contracts on a credit equivalency basis (following the U.S. risk-based capital standards), and the burden of reporting such data.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, 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 information collections 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.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: August 5, 2004.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, August 11, 2004.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 6th day of August, 2004.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 04–18751 Filed 8–16–04; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 5500, 5500–C/R, and Schedules (1998 Version)

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 5500, 5500–C–R, and Schedules, Annual Return/Report of Employee Benefit Plan (1998 Version).

DATES: Written comments should be received on or before October 18, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 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 Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the internet at *CAROL.A.SAVAGE@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Annual Return/Report of Employee Benefit Plan (1998 Version).

OMB Number: 1545–0710.

Form Number: 5500, 5500–C/R, and Schedules.

Abstract: Forms 5500 and 5500–C/R are annual information returns filed by employee benefit plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Current Actions: Only delinquent filers would have the need for the 1998 (or prior) year versions of these forms.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 775,726.

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: August 11, 2004.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–18802 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, and Wisconsin)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, September 15, 2004, at 8 a.m., central time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Wednesday, September 15, 2004, at 8 a.m., Central time via a telephone conference call. You can submit written comments to the panel by faxing them to (414) 297–1623, or by mailing them to Taxpayer Advocacy Panel, Stop1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org*. This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: August 12, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–18790 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, September 13, 2004, at 3 p.m., Central time.

FOR FURTHER INFORMATION CONTACT: Audrey Jenkins at 1–888–912–1227, or (718) 488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Monday, September 13, 2004, at 3 p.m., Central time via a telephone conference call. You can submit written comments to the panel by faxing them to (718) 488–2062, or by mailing them to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 West Fulton Street, Brooklyn, NY 11201, or you can contact us at *www.improveirs.org.* This meeting not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Audrey Jenkins at 1–888–912–1227 or (718) 488–2085 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: August 17, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–18792 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the State of California)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, September 7, 2004.

FOR FURTHER INFORMATION CONTACT: Mary Peterson O'Brien at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Tuesday, September 7, 2004 from 9 a.m. Pacific Time to 10 a.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Mary Peterson O'Brien, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Mary Peterson O'Brien. Ms. O'Brien can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: August 11, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–18793 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is reviewing public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service brought forward by the Area and Issue Committees.

DATES: The meeting will be held Friday, September 10, 2004, 8 a.m. to 5:30 p.m., and Saturday, September 11, 2004, 8 a.m. to 12:30 p.m. Mountain Daylight Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Friday, September 10, 2004, 8 a.m. to 5:30 p.m., and Saturday, September 11, 2004, 8 a.m. to 12:30 p.m. Mountain Daylight Time at the Magnolia Hotel, 818 17th Street, Denver, Colorado. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS–1006–MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: monthly committee summary report, discussion of issues brought to the joint committee, office reports, committee reports, and discussion of next meeting.

Dated: August 11, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–18794 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Schedule C Non-Filers Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Small Business/Self Employed—Schedule C Non-Filers Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The TAP will be discussing issues pertaining to increasing compliance and lessening the burden for Small Business/Self Employed individuals. Recommendations for IRS systemic changes will be discussed.

DATES: The meeting will be held Tuesday, September 14, 2004.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Small Business/Self Employed—Schedule C Non-Filers Committee of the Taxpayer Advocacy Panel will be held Tuesday, September 14, 2004 from 11 a.m. EDT to 12:30 p.m. EDT via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–3557, or write to Marisa Knispel, TAP Office, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Marisa Knispel. Ms. Knispel can be reached at 1–888–912–1227 or 718–488–3557, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: August 11, 2004.

Bernard E. Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–18795 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel, E-Filing Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the E-Filing Issue Committee will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, September 9, 2004, from 3 to 4 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel, E-Filing Issue Committee will be held Thursday, September 9, 2004, from 3 to 4 p.m., Eastern standard time via a telephone conference call. You can submit written comments to the panel by faxing them to (414) 297–1623, or by mailing them to Taxpayer Advocacy Panel, Stop 1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or on the Web site at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: August 12, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–18796 Filed 8–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Clinical Science Research and Development Service; Cooperative Studies Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Clinical Science Research and Development Service, Cooperative Studies Scientific Merit Review Board will be held on October 6–7, 2004, at the Holiday Inn, 8777 Georgia Ave., Silver Spring, MD. The session is scheduled to begin at 8 a.m. and end at 3 p.m. each day.

The Board advises the Chief Research and Development Officer through the Director of the Clinical Science Research and Development Service on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public for the October 6 through October 7 sessions from 8 a.m. to 8:30 a.m. for the discussion of administrative matters and the general status of the program. On October 6 through October 7 from 8:30 a.m. to 3 p.m., the meeting will be closed for the Board's review of research and development applications.

This meeting will involve consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by sections 5(c) of Public Law 94–409, and 5 U.S.C. 552b(c)(6) and (c)(9). During the closed session of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personnel privacy.

Those who plan to attend should contact Ms. Renee Kenan, Program Specialist, Cooperative Studies Program (125), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 254–0266.

Dated: August 2, 2004.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 04–18749 Filed 8–16–04; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation (VACOR); Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR) will be held on September 1–3, 2004, at the Department of Veterans Affairs Washington Regional Office, 1722 I

Street NW., Washington, DC, 20421. The meeting will be held in the second floor conference room. It will begin at 9 a.m. each day and end at 5 p.m. on September 1 and 2. The meeting will end at noon on September 3. The meeting is open to the public.

The purpose of the Committee is to provide recommendations to the Secretary of Veterans Affairs on the rehabilitation needs of veterans with disabilities and on the administration of VA's rehabilitation programs.

During the meeting, Committee members will be briefed on federal ethics issues and VA's various rehabilitation related initiatives. The Committee will receive updates on the Vocational Rehabilitation and Employment Task Force report and recommendations, Seamless Transition Initiatives, and disability and rehabilitation issues related to veterans who have Traumatic Brain Injury and Post Traumatic Stress Disorder. Additionally, the Committee will receive a briefing from the Advisory Committee on Prosthetics and Special Disabilities.

No time will be allocated at this meeting for receiving oral presentations from the public. Any member of the public wishing to attend the meeting is requested to contact Ms. Carolyn Davis, Designated Federal Officer, at (202) 273–7433. The Committee will accept written comments. Comments can be addressed to Ms. Davis at the Department of Veterans Affairs, Veterans Benefits Administration (28), 810 Vermont Avenue, NW., Washington, DC 20420, or electronically to *VRECDAVI@VBA.VA.GOV*. In communication with the Committee, writers must identify themselves and state the organizations, associations, or person(s) they represent.

By Direction of the Secretary.

Dated: August 2, 2004.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 04–18750 Filed 8–16–04; 8:45 am]

BILLING CODE 8320–01–M

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

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To redesignate the facilities of the United States Postal Service located at 7715 and 7748 S. Cottage Grove Avenue in Chicago, Illinois, as the "James E. Worsham Post Office" and the "James E. Worsham Carrier Annex Building", respectively, and for other purposes. (Aug. 9, 2004; 118 Stat. 1089)

H.R. 3463/P.L. 108–295
SUTA Dumping Prevention Act of 2004 (Aug. 9, 2004; 118 Stat. 1090)

H.R. 4222/P.L. 108–296
To designate the facility of the United States Postal Service located at 550 Nebraska Avenue in Kansas City, Kansas, as the "Newell George Post Office Building". (Aug. 9, 2004; 118 Stat. 1094)

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Cape Town Treaty Implementation Act of 2004 (Aug. 9, 2004; 118 Stat. 1095)

H.R. 4327/P.L. 108–298
To designate the facility of the United States Postal Service located at 7450 Natural Bridge Road in St. Louis, Missouri, as the "Vitilas 'Veto' Reid Post Office Building". (Aug. 9, 2004; 118 Stat. 1099)

H.R. 4417/P.L. 108–299
To modify certain deadlines pertaining to machine-readable, tamper-resistant entry and exit documents. (Aug. 9, 2004; 118 Stat. 1100)

H.R. 4427/P.L. 108–300

To designate the facility of the United States Postal Service at 73 South Euclid Avenue in Montauk, New York, as the "Perry B. Duryea, Jr. Post Office". (Aug. 9, 2004; 118 Stat. 1101)

S. 2712/P.L. 108–301

To preserve the ability of the Federal Housing Administration to insure mortgages under sections 238 and 519 of the National Housing Act. (Aug. 9, 2004; 118 Stat. 1102)

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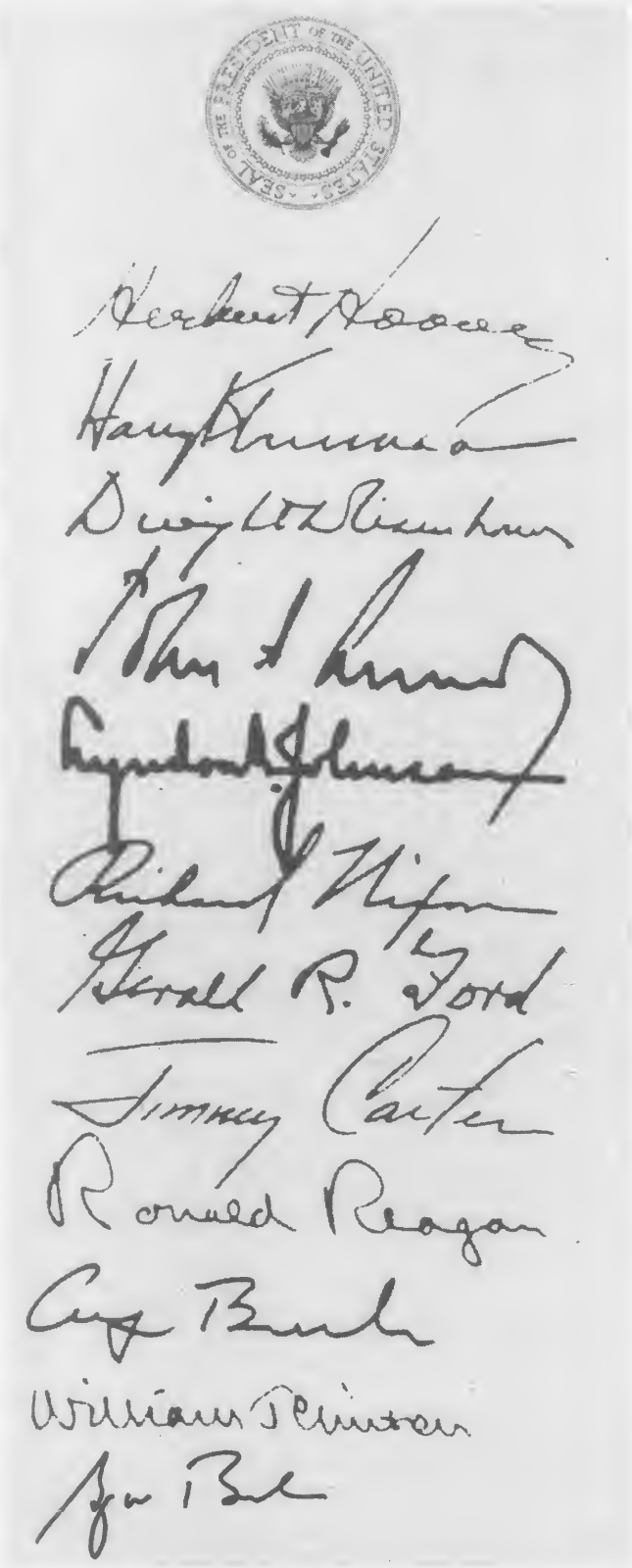

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