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3–27–06 Monday
Vol. 71 No. 58 Mar. 27, 2006

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

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

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

RESERVATIONS: (202) 741–6008

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

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

## CFR PARTS AFFECTED IN THIS ISSUE

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

# Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 1, 13, 20, 30, 32, 35, 40, 55, 70, 73, 110, and 140

**[3150–AH82]**

### Minor Amendments

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to correct several miscellaneous errors in the Code of Federal Regulations (CFR), update the address for Region III, and remove all references to Subpart J in Parts 32 and 35. This document is necessary to inform the public of these minor changes to NRC regulations.

**DATES:** *Effective Date:* March 27, 2006.

**FOR FURTHER INFORMATION CONTACT:** Alzonia Shepard, Office of Administration, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6864; e-mail *aws1@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The Nuclear Regulatory Commission is amending the regulations in 10 CFR parts 1, 13, 20, 30, 32, 35, 40, 55, 70, 73, 110, and 140 to correct several miscellaneous errors in regulatory text, update the address for Region III, and remove all references to Subpart J in Parts 32 and 35. The miscellaneous errors in CFR text occurred in the process of preparing and printing several rulemaking documents.

Because these amendments constitute minor administrative corrections to the regulations, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(B). The amendments are effective upon publication in the **Federal Register**. Good cause exists under 5 U.S.C 553(d) to dispense with the usual 30-day delay in the effective date of the final rule, because the amendments are of a minor and administrative nature dealing with corrections to certain CFR sections, which do not require action by any person or entity regulated by the NRC. Nor does the final rule change the substantive responsibilities of any person or entity regulated by the NRC.

### Summary of Changes

*Removing All References to Subpart J*

Subpart J in 10 CFR Part 35 expired on October 24, 2005. Thus, Subject J is removed in its entirety. In addition, any references to Subpart J (i.e., §§ 35.900 through 35.981) are also removed. As an example, in current § 35.50(a)(2)(ii)(B), the phrase "or, before October 24, 2005, §§ 35.920, or 35.930" is removed.

The changes to remove references to Subpart J are made to the following sections: § 32.72(b)(2)(ii); § 35.2, the definitions of authorized medical physicist, authorized nuclear pharmacist, authorized user, and Radiation Safety Officer; § 35.8(b); § 35.10(a), (b), (c); § 35.13(b)(1), (2), (3); § 35.50(a)(2)(ii)(B); § 35.51(a)(2)(ii), (b)(2); § 35.59; § 35.100(b)(2); § 35.190(b), (c)(1)(ii), (c)(2); § 35.200(b)(2); § 35.290(b), (c)(1)(ii), (c)(2); § 35.300(b)(2); § 35.390(b)(1)(ii), (b)(2); § 35.392(b), (c)(2), (c)(3); § 35.394(b), (c)(2), (c)(3); § 35.396(a), (b), (c), (d)(2); (d)(3); § 35.490(b)(1)(ii), (b)(2), (b)(3); § 35.491(a), (b)(3); and § 35.690(b)(1)(ii), (b)(2), (b)(3).

*Change Address of Region III, USNRC*

The address of the NRC Region lll office has been changed. The new address is incorporated in the following sections: § 1.5(b)(3), Appendix D to Part 20, § 30.6(b)(2)(iii), § 40.5(b)(2)(iii), § 55.5(b)(2)(iii), § 70.5(b)(2)(iii), and Appendix A to Part 73.

*Additional Changes*

1. *Section 13.2 Definitions.*

*Definition of Statement:* In paragraph (b)(1), replace ";" by "," and in (b)(2), insert "(i)" in front of "The authority, or" and insert "(ii)" in front of "Any State, * * *" This change is to clarify this paragraph.

2. *Section 13.3 Basis for civil penalties and assessments.*

In current paragraph (a)(1)(iii), (B) and (C) are in the same subparagraph. In this final rule, (C) is separated from (B) to form a new subparagraph. This change is to clarify this paragraph.

3. *Section 13.8 Service of complaint.*

In paragraph (a), replace "under receipt" by "upon receipt." This change is to clarify this paragraph.

4. *Appendix B of Part 20.*

In the Table of Elements, replace "Thalium" by "Thulium" for the element Tm with Atomic Number 69. This change is to correct a typographical error.

5. *Section 32.74 Manufacture and distribution of sources or devices containing byproduct material for medical use.*

In paragraph (a), add "transmission" after "calibration." This change is being made to correct the inadvertent omission of "transmission" from this regulation and conform this regulation to the provisions in § 35.65, Authorization for calibration, transmission, and reference sources.

6. *Section 35.2 Definitions.*

Under the definition of Medical event, add "or (b)" after "§ 35.3045(a)." The words "or (b)" were inadvertently omitted.

7. *Section 35.14 Notifications.*

In current paragraph (b), a notification requirement was inadvertently omitted. In § 35.24, "Authority and responsibilities for the radiation protection program," paragraph (c) states: "For up to 60 days each year, a licensee may permit an AU * * * to function as a temporary RSO * * *, if the licensee * * * notifies the Commission in accordance with 35.14(b)." However, current 35.14(b) does not contain this notification requirement. Thus, to correct this oversight, the notification requirement is added to § 35.14(b) to conform to § 35.24(c).

8. *Section 35.49 Suppliers for sealed sources or devices for medical use. Section 35.65 Authorization for calibration, transmission, and reference sources.*

In § 35.49(b), add "or an Agreement State medical use licensee" after "a Part 35 licensee." This is to correct the inadvertent omission of the reference to

Agreement State licensees in this paragraph.

Similarly, in § 35.65(b), add "or equivalent Agreement State regulations" after "under § 32.74 of this chapter."

9. *Section 35.290 Training for imaging and localization studies.*

In paragraph (a)(1), replace "uptake, dilution, and excretion studies" by "imaging and localization studies." This is to correct a typographical error and to conform this paragraph to the heading of this section. Training for "uptake, dilution, and excretion studies" is specified under § 35.190.

10. *Section 35.390 Training for use of unsealed byproduct material for which a written directive is required.*

*Section 35.396 Training for parenteral administration of unsealed byproduct material requiring a written directive.*

In paragraph 35.390(b)(1)(ii)(G)(3), add "," after "any beta emitter." The comma was inadvertently omitted. Addition of the comma clarifies that the phrase "with a photon energy less than 150 keV" applies only to photon-emitting radionuclides, not to any of the beta emitters.

Similarly, in § 35.696(d)(1), (d)(2), and (d)(2)(vi), add "," after "any beta emitter."

11. *Section 70.14 Foreign military aircraft.*

Replace "49 U.S.C. 1508(a)" by "49 U.S.C. 40103(d)." This change is to correct an error in citation to a statute.

12. *Section 110.40 Commission review.*

In paragraph 110.40(b)(7)(v), remove "1,000 curies of tritium" and add in its place "37 TBq (1,000 curies) of tritium." This change is to correct a typographical error in a prior amendatory instruction. In a correction to a final rule entitled "Export and Import of Radioactive Materials: Security Policies: Correction," published on August 9, 2005 (70 FR 46066), under § 110.40, the amendatory language stated: "In § 110.40, paragraph (b)(7)(iv) is amended by removing '1,000 curies of tritium' and adding in its place '37 TBq (1,000 curies) of tritium.' " The reference to the paragraph was inadvertently entered as (b)(7)(iv), rather than (b)(7)(v). This change is being resubmitted to provide the correct amendatory instruction.

13. *Section 140.21 License guarantees of payment of deferred premiums.*

In the introductory text, replace "$10 million" by "$15 million." This change is to correct an error. In the **Federal Register** notice published on October 27, 2005, regarding Price-Anderson Act Financial Protection Regulations and Elimination of Antitrust Reviews, "$10 million" was inadvertently allowed to remain in the rule text, rather than being changed to "$15 million" in conformity with the statute.

**Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

**Paperwork Reduction Act Statement**

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0014, 3150–0017, 3150–0001, 3150–0010, 3150–0020, 3150–0018, 3150–0009, 3150–0002, 3150–0036, and 3150–0039.

**Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information of an information collection requirement unless the requesting document displays a currently valid OMB control number.

**List of Subjects**

*10 CFR Part 1*

Organization and functions (Government Agencies).

*10 CFR Part 13*

Claims, Fraud, Organization and function (government agencies), Penalties.

*10 CFR Part 20*

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 30*

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 32*

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 35*

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

*10 CFR Part 40*

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

*10 CFR Part 55*

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

*10 CFR Part 70*

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

*10 CFR Part 73*

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

*10 CFR Part 110*

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

*10 CFR Part 140*

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following

amendments to 10 CFR parts 1, 13, 20, 30, 32, 35, 40, 55, 70, 73, 110 and 140.

## PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

**Authority:** Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209. 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615. 76 Stat. 409 (42 U.S.C. 2241); Secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

■ 2. In § 1.5, paragraph (b)(3) is revised to read as follows:

**§ 1.5 Location of principal offices and Regional offices.**

* * * * *

(b) * * *

(3) Region III, USNRC, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352.

* * * * *

## PART 13—PROGRAM FRAUD CIVIL REMEDIES

■ 3. The authority citation for part 13 continues to read as follows:

**Authority:** Public Law 99–509, sec. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812). Sections 13.13 (a) and (b) also issued under section Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

■ 4. In § 13.2, the definition "Statement," paragraphs (b)(1) and (b)(2) are revised to read as follows:

**13.2 Definitions.**

* * * * *

*Statement* means—* * *

(b) * * *

(1) A contract with, or a bid or proposal for a contract with, or

(2) A grant, loan, or benefit from,

(i) The authority, or

(ii) Any State, political subdivision of a State, or other party, if the United States government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

■ 5. In § 13.3, paragraphs (a)(1)(iii)(B) and (C) are revised to read as follows:

**§ 13.3 Basis for civil penalties and assessments.**

(a) * * *

(1) * * *

(iii) * * *

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

* * * * *

■ 6. In § 13.8, paragraph (a) is revised to read as follows:

**§ 13.8 Service of complaint.**

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service is complete upon receipt.

* * * * *

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

■ 7. The authority citation for part 20 continues to read as follows:

**Authority:** Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186,68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

**Appendix B to Part 20—Annual Limits on Intake (ALIs) and Derived Air Concentrations (DACs) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sewerage [Amended]**

■ 8. In Appendix B to Part 20, "List of Elements", the Element "Thalium," Atomic Number 69, should be changed to read as "Thulium."

■ 9. In the Appendix D to Part 20, second column, the address for Region III is revised to read as follows:

**Appendix D to Part 20—United States Nuclear Regulatory Commission Regional Offices**

* * * * *

USNRC, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352.

* * * * *

## PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 10. The authority citation for part 30 continues to read as follows:

**Authority:** Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 11. In § 30.6, paragraph (b)(2)(iii), is revised to read as follows:

**§ 30.6 Communications.**

* * * * *

(b) * * *

(2) * * *

(iii) *Region III.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region III non-Agreement States: Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, renewal, or termination, request of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352; where e-mail is appropriate it should be addressed to *RidsRgn3MailCenter@nrc.gov.*

* * * * *

## PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT

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

**Authority:** Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 13. In § 32.72, paragraph (b)(2)(ii) is revised to read as follows:

**§ 32.72 Manufacture, preparation, or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under part 35.**

* * * * *

(b) * * *

(2) * * *

(ii) This individual meets the requirements specified in 10 CFR 35.55(b) and 35.59 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist, or

* * * * *

■ 14. In § 32.74, the introductory text of paragraph (a) is revised to read as follows:

**§ 32.74 Manufacture and distribution of sources or devices containing byproduct material for medical use.**

(a) An application for a specific license to manufacture and distribute sources and devices containing byproduct material to persons licensed pursuant to part 35 of this chapter for use as a calibration, transmission, or reference source or for the uses listed in §§ 35.400, 35.500, and 35.600 of this chapter will be approved if:

* * * * *

## PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

■ 15. The authority citation for part 35 continues to read as follows:

**Authority:** Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

■ 16. In § 35.2, paragraph (1) of the definitions for the terms "Authorized medical physicist," "Authorized nuclear pharmacist," "Authorized user," "Radiation Safety Officer" and for "Medical event" are revised to read as follows:

**§ 35.2 Definitions.**

* * * * *

*Authorized medical physicist* means an individual who—

(1) Meets the requirements in §§ 35.51(a) and 35.59; or

* * * * *

*Authorized nuclear pharmacist* means a pharmacist who—

(1) Meets the requirements in §§ 35.55(a) and 35.59; or

* * * * *

*Authorized user* means a physician, dentist, or podiatrist who—

(1) Meets the requirements in §§ 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), or 35.690(a); or

* * * * *

*Medical event* means an event that meets the criteria in § 35.3045(a) or (b).

* * * * *

*Radiation Safety Officer* means an individual who—

(1) Meets the requirements in §§ 35.50(a) or (c)(1) and 35.59; or

* * * * *

■ 17. In § 35.8, paragraph (b) is revised to read as follows:

**§ 35.8 Information collection requirements: OMB approval.**

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 35.6, 35.12, 35.13, 35.14, 35.19, 35.24, 35.26, 35.27, 35.40, 35.41, 35.50, 35.51, 35.55, 35.60, 35.61, 35.63, 35.67, 35.69, 35.70, 35.75, 35.80, 35.92, 35.190, 35.204, 35.290, 35.310, 35.315, 35.390, 35.392, 35.394, 35.396, 35.404, 35.406, 35.410, 35.415, 35.432, 35.433, 35.490, 35.491, 35.590, 35.604, 35.605, 35.610, 35.615, 35.630, 35.632, 35.633, 35.635, 35.642, 35.643, 35.645, 35.647, 35.652, 35.655, 35.690, 35.1000, 35.2024, 35.2026, 35.2040, 35.2041, 35.2060, 35.2061, 35.2063, 35.2067, 35.2070, 35.2075, 35.2080, 35.2092, 35.2204, 35.2310, 35.2404, 35.2406, 35.2432, 35.2433, 35.2605, 35.2610, 35.2630, 35.2632, 35.2642, 35.2643, 35.2645, 35.2647, 35.2652, 35.2655, 35.3045, 35.3047 and 35.3067.

* * * * *

**§ 35.10 [Amended]**

■ 18. In § 35.10, paragraphs (a), (b), and (c) are removed and reserved.

■ 19. In § 35.13, paragraphs (b)(1), (b)(2), and (b)(3) are revised to read as follows:

**§ 35.13 License amendments.**

* * * * *

(b) * * *

(1) For an authorized user, an individual who meets the requirements in §§ 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), and 35.690(a);

(2) For an authorized nuclear pharmacist, an individual who meets the requirements in §§ 35.55(a) and 35.59;

(3) For an authorized medical physicist, an individual who meets the requirements in §§ 35.51(a) and (c) and 35.59;

* * * * *

■ 20. In § 35.14, paragraphs (b)(2), (b)(3), and (b)(4), are redesignated as (b)(3), (b)(4) and (b)(5), and a new paragraph (b)(2) is added to read as follows:

**§ 35.14 Notifications.**

* * * * *

(b) * * *

(2) The licensee permits an authorized user or an individual qualified to be a Radiation Safety Officer, under §§ 35.50 and 35.59, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer in accordance with § 35.24(c).

* * * * *

■ 21. In § 35.49, paragraph (b) is revised to read as follows:

**§ 35.49 Suppliers for sealed sources or devices for medical use.**

* * * * *

(b) Sealed sources or devices non-commercially transferred from a Part 35 licensee or an Agreement State medical use licensee.

* * * * *

■ 22. In § 35.50, paragraph (a)(2)(ii)(B) is revised to read as follows:

**§ 35.50 Training for Radiation Safety Officer.**

* * * * *

(a) * * *

(2) * * *

(ii) * * *

(B) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users in §§ 35.290 or 35.390;

* * * * *

■ 23. In § 35.51, paragraphs (a)(2)(ii) and (b)(2) are revised to read as follows:

**§ 35.51 Training for an authorized medical physicist.**

(a) * * *

(2) * * *

(ii) In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in §§ 35.490 or 35.690; and

* * * * *

(b) * * *

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (c) and (a)(1) and (2), or (b)(1) and (c) of this section, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in § 35.51, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

* * * * *

■ 24. Section 35.59 is revised to read as follows:

**§ 35.59 Recentness of training.**

The training and experience specified in Subparts B, D, E, F, G, and H of this part must have been obtained within the 7 years preceding the date of application or the individual must have had related continuing education and experience

since the required training and experience was completed.

■ 25. In § 35.65, paragraph (b) is revised to read as follows:

**§ 35.65 Authorization for calibration, transmission, and reference sources.**

* * * * *

(b) Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under § 32.74 of this chapter or equivalent Agreement State regulations, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions.

* * * * *

■ 26. In § 35.100, paragraph (b)(2) is revised to read as follows:

**§ 35.100 Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required.**

* * * * *

(b) * * *

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, or 35.390 and 35.290(c)(1)(ii)(G); or

* * * * *

■ 27. In § 35.190, paragraphs (b), (c)(1)(ii) and (c)(2) are revised to read as follows:

**§ 35.190 Training for uptake, dilution, and excretion studies.**

* * * * *

(b) Is an authorized user under §§ 35.290, 35.390, or equivalent Agreement State requirements; or

(c)(1)* * *

(ii) Work experience, under the supervision of an authorized user who meets the requirements in §§ 35.190, 35.290, 35.390, or equivalent Agreement State requirements, involving—

* * * * *

(2) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in §§ 35.190, 35.290, or 35.390, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (a)(1) or (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 35.100.

■ 28. In § 35.200, paragraph (b)(2) is revised to read as follows:

**§ 35.200 Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required.**

* * * * *

(b) * * *

(2) A physician who is an authorized user and who meets the requirements specified in § 35.290, or 35.390 and 35.290(c)(1)(ii)(G); or

* * * * *

■ 29. In § 35.290, paragraphs (a)(1), (b), the introductory text of paragraph (c)(1)(ii) and paragraph (c)(2) are revised to read as follows:

**§ 35.290 Training for imaging and localization studies.**

(a) * * *

(1) Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for imaging and localization studies that includes the topics listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this section; and

* * * * *

(b) Is an authorized user under § 35.390 and meets the requirements in § 35.290(c)(1)(ii)(G), or equivalent Agreement State requirements; or

(c)(1) * * *

(ii) Work experience, under the supervision of an authorized user, who meets the requirements in §§ 35.290, or 35.290(c)(1)(ii)(G), and 35.390, or equivalent Agreement State requirements, involving—

* * * * *

(2) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in §§ 35.290, or 35.390 and 35.290(c)(1)(ii)(G), or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (a)(1) or (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under §§ 35.100 and 35.200.

■ 30. In § 35.300, paragraph (b)(2) is revised to read as follows:

**§ 35.300 Use of unsealed byproduct material for which a written directive is required.**

* * * * *

(b) * * *

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or

* * * * *

■ 31. In § 35.390, paragraphs (b)(1)(ii) introductory text, (b)(1)(ii)(G)(*3*), and (b)(2) are revised to read as follows:

**§ 35.390 Training for use of unsealed byproduct material for which a written directive is required.**

* * * * *

(b)(1) * * *.

(ii) Work experience, under the supervision of an authorized user who meets the requirements in § 35.390, or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages in the same dosage category or categories (*i.e.*, § 35.390(b)(1)(ii)(G)) as the individual requesting authorized user status. The work experience must involve—

* * * * *

(G) * * *

(*3*) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or

* * * * *

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (a)(1) and (b)(1)(ii)(G) or (b)(1) of this section, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 35.300. The written attestation must be signed by a preceptor authorized user who meets the requirements in § 35.390 or equivalent Agreement State requirements. The preceptor authorized user, who meets the requirements in § 35.390(b) must have experience in administering dosages in the same dosage category or categories (*i.e.*, § 35.390(b)(1)(ii)(G)) as the individual requesting authorized user status.

■ 32. In § 35.392, paragraph (b), the introductory text of paragraph (c)(2) and paragraph (c)(3) are revised to read as follows:

**§ 35.392 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries).**

* * * * *

(b) Is an authorized user under § 35.390 for uses listed in § 35.390(b)(1)(ii)(G)(*1*) or (*2*), § 35.394, or equivalent Agreement State requirements; or

(c) * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390, 35.392, 35.394, or equivalent Agreement State requirements. A supervising authorized user who meets the requirements in § 35.390(b) must also

have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*1*) or (*2*). The work experience must involve—

* * * * *

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under § 35.300. The written attestation must be signed by a preceptor authorized user who meets the requirements in §§ 35.390, 35.392, 35.394, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirement in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*1*) or (*2*).

■ 33. In § 35.394, paragraph (b), the introductory text of paragraph (c)(2), and paragraph (c)(3) are revised to read as follows:

**§ 35.394 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).**

* * * * *

(b) Is an authorized user under § 35.390 for uses listed in § 35.390(b)(1)(ii)(G)(*2*) or equivalent Agreement State requirements; or

(c) * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390, 35.394, or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*). The work experience must involve—

* * * * *

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under § 35.300. The written attestation must be signed by a preceptor authorized user who meets the requirements in §§ 35.390, 35.394, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*).

■ 34. In § 35.396, the introductory paragraph, paragraphs (a), (b), (c), the introductory text of paragraphs (d)(1) and (d)(2), paragraph (d)(2)(vi), and paragraph (d)(3) are revised to read as follows:

**§ 35.396 Training for the parenteral administration of unsealed byproduct material requiring a written directive.**

Except as provided in § 35.57, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who—

(a) Is an authorized user under § 35.390 for uses listed in §§ 35.390(b)(1)(ii)(G)(*3*) or 35.390(b)(1)(ii)(G)(*4*), or equivalent Agreement State requirements; or

(b) Is an authorized user under §§ 35.490, 35.690, or equivalent Agreement State requirements and who meets the requirements in paragraph (d) of this section; or

(c) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State under §§ 35.490 or 35.690, and who meets the requirements in paragraph (d) of this section.

(d)(1) Has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. The training must include—

* * * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390, 35.396, or equivalent Agreement State requirements, in the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in § 35.390 must have experience in administering dosages as specified in §§ 35.390(b)(1)(ii)(G)(*3*) and/or 35.390(b)(1)(ii)(G)(*4*). The work experience must involve—

* * * * *

(vi) Administering dosages to patients or human research subjects, that include at least 3 cases involving the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV and/or at least 3 cases involving the parenteral administration of any other radionuclide, for which a written directive is required; and

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraph (b) or (c) of this section, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in §§ 35.390, 35.396, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in § 35.390, must have experience in administering dosages as specified in §§ 35.390(b)(1)(ii)(G)(*3*) and/or 35.390(b)(1)(ii)(G)(*4*).

■ 35. In § 35.490, the introductory text of paragraph (b)(1)(ii), and paragraphs (b)(2), and (b)(3) are revised to read as follows:

**§ 35.490 Training for use of manual brachytherapy sources.**

* * * * *

(b)(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in § 35.490 or equivalent Agreement State requirements at a medical institution, involving—

* * * * *

(2) Has completed 3 years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in § 35.490 or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (b)(1)(ii) of this section; and

(3) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in § 35.490 or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraphs (a)(1), or (b)(1) and (b)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under § 35.400.

■ 36. In § 35.491, paragraphs (a) and (b)(3) are revised to read as follows:

**§ 35.491 Training for ophthalmic use of strontium-90.**

* * * * *

(a) Is an authorized user under § 35.490 or equivalent Agreement State requirements; or

(b) * * *

(3) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in §§ 35.490, 35.491, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraphs (a) and (b) of this section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

■ 37. In § 35.690, the introductory text of paragraph (b)(1)(ii), and paragraphs (b)(2), and (b)(3) are revised to read as follows:

**§ 35.690 Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.**

* * * * *

(b)(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in § 35.690 or, equivalent Agreement State requirements at a medical institution, involving—

* * * * *

(2) Has completed 3 years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in § 35.690 or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (b)(1)(ii) of this section; and

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraphs (a)(1) or (b)(1) and (b)(2), and (c) of this section, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in § 35.690 or equivalent Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

* * * * *

## Subpart J—[Removed and Reserved]

■ 38. Subpart J is removed and reserved.

## PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

■ 39. The authority citation for part 40 continues to read as follows:

**Authority:** Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 40. In § 40.5, paragraph (b)(2)(iii), is revised to read as follows:

**§ 40.5 Communications.**

* * * * *

(b) * * *

(2) * * *

(iii) *Region III.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region III non-Agreement States: Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352; where e-mail is appropriate it should be addressed to *RidsRgn3MailCenter@nrc.gov.*

* * * * *

## PART 55—OPERATORS' LICENSES

■ 41. The authority citation for Part 55 continues to read as follows:

**Authority:** Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

■ 42. In § 55.5, paragraph (b)(2)(iii), is revised to read as follows:

**§ 55.5 Communications.**

* * * * *

(b) * * *

(2) * * *

(iii) If the nuclear power reactor is located in Region III, submissions must be made to the Regional Administrator of Region III. Submissions by mail or hand delivery must be addressed to the Administrator at U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352; where e-mail is appropriate it should be addressed to *RidsRgn3MailCenter@nrc.gov.*

* * * * *

## PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

■ 43. The authority citation for part 70 continues to read as follows:

**Authority:** Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835 as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

■ 44. In § 70.5, paragraph (b)(2)(iii) is revised to read as follows:

**§ 70.5 Communications.**

* * * * *

(b) * * *

(2) * * *

(iii) *Region III.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region III non-Agreement States: Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment, or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 2443 Warrenville Road, Suite 210, Lisle, IL 60532–4352; where e-mail is appropriate it should be addressed to *RidsRgn3MailCenter@nrc.gov.*

* * * * *

■ 45. Section 70.14 is revised to read as follows:

**§ 70.14 Foreign military aircraft.**

The regulations in this part do not apply to persons who carry special nuclear material (other than plutonium) in aircraft of the armed forces of foreign nations subject to 49 U.S.C. 40103(d).

## PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

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

**Authority:** Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C, 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

■ 47. In the Table, second column, in the table entitled "Classified Mailing Addresses" the address for Region III is revised to read as follows:

**Appendix A to Part 73—U.S. Nuclear Regulatory Commission Offices and Classified Mailing Addresses**

* * * * *

USNRC, Region III, 2443 Warrenville, Road, Suite 210, Lisle, IL 60532–4352.

* * * * *

CLASSIFIED MAILING ADDRESSES

* * * * *

USNRC, Region III, 2443 Warrenville, Road, Suite 210, Lisle, IL 60532–4352.

* * * * *

## PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

■ 48. The authority citation for part 110 continues to read as follows:

**Authority:** Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841; sec. 5, Pub. L. 101–575, 104 Stat 2835 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42 (a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 *et seq.*).

**§ 110.40 [Amended]**

■ 49. In § 110.40, paragraph (b)(7)(v) is amended by removing "1,000 curies of tritium" and adding in its place "37 TBq (1,000 curies) of tritium."

## PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 50. The authority citation for Part 140 continues to read as follows:

**Authority:** Secs. 161, 170, 68 Stat. 948, 71 Stat. 576 as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Pub. L. 109–58.

■ 51. In § 140.21, the introductory paragraph is revised to read as follows:

**§ 140.21 Licensee guarantees of payment of deferred premiums.**

Each licensee required to have and maintain financial protection for each nuclear reactor as determined in § 140.11(a)(4) shall at the issuance of the license and annually, on the anniversary of the date on which the indemnity agreement is effective, provide evidence to the Commission that it maintains one of the following types of guarantee of payment of deferred premium in an amount of $15 million for each reactor he is licensed to operate:

* * * * *

Dated at Rockville, Maryland, this 20th day of March, 2006.

For the Nuclear Regulatory Commission.

**Michael T. Lesar,**

*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 06–2856 Filed 3–24–06; 8:45 am]

BILLING CODE 7590–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2005–20728; Directorate Identifier 2005–NM–003–AD; Amendment 39–14527; AD 2006–07–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 Airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain EMBRAER Model EMB–135 airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This AD requires replacing the horizontal stabilizer control unit (HSCU) with a modified and reidentified or new, improved HSCU. For certain airplanes, this AD also requires related concurrent actions as necessary. This AD is prompted by reports of loss of the pitch trim system due to a simultaneous failure of both channels of the HSCU. We are issuing this AD to prevent loss of pitch trim and reduced controllability of the airplane.

**DATES:** This AD becomes effective May 1, 2006.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of May 1, 2006.

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

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box

343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this AD.

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

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

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

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain EMBRAER Model EMB–135 airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. That NPRM was published in the **Federal Register** on March 30, 2005 (70 FR 16180). That NPRM proposed to require replacing the horizontal stabilizer control unit (HSCU) with a modified and reidentified or new, improved HSCU. For certain airplanes, that action also proposed to require related concurrent actions as necessary.

### Comments

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

### Support for Proposed AD

One commenter, the National Transportation Safety Board (NTSB), supports improvements to the pitch-trim system and concurs with the NPRM. Another commenter, Chautauqua Airlines, fully supports the intent of the AD and strongly recommends requiring upgrading the HSCU on all affected aircraft.

### Request for Reference to Related AD

Two commenters, EMBRAER and Chautauqua Airlines, request that we revise paragraph (b) of the NPRM to refer to AD 2004–25–21, amendment 39–13909 (69 FR 76605, December 22, 2004). The commenters state that, since certain actions required by that existing AD are specified as prior or concurrent requirements with the proposed requirements of the NPRM, the NPRM should refer to AD 2004–25–21 as an affected AD.

We agree with this request for the reason given by the commenters. We have revised paragraph (b) of the AD to refer to AD 2004–25–21 as an affected AD.

### Request To Revise Service Information Citations

One commenter, EMBRAER, requests that we revise the citations of the service information in the NPRM. EMBRAER states that new revisions of the service information have been released and that these latest revisions should be cited to accomplish the proposed requirements of the NPRM.

We agree with this request. We have reviewed EMBRAER Service Bulletin 145–27–0106, Revision 02 (for all affected airplanes except Model EMB–135BJ airplanes), and EMBRAER Service Bulletin 145LEG–27–0016, Revision 02 (for Model EMB–135BJ airplanes only); both dated March 14, 2005. The content of Revision 02 of both service bulletins is essentially the same as that specified in Revision 01, dated August 30, 2004, of both service bulletins; the only difference is that about 5 airplanes have been moved to the in-production effectivity, which will decrease the burden to U.S. operators by about 3 airplanes. Therefore, we have revised the Costs of Compliance section of the AD to reflect the decreased fleet costs, and paragraphs (c) and (f) of the AD to cite the latest revisions of the service bulletins as the appropriate sources of service information to accomplish the requirements of the AD.

### Request To Add Alternative Service Information

One commenter, EMBRAER, requests that paragraph (f) of the NPRM be revised to specify EMBRAER Service Bulletins 145LEG–27–0002, Revision 02, dated August 24, 2004; and 145–27–0084, Revision 06, dated March 14, 2005; as alternative sources of service information for installing the new HSCU. EMBRAER states that those service bulletins describe procedures for installing the new HSCU, part number (P/N) 362100–1013. EMBRAER has provided a suggested revision to paragraph (f) of the NPRM to include these service bulletins.

We agree with this request. Therefore, we have revised paragraph (f) of the AD to include EMBRAER Service Bulletin 145LEG–27–0002, Revision 02, dated August 24, 2005; and EMBRAER Service Bulletin 145–27–0084, Revision 06, dated March 14, 2005; as alternative sources of service information for installing the new HSCU.

### Request To Clarify Description of Related AD

Two commenters, EMBRAER and Chautauqua Airlines, request that we revise paragraph (g) of the NPRM to clarify which affected airplanes are subject to the prior or concurrent accomplishment of certain requirements of AD 2004–25–51. EMBRAER also requests that we include two additional EMBRAER service bulletins to more clearly identify the airplanes involved. Both commenters further request that we revise paragraph (g) to specify which paragraphs of AD 2004–25–21 are applicable to the affected airplanes identified in the service information. The commenters state that these revisions will help to prevent any operator confusion about these requirements.

We agree with this request for the reasons given. Therefore, we have revised paragraph (g) of the AD to include EMBRAER Service Bulletin 145–27–0084, Revision 04, dated October 21, 2003; and EMBRAER Service Bulletin 145–27–0096, Revision 04, dated March 14, 2005; and to identify paragraphs (a)(1), (a)(2), (b)(2), (b)(3), (b)(4)(i), (b)(4)(ii), (b)(5), (b)(6), and (b)(7) of AD 2004–25–21, as applicable to the affected airplanes.

### Request To Revise Paragraph (h) of the NPRM

One commenter, EMBRAER, requests that we revise paragraph (h) of the NPRM to include previous revisions of EMBRAER service bulletins that may be used to accomplish certain requirements of the NPRM. EMBRAER believes this will make it easier for operators to show compliance with the NPRM.

We agree with this request for the reason given. Therefore, we have revised paragraph (h) of the AD to include EMBRAER Service Bulletin 145–27–0106, Revision 01, dated August 30, 2004; EMBRAER Service Bulletin 145LEG–27–0016, Revision 01, dated August 30, 2004; and EMBRAER Service Bulletin 145–27–0084, Revision 05, dated August 24, 2004; as additional sources of service information that are considered acceptable for complying with the applicable actions required by the AD.

### Request To Permit Installation of Future Approved Parts

One commenter, EMBRAER, requests that we revise the NPRM to include a note or paragraph permitting operators to install any HSCU that will be

approved in the future having P/N 362100–1014, –1015, –1016, and so on. EMBRAER believes this would relieve operators of the burden of additional requirements while allowing them to comply with the intent of the NPRM.

We do not agree with this request. Our policy does not allow installing parts that do not yet exist and are, therefore, not referenced in the AD. However, any operator may submit a request for approval of an alternative method of compliance (AMOC) to install a part having a different P/N, as described in paragraph (j) of the AD. The request must include data substantiating that an acceptable level of safety would be maintained by use of the different part.

**Request To Identify Additional Possibly Defective Parts**

One commenter, the Modification and Replacement Parts Association (MARPA), requests that the NPRM be revised to apply to all unmodified HSCUs; whether marketed through EMBRAER as original equipment manufacturer (OEM) parts or by the holder of a parts manufacturer approval (PMA); and whether those parts are installed on an airplane or not. MARPA asserts that repair and supply facilities might have defective OEM or PMA parts in stock that could be put into service unless such parts are identified as subject to the requirements of the NPRM.

We concur with MARPA's general request that, if we know that an unsafe condition also exists in PMA parts, the AD should address those parts, as well as the original parts. We are not aware of other PMA parts that have a different part number. However, to ensure that no defective part is put into service, we have added new paragraph (i) to address installation of the identified good parts and accordingly reidentified the subsequent paragraphs of the NPRM in the AD.

MARPA's remarks are timely in that the Transport Airplane Directorate currently is in the process of reviewing this issue as it applies to transport category airplanes. We acknowledge that there may be other ways of addressing this issue to ensure that unsafe PMA parts are identified and addressed. Once we have thoroughly examined all aspects of this issue, including input from industry, and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety.

**Request To Reference PMA Parts**

One commenter, MARPA, requests that the wording of the NPRM be changed to provide for approved alternatives to the type-certificated designated part. MARPA suggests that this could be accomplished by adding the phrase "or PMA alternative" to the part number in the proposed requirement. MARPA adds that PMA parts are "by law approved parts and are not, as some regions opine, an AMOC requiring further FAA approval before being installed." MARPA states that the provision in the NPRM to replace an HSCU with a specific part number assigned by the type certificate (TC) holder conflicts with § 21.303 of the Federal Aviation Regulations (14 CFR 21.303) and may be unenforceable.

We do not agree with MARPA's request to revise the AD to permit installation of any equivalent PMA parts so that it is not necessary for an operator to request approval of an AMOC in order to install an "equivalent" PMA part. Whether an alternative part is "equivalent" in adequately resolving the unsafe condition can only be determined on a case-by-case basis based on a complete understanding of the unsafe condition. We are not currently aware of any such parts. Our policy is that, in order for operators to replace a part with one that is not specified in the AD, they must request an AMOC. This is necessary so that we can make a specific determination that an alternative part is or is not susceptible to the same unsafe condition. However, the Transport Airplane Directorate currently is in the process of reviewing this issue as it applies to transport category airplanes. Once we have thoroughly examined all aspects of this issue and have made a final determination, we will consider whether our policy regarding addressing PMA parts in ADs needs to be revised. We consider that to delay this AD action would be inappropriate, since we have determined that an unsafe condition exists and that replacement of certain parts must be accomplished to ensure continued safety.

In response to MARPA's statement regarding a variance with FAR 21.303, under which the FAA issues PMAs, this statement appears to reflect a misunderstanding of the relationship between ADs and the certification procedural regulations of part 21 of the Federal Aviation Regulations (14 CFR part 21). Those regulations, including section 21.303 of the Federal Aviation Regulations (14 CFR 21.303), are intended to ensure that aeronautical products comply with the applicable airworthiness standards. But ADs are issued when, notwithstanding those procedures, we become aware of unsafe conditions in these products or parts. Therefore, an AD takes precedence over design approvals when we identify an unsafe condition, and mandating installation of a certain part number in an AD is not at variance with section 21.303.

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

**Explanation of Change to Applicability**

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

**Clarification of AMOC Paragraph**

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

**Conclusion**

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

**Costs of Compliance**

This AD will affect about 613 airplanes of U.S. registry. The required actions will take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Required parts will be supplied by the manufacturer at no cost. Based on these figures, the estimated

cost of the AD for U.S. operators is $39,845, or $65 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2006–07–01 Empresa Brasileira de Aeronautica S.A. (EMBRAER):** Amendment 39–14527. Docket No. FAA–2005–20728; Directorate Identifier 2005–NM–003–AD.

**Effective Date**

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

**Affected ADs**

(b) Accomplishing paragraph (g) of this AD eliminates certain requirements specified by AD 2004–25–21, amendment 39–13909 (69 FR 76605, December 22, 2004).

**Applicability**

(c) This AD applies to EMBRAER Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes; certificated in any category; as identified in EMBRAER Service Bulletin 145–27–0106, Revision 02 (for all affected airplanes except Model EMB–135BJ airplanes); and EMBRAER Service Bulletin 145LEG–27–0016, Revision 02 (for Model EMB–135BJ airplanes only); both dated March 14, 2005.

**Unsafe Condition**

(d) This AD was prompted by reports of loss of the pitch trim system due to a simultaneous failure of both channels of the horizontal stabilizer control unit (HSCU). We are issuing this AD to prevent loss of pitch trim and 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.

**Replacement**

(f) Within 18 months or 4,000 flight hours after the effective date of this AD, whichever occurs first, replace the HSCU with a modified and reidentified or new, improved HSCU having part number 362100–1013, by doing all the actions specified in the Accomplishment Instructions of the applicable EMBRAER service bulletin specified in Table 1 of this AD. Actions accomplished using the alternative sources of service information shown in Table 2 of this AD are considered acceptable for compliance with the requirements of this paragraph. Doing the requirements of this paragraph before the compliance time specified in paragraph (b) of AD 2004–25–21 eliminates the requirement to accomplish the actions required by paragraph (b)(1) of AD 2004–25–21.

TABLE 1.—SERVICE INFORMATION

| EMBRAER service bulletin | Revision level | Dated |
|---|---|---|
| 145–27–0106 | 02 | March 14, 2005. |
| 145LEG–27–0016 | 02 | March 14, 2005. |

TABLE 2.—ALTERNATIVE SERVICE INFORMATION

| EMBRAER service bulletin | Revision level | Dated |
|---|---|---|
| 145–27–0084 | 06 | March 14, 2005. |
| 145LEG–27–0002 | 02 | August 24, 2005. |

**Airplanes Identified in Certain Other Service Bulletins/Concurrent Requirements**

(g) For airplanes identified in the EMBRAER service bulletins listed in Table 3 of this AD: Prior to or concurrently with the actions required by paragraph (f) of this AD, replace the HSCU with a new HSCU with improved features, and having a new part number, in accordance with EMBRAER Service Bulletin 145LEG–27–0002, Revision 01, dated April 15, 2003; or 145–27–0084, Revision 04, dated October 21, 2003; as applicable. Accomplishing this replacement eliminates the requirement to accomplish all actions required by paragraphs (a)(1), (a)(2), (b)(2), (b)(3), (b)(4)(i), (b)(4)(ii), (b)(5), (b)(6), and (b)(7) of AD 2004–25–21.

TABLE 3.—IDENTIFICATION OF AFFECTED AIRPLANES

| EMBRAER service bulletin | Paragraph | Revision level | Dated |
|---|---|---|---|
| 145–27–0084 | 1.A.(1), 1.A.(2), 1.A.(3), 1.A.(4), and 1.A.(5) | 04 | October 21, 2003. |
| 145–27–0096 | 1.A.(1) and 1.A.(2) | 04 | March 14, 2005. |
| 145–27–0106 | 1.A. | 02 | March 14, 2005. |
| 145LEG–27–0002 | 1.A.(1) and 1.A.(2) | 01 | April 15, 2003. |
| 145LEG–27–0016 | 1.A. | 02 | March 14, 2005. |

**Actions Accomplished Per Previous Issues of Service Bulletins**

(h) Actions accomplished before the effective date of this AD in accordance with the EMBRAER service bulletins listed in Table 4 of this AD are considered acceptable for compliance with the applicable action in this AD.

TABLE 4.—PREVIOUS ISSUES OF EMBRAER SERVICE BULLETINS

| EMBRAER service bulletin | Revision level | Dated |
|---|---|---|
| 145–27–0084 | 05 | August 24, 2004. |
| 145–27–0106 | Original | August 4, 2004. |
| 145–27–0106 | 01 | August 30, 2004. |
| 145LEG–27–0016 | Original | August 4, 2004. |
| 145LEG–27–0016 | 01 | August 30, 2004. |

**Parts Installation**

(i) As of the effective date of this AD, no person may install an HSCU on any airplane unless it has been modified according to the requirements of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(k) Brazilian airworthiness directive 2004–11–01, dated November 28, 2004, also addresses the subject of this AD.

**Material Incorporated by Reference**

(l) You must use the service information specified in Table 5 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for copies of this service information. You may view copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

TABLE 5.—MATERIAL INCORPORATED BY REFERENCE

| EMBRAER service bulletin | Page No. | Revision level shown on page | Date shown on page |
|---|---|---|---|
| 145–27–0084, Revision 04, October 21, 2003 | 1–4, 6, 11, 12, 15 | 04 | October 21, 2003. |
| | 5, 7–10, 13, 14, 16–40 | 03 | |
| 145–27–0106, Revision 02, March 14, 2005 | 1–11 | 02 | March 14, 2005. |
| 145LEG–27–0002, Revision 01, April 15, 2003 | 1, 5 | 01 | April 15, 2003. |
| | 2–4, 6–15 | Original | February 5, 2003. |
| 145LEG–27–0016, Revision 02, March 14, 2005 | 1–11 | 02 | March 14, 2005. |

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

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06–2853 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2005–20453; Directorate Identifier 2004–NM–270–AD; Amendment 39–14524; AD 2006–06–15]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A318–100 Series Airplanes; Model A319–100 Series Airplanes; Model A320–111 Airplanes; Model A320–200 Series Airplanes; Model A321–100 Series Airplanes; and Model A321–200 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A318–100 series airplanes; Model A319–100 series airplanes; Model A320–111 airplanes; Model A320–200 series airplanes; Model A321–100 series airplanes; and Model A321–200 series airplanes. This AD requires replacing the water drain valves in the forward and aft cargo doors with new valves. This AD results from a report indicating that, during a test of the fire extinguishing system, air leakage through the water drain valves in the forward and aft cargo doors reduced the concentration of fire extinguishing agent to below the level required to suppress a fire. We are issuing this AD to prevent air leakage through the water drain valves, which, in the event of a fire in the forward or aft cargo compartment, could result in an insufficient concentration of fire extinguishing agent and consequent inability of the fire extinguishing system to suppress the fire.

**DATES:** This AD becomes effective May 1, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 1, 2006.

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

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

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A318, A319, A320, and A321 series airplanes. That NPRM was published in the **Federal Register** on March 3, 2005 (70 FR 10342). That NPRM proposed to require replacing the water drain valves in the forward and aft cargo doors with new valves.

### Comments

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

### Support for NPRM

The Air Line Pilots Association and United Airlines support the NPRM.

### Requests To Extend Compliance Time

Airbus states that the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has issued French airworthiness directive F–2004–172 R1, dated April 13, 2005, to extend the compliance time from April 30, 2005 to December 31, 2005. (We referenced French airworthiness directive F–2004–172, dated October 27, 2004, with a compliance time of 6 months in the NPRM.) Airbus further states that our NPRM should not be more restrictive than the French airworthiness directive. We infer the commenter would like us to extend the compliance time to 14 months to correspond with the revised French airworthiness directive.

Northwest Airlines (NWA) requests that we extend the compliance time to 2 years to match the compliance time of related AD 2005–12–19. NWA points out that both rulemaking actions are necessary to reduce the rate of air renewal in the cargo compartments. NWA further states that revising the compliance time in the NPRM would allow operators to accomplish both modifications during the same maintenance visit, eliminating the effect on line operations and potential for grounding airplanes.

US Airways states that it agrees with the need to accomplish the proposed changes to meet airworthiness standards; however, it has not seen any data that lend this issue a high degree of urgency. U.S. Airways recommends extending the compliance time to allow replacement of the water drain valves at the next C-check or 18 months, whichever is later, instead of the proposed 6-month compliance time. U.S. Airways adds that this change would reduce the economic impact to operators, such as the commenter, who would be forced to take airplanes out of revenue service in order to meet the 6-month window.

We agree with Airbus and have revised paragraph (f) of this AD accordingly. We referenced French airworthiness directive F–2004–172 in the NPRM because French airworthiness directive F–2004–172 R1 was issued after we published our NPRM. Consequently, we have also revised paragraph (i) of this AD to reference French airworthiness directive F–2004–172 R1, dated April 13, 2005. In developing an appropriate compliance time for this action, we considered not only the degree of urgency associated with addressing the subject unsafe condition, but the DGAC's recommendation for an appropriate compliance time, the availability of required parts, and the practical aspect of installing the required modification within an interval of time that corresponds to the typical scheduled maintenance for the majority of affected operators. We also considered the time required for the rulemaking process. In addition, NWA and US Airways provided no data to indicate that a further extension of the compliance time will ensure safety. In consideration of these items, we have determined that compliance within 14 months after the effective date of this AD will provide an acceptable level of safety and is an appropriate interval of time wherein the required actions can be accomplished

during scheduled maintenance intervals for the majority of affected operators.

While we agree with NWA that the actions required by both this AD and AD 2005–12–19 are necessary to correct the unsafe condition, we do not agree to match the compliance times of the ADs. The compliance times of these ADs instead match the compliance times of the corresponding French airworthiness directives. Furthermore, those compliance times differ because the number of affected airplanes and overall exposure to the unsafe condition is not the same for both ADs. Also, we note that the new 14-month compliance time from the effective date of this AD is closer to the compliance time of AD 2005–12–19, which is within 24 months after July 29, 2005. However, according to the provisions of paragraph (h) of this AD, we may approve a request to adjust the compliance time if the request includes data that justify that a different compliance time would provide an acceptable level of safety.

**Request To Reference Later-Approved Service Bulletin**

United Airlines states that the effectivity of Airbus Service Bulletin A320–52–1124, dated May 6, 2004, is not up to date, and that Airbus issued Telex SEM4/914.482/05 announcing it plans to publish a revision to the service bulletin to correct the effectivity. United Airlines therefore requests that we reference any later-approved service bulletin in the NPRM.

We partially agree. As policy, we do not reference "later-approved" service bulletins in ADs. However, since Airbus subsequently issued Revision 01, dated May 31, 2005, to Service Bulletin A320–52–1124, we agree to reference Revision 01 in paragraph (f) of this AD. The procedures in Revision 01 of the service bulletin are essentially the same as those in the original issue. Therefore, we have added a new paragraph (g) to this AD to give credit for actions done in accordance with the original issue of the service bulletin and have reidentified the subsequent paragraphs accordingly. We point out that referencing Revision 01 does not change the applicability specified in paragraph (c) of this AD, since the applicability depends only on whether certain modifications are accomplished in production or in-service.

**Request To Combine Related Rulemaking**

US Airways notes that Airbus Service Bulletin A320–21–1141, Revision 01, dated December 17, 2004, is mentioned in French airworthiness directive F–2004–172, dated October 27, 2004, and is related to Airbus Service Bulletin A320–52–1124. (We referenced French airworthiness directive F–2004–172 and Airbus Service Bulletin A320–52–1124 in the NPRM.) US Airways states that Airbus Service Bulletin A320–21–1141 is also considered necessary to accomplish the restriction of airflow through the aft cargo compartment. US Airways adds that since ADs are issued to address safety concerns, and not portions of a safety concern, both modifications should be mandated by the same AD. US Airways states that combining these requirements into one AD also provides the added benefit of a central reference point in the case that an operator may need to make a future determination on whether the safety concern was fully addressed on an airplane or fleet of airplanes. US Airways adds that issuing separate ADs for the same safety concern seems to complicate the process.

We acknowledge US Airways' request; however, Airbus Service Bulletin A320–21–1141, Revision 01, dated December 17, 2004, was referenced in AD 2005–12–19, amendment 39–14135 (70 FR 36476, June 24, 2005), which we issued on June 14, 2005. We issued AD 2005–12–19 to address air leakage around the aft cargo temperature sensor, in response to French airworthiness directive F–2004–123, dated July 21, 2004. That AD requires replacing the cargo ventilation extraction duct at frame 65 with a new duct, and relocating the temperature sensor in the aft cargo compartment. The compliance time is 24 months. In light of the fact that the compliance times are different, and the actions were addressed in two separate French airworthiness directives, the rulemaking actions will not be combined. No change to this AD is made in this regard.

**Request To Reference Part Numbers**

The Modification and Replacement Parts Association (MARPA) requests that we either identify the manufacturer of the affected water drain valves and the part numbers, or publish the referenced service bulletin with the AD. As justification for its request, MARPA states that the affected water drain valves are identified in proprietary service information that is not available to the general public. The commenter asserts that, under 14 CFR 21.303, there are many valves that could be approved replacement parts for the affected water drain valves. If replacement parts do exist, MARPA adds that they may contain the same defect as those addressed in the NPRM. MARPA further states that repair facilities and part houses, which do not have access to proprietary service information to determine the applicability of the AD, may inadvertently provide defective parts manufacturer approval (PMA) valves in the future.

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

**Explanation of Change to Applicability**

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

**Clarification of Alternative Method of Compliance (AMOC) Paragraph**

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

**Conclusion**

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

**Costs of Compliance**

This AD affects about 434 airplanes of U.S. registry. The actions in this AD take about 3 to 5 work hours per

airplane, depending on airplane configuration, at an average labor rate of $65 per work hour. Required parts cost about $120 to $200 per airplane, depending on airplane configuration. Based on these figures, the estimated cost of the AD for U.S. operators is between $136,710 and $227,850, or between $315 and $525 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2006–06–15 Airbus:** Amendment 39–14524. Docket No. FAA–2005–20453; Directorate Identifier 2004–NM–270–AD.

**Effective Date**

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

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to the Airbus airplanes identified in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

| Airbus model— | Having the following Airbus modification installed in production— | Or the following Airbus service bulletin incorporated in service— | But not having the following Airbus modification installed in production— |
|---|---|---|---|
| A318–111 and –112 airplanes | Not applicable | Not applicable | 33232 |
| A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes. | 25642 or 26213 | A320–52–1088 | 33232 |
| A320–111 airplanes; and Model A320–211, –212, –214, –231, –232, and –233 airplanes. | 26213 or 26603 | A320–52–1088 | 33232 |
| A321–111, –112, and –131 airplanes; and Model A321–211, –212, –213, –231, and –232 airplanes. | 26213 or 26603 | A320–52–1088 | 33232 |

**Unsafe Condition**

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

**Compliance**

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

**Replacement of Water Drain Valves**

(f) Within 14 months after the effective date of this AD, replace the water drain valves having part number (P/N) ABS0341–2–01 in the forward and aft cargo doors with new valves that close at a lower differential pressure having P/N ABS0341–2–02, by doing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–52–1124, Revision 01, dated May 31, 2005.

**Credit for Previous Service Bulletin**

(g) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A320–52–1124, May 6, 2004, are acceptable for compliance with the requirements of paragraph (f) of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(i) French airworthiness directive F–2004–172 R1, dated April 13, 2005, also addresses the subject of this AD.

**Material Incorporated by Reference**

(j) You must use Airbus Service Bulletin A320–52–1124, Revision 01, dated May 31, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06–2852 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2005–20452; Directorate Identifier 2004–NM–206–AD; Amendment 39–14522; AD 2006–06–13]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes; and Model A340–200 and –300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A330–200 and A330–300 series airplanes; and Model A340–200 and –300 series airplanes. This AD requires repetitive detailed inspections for discrepancies of the inboard and outboard actuator fittings of the aileron servo controls, corrective actions if necessary, and eventual replacement of all the attachment bolts of the aileron servo controls. This AD results from several cases of bushing migration on the inboard and outboard actuator fittings of the aileron servo controls; in one case the bushing had migrated completely out of the actuator fitting and the fitting was cracked. We are issuing this AD to prevent rupture of the inboard and outboard actuator fittings of the aileron servo controls, which could result in airframe vibration and consequent reduced structural integrity of the airplane.

**DATES:** This AD becomes effective May 1, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 1, 2006.

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

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

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A330 and A340–200 and –300 series airplanes. That NPRM was published in the **Federal Register** on February 28, 2005 (70 FR 9555). That NPRM proposed to require repetitive detailed inspections for discrepancies of the inboard and outboard actuator fittings of the aileron servo controls, corrective actions if necessary, and eventual replacement of all the attachment bolts of the aileron servo controls.

### Comments

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

### Request for Optional Inspection

Air France states that an optional inspection (for the three repetitive inspections referenced in the French airworthiness directives) for bolt replacement at the first inspection with paint marking, and further inspection after 1,800 flight hours, but no later than 18 months, is not shown in the NPRM. Air France adds that airplanes with Airbus Modification 45512 installed in production, and without Airbus Modification 50600 installed, need only do the bolt replacement. Air France notes that the inspections and bolt replacement are for airplanes on which servo controls ECP8/9 have been installed in service by Airbus Service Bulletin A340–27–4081 or A340–27–4062 for Model A340–200 and –300 series airplanes; and Airbus Service Bulletin A330–27–3075 or A330–27–3054 for Model A330–200 and –300 series airplanes.

We agree with Air France. We have added the affected airplane models to paragraphs (h) and (j)(1) and (j)(2) (changed to paragraphs (k)(1) and (k)(2) in this final rule) of this AD to distinguish between the requirements for airplanes with Airbus Modification 45512 installed in production, and those without the modification installed. We have also added a new paragraph (i) to provide for the optional inspection. Additionally, we have changed paragraphs (h) and (j) to include terminating action for the repetitive inspections if all the small-head attachment bolts are replaced.

### Request To Correct Typographical Error/Clarify Certain Information

Airbus states that a typographical error was made in the service bulletin numbers referenced in Table 1 of the NPRM for Airbus Service Bulletins A330–57–3075 and A340–57–4083. The references in the NPRM specify Airbus Service Bulletins A330–27–3075 and A340–27–4083. We agree that a typographical error was made and we have corrected the service bulletin numbers accordingly.

Airbus also states that Table 1 lists the service bulletins without any link or reference to the rest of the AD. Airbus asks for clarification of each service bulletin to specify if it relates to the inspection paragraph or the replacement paragraph. We agree with Airbus. For clarification, we have added paragraph numbers to each service bulletin reference in Table 1, and cross-referenced those numbers in paragraphs (h), (j), and (k) of this AD.

**Explanation of Change to Applicability**

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

**Clarification of AMOC Paragraph**

We have revised paragraph (l) of this AD to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

**Conclusion**

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

**Costs of Compliance**

This AD will affect about 20 airplanes of U.S. registry.

The inspection will take about 16 work hours per airplane (2 hours per fitting), at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the inspection is $20,800, or $1,040 per airplane, per inspection cycle.

The replacement will take about 12 work hours per airplane, at an average labor rate of $65 per work hour. Required parts will be free of charge. Based on these figures, the estimated cost of the replacement is $15,600, or $780 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2006–06–13 Airbus:** Amendment 39–14522. Docket No. FAA–2005–20452; Directorate Identifier 2004–NM–206–AD.

**Effective Date**

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

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Airbus Model A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes; certificated in any category; except those on which Airbus Modification 50660 has been accomplished.

**Unsafe Condition**

(d) This AD was prompted by several cases of bushing migration on the inboard and outboard actuator fittings of the aileron servo controls; in one case the bushing had migrated completely out of the actuator fitting and the fitting was cracked. We are issuing this AD to prevent rupture of the inboard and outboard actuator fittings of the aileron servo controls, which could result in airframe vibration and consequent reduced structural integrity of the airplane.

**Compliance**

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

**Service Bulletin References**

(f) Except as provided by paragraph (g) of this AD, the term "service bulletin," as used in this AD, means the Accomplishment Instructions of the applicable service bulletin identified in Table 1 of this AD.

TABLE 1.— AIRBUS SERVICE BULLETINS

| For Airbus model— | Use Airbus service bulletin— | And, for actions done before the effective date of this AD, credit is given for prior accomplishment of revision— |
|---|---|---|
| (1) A330–200 and –300 series airplanes | A330–57–3075, Revision 02, dated May 28, 2004. | None. |
| (2) A330–200 and –300 series airplanes | A330–57–3076, Revision 01, dated June 1, 2004. | Original issue, dated March 14, 2003. |
| (3) A340–200 and –300 series airplanes | A340–57–4083, Revision 02, dated May 28, 2004. | None. |
| (4) A340–200 and –300 series airplanes | A340–57–4084, Revision 01, dated June 1, 2004. | Original issue, dated March 14, 2003. |

(g) Airbus Service Bulletins A330–57–3075 and A340–57–4083 recommend reporting inspection results to the airplane manufacturer; however, this AD does not contain that requirement.

**Repetitive Inspections/Corrective Actions**

(h) For airplanes on which Airbus Modification 45512 was not installed in production: Within 600 flight hours after the effective date of this AD, accomplish a detailed inspection for discrepancies of the inboard and outboard actuator fitting of the aileron servo controls, in accordance with the service bulletin in paragraph (f)(1) or (f)(3) of this AD, as applicable. Accomplish any related corrective actions before further flight in accordance with the service bulletin in paragraph (f)(1) or (f)(3) of this AD, as applicable, except as required by paragraph (j) of this AD. Repeat the inspection thereafter at intervals not to exceed 600 flight hours, except as provided in paragraph (j) of this AD. Replacing all the bolts as required by paragraph (k) of this AD ends the repetitive inspections required by this paragraph.

**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."

(i) As an option to accomplishing the repetitive inspections required by paragraph (h) of this AD: Before further flight after accomplishing the initial inspection required by paragraph (h) of this AD, accomplish the replacement required by paragraph (k) of this AD. Do a one-time detailed inspection, as specified in paragraph (h), at the earlier of the times specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) Within 1,800 flight hours after accomplishing the replacement.

(2) Within 18 months after accomplishing the replacement.

(j) If any discrepancy is found during any inspection required by paragraph (h) or (i) of this AD, and the applicable service bulletin in paragraph (f)(1) or (f)(3) of this AD specifies to contact Airbus for an appropriate action: Before further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (or its delegated agent). Where differences in the compliance times or corrective actions exist between the service bulletin and this AD, the AD prevails.

**Replacement**

(k) For airplanes on which the replacement has not been accomplished: Replace all the small-head attachment bolts of the aileron servo controls with large-head attachment bolts at the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, in accordance with the service bulletin in paragraph (f)(2) or (f)(4) of this AD, as applicable. Replacing all the bolts ends the repetitive inspections required by paragraph (h) of this AD.

(1) For airplanes on which Airbus Modification 45512 was not installed in production: Do the replacement before further flight if no discrepancy is found after accomplishing three consecutive inspections, as required by paragraph (h) of this AD.

(2) For airplanes on which Airbus Modification 45512 was installed in production: Within 18 months after the effective date of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(m) French airworthiness directives F–2004–067 and F–2004–068, both dated May 26, 2004, also address the subject of this AD.

**Material Incorporated by Reference**

(n) You must use the applicable service bulletin identified in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

| Airbus service bulletin | Revision level | Date |
|---|---|---|
| A330–57–3075 | Revision 02 | May 28, 2004. |
| A330–57–3076 | Revision 01 | June 1, 2004. |
| A340–57–4083 | Revision 02 | May 28, 2004. |
| A340–57–4084 | Revision 01 | June 1, 2004. |

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06–2851 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–23314; Directorate Identifier 2005–NM–189–AD; Amendment 39–14523; AD 2006–06–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A318–100 and A319–100 Series Airplanes, A320–111 Airplanes, A320–200 Series Airplanes, and A321–100 and A321–200 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A318–100 and A319–100 series airplanes, A320–111 airplanes, A320–200 series airplanes, and A321–100 and A321–200 series airplanes. This AD requires operators to review the airplane's maintenance records to determine the part numbers of the magnetic fuel level indicators (MFLI) of the wing fuel tanks, and related investigative and corrective actions if necessary. This AD results from several in-service incidents of wear and detachment of the top-stops from the MFLI. Such detachment allows the top-stop to move around the wing fuel tank, and the top-stop could come into contact or in close proximity with a gauging probe, resulting in compromise of the air gap between the probe and the structure and creating a potential ignition source. We are issuing this AD to prevent an ignition source in the wing fuel tank in the event of a lightning strike, which could result in a fire or explosion.

**DATES:** This AD becomes effective May 1, 2006.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 1, 2006.

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

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

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A318–100 and A319–100 series airplanes, A320–111 airplanes, A320–200 series airplanes, and A321–100 and A321–200 series airplanes. That NPRM was published in the **Federal Register** on December 15, 2005 (70 FR 74235). That NPRM proposed to require operators to review the airplane's maintenance records to determine the part numbers of the magnetic fuel level indicators (MFLI) of the fuel tank, and related investigative and corrective actions if necessary.

### Comments

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

### Request To Clarify Affected Fuel Tanks

US Airways asks that the NPRM be changed to add that the affected fuel tanks are wing fuel tanks only. US Airways states that the type of fuel tank is specified in the referenced service bulletin. We agree with US Airways and have clarified that only the wing fuel tanks are affected. We have made this change throughout the AD.

### Request for Clarification of Part Number (P/N) Determination

US Airways states that the NPRM specifies determining the P/Ns of the MFLI of the fuel tank by reviewing maintenance records; however, upon review, US Airways found no reference to MFLI P/N position installation information. US Airways adds that there is no reference or baseline for determining the part installed in the MFLI position without tank entry and a visual check.

Although US Airways requested no change, we agree with their comment. The Relevant Service Information section of the NPRM specifies the following: "If the P/N for each MFLI cannot be determined from a records review, the related investigative actions include accomplishing a visual inspection of the internal bore of each MFLI using an endoscope to determine the type of MFLI that is installed." This inspection can be done without entering the tank. We have made no change to the AD in this regard.

### Request To Change Work Hours

US Airways also asks that the work hours specified in the NPRM be changed from 1 to 8 work hours to reflect a more realistic time to inspect the MFLI. US Airways states that since the units are installed in five to seven positions, depending on the type of airplane, one hour for accomplishing the actions, as estimated in the NPRM, is not sufficient.

We acknowledge and agree with US Airways' concern for the reasons stated. We have changed the Costs of Compliance section of this AD accordingly.

### Explanation of Change to Applicability

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

### Conclusion

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

### Costs of Compliance

This AD affects about 621 airplanes of U.S. registry. The actions will take between 1 and 8 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is between $40,365 and $322,920, or between $65 and $520 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2006–06–14 Airbus:** Amendment 39–14523. Docket No. FAA–2005–23314; Directorate Identifier 2005–NM–189–AD.

**Effective Date**

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

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Airbus Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; A320–111 airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; Model A321–111, –112, and –131 airplanes; and Model A321–211, –212, –213, –231, and –232 airplanes; certificated in any category; except airplanes on which Airbus Modification 27496 has been installed in production.

**Unsafe Condition**

(d) This AD results from several in-service incidents of wear and detachment of the top-stops from the magnetic fuel level indicators (MFLI). Such detachment allows the top-stop to move around the wing fuel tank, and the top-stop could come into contact or in close proximity with a gauging probe, resulting in compromise of the air gap between the probe and the structure and creating a potential ignition source. We are issuing this AD to prevent an ignition source in the wing fuel tank in the event of a lightning strike, which could result in a fire or explosion.

**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.

**Review Airplane Maintenance Records/ Investigative and Corrective Actions**

(f) Within 65 months or 6,500 flight hours after the effective date of this AD, whichever is first: Review the airplane's maintenance records to determine the part number (P/N) of each MFLI of the wing fuel tanks in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–28–1138, dated March 18, 2005. If the P/N cannot be identified, or the P/N is identified in the "old P/N" column of the table in paragraph 1.L., "Interchangeability/ Mixability," of the service bulletin, before further flight, do the applicable related investigative and corrective actions by accomplishing all of the actions in accordance with the Accomplishment Instructions of the service bulletin.

**Parts Installation**

(g) As of the effective date of this AD, no person may install on any airplane any MFLI of the wing fuel tanks with a P/N identified in the "old P/N" column of the table in paragraph 1.L., "Interchangeability/ Mixability," of Airbus Service Bulletin A320–28–1138, dated March 18, 2005.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(i) French airworthiness directive F–2005–108, dated July 6, 2005, also addresses the subject of this AD.

**Material Incorporated by Reference**

(j) You must use Airbus Service Bulletin A320–28–1138, dated March 18, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06–2850 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–21909; Directorate Identifier 2005–NM–059–AD; Amendment 39–14521; AD 2006–06–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Aerospatiale Model ATR72 Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Aerospatiale Model ATR72 airplanes. This AD requires a one-time general visual inspection for contamination of the surface of the upper arms of the main landing gear (MLG) secondary side brace assemblies; and repetitive eddy current inspections for cracking of the upper arms, and related specified and corrective actions if necessary. This AD also mandates eventual replacement of aluminum upper arms with steel upper arms, which would end the repetitive inspections. This AD results from two reports of rupture of the upper arm of the MLG secondary side brace due to fatigue cracking. We are issuing this AD to prevent cracking of the upper arms of the secondary side brace assemblies of the MLG, which could result in collapse of the MLG during takeoff or landing, damage to the airplane, and possible injury to the flightcrew and passengers.

**DATES:** This AD becomes effective May 1, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 1, 2006.

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

Contact Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France, for service information identified in this AD.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Examining the Docket

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

### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Aerospatiale Model ATR72 airplanes. That NPRM was published in the **Federal Register** on July 21, 2005 (70 FR 42003). That NPRM proposed to require a one-time general visual inspection for contamination of the surface of the upper arms of the main landing gear (MLG) secondary side brace assemblies; and repetitive eddy current inspections for cracking of the upper arms, and related specified and corrective actions if necessary. That NPRM also proposed to mandate eventual replacement of aluminum upper arms with steel upper arms, which would end the repetitive inspections.

### Comments

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

### Request To Change Number of U.S.-Registered Airplanes in Cost Section

American Airlines asks that we change the estimated number of U.S.-registered airplanes listed in the "Costs of Compliance" section of the NPRM, which specifies that there are about 18 airplanes of U.S. registry affected by the AD. American Airlines states that this number is incorrect because his airline operates 29 Model ATR72–212 airplanes and 12 Model ATR72–212A airplanes in the U.S. American Airlines suggests that the figure for airplanes of U.S. registry be changed to add these airplanes.

We agree to change the estimated number of U.S. airplanes listed in the "Costs of Compliance" section of the AD. The purpose of that section is only to 'estimate' the number of airplanes affected by the AD. When an NPRM is written, we obtain the total number of U.S-registered airplanes from the Air Claims database, and that number frequently changes. The total number of U.S-registered airplanes is currently 53. We have changed the "Costs of Compliance" section accordingly.

For clarification, the AD applies to Aerospatiale Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, certificated in any category; except airplanes that have received ATR Modification 5522 in production. We have made no change to the applicability specified in this AD.

### Clarification of AMOC Paragraph

We have revised paragraph (k) of this AD to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

### Conclusion

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

### Costs of Compliance

This AD affects about 53 airplanes of U.S. registry.

The initial and repetitive inspections take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the inspections for U.S. operators is $3,445, or $65 per airplane, per inspection cycle.

The replacement takes about 4 work hours per airplane (2 work hours per upper arm), at an average labor rate of $65 per work hour. Required parts cost about $4,948 per airplane ($2,474 per upper arm). Based on these figures, the estimated cost of the replacement for U.S. operators is $276,024, or $5,208 per airplane.

### Authority for This Rulemaking

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

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

### Regulatory Findings

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2006–06–12 Aerospatiale:** Amendment 39–14521. Docket No. FAA–2005–21909; Directorate Identifier 2005–NM–059–AD.

**Effective Date**

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

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Aerospatiale Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, certificated in any category; except airplanes that have received ATR Modification 5522 in production.

**Unsafe Condition**

(d) This AD was prompted by two reports of rupture of the upper arm of the main landing gear (MLG) secondary side brace assembly due to fatigue cracking. We are issuing this AD to prevent cracking of the upper arms of the secondary side brace assemblies of the MLG, which could result in collapse of the MLG during takeoff or landing, damage to the airplane, and possible injury to the flightcrew and passengers.

**Compliance**

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

**Inspections**

(f) At the latest of the times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD: Accomplish a general visual inspection for contamination of the surface of the upper arms of the MLG secondary side brace assemblies, and an eddy current inspection for cracking of the upper arms by doing all the actions specified in Parts A and B of the Accomplishment Instructions of Messier-Dowty Special Inspection Service Bulletin 631–32–178, Revision 1, dated September 30, 2004. Repeat the eddy current inspection at intervals not to exceed 800 flight cycles until accomplishment of paragraph (h) of this AD.

(1) Before the accumulation of 4,000 total flight cycles on the secondary side brace.

(2) Before the accumulation of 800 flight cycles on the secondary side brace since overhauled.

(3) Within 200 flight cycles after the effective date of this AD.

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

**Related Specified and Corrective Actions**

(g) If any cracking is found during any inspection required by paragraph (f) of this AD: Before further flight, replace the affected upper arm of the MLG secondary side brace assembly as specified in paragraph (g)(1) or (g)(2) of this AD.

(1) Replace the aluminum upper arm of the MLG secondary side brace assembly with a steel upper arm by doing the applicable actions specified in the Accomplishment Instructions of Messier-Dowty Service Bulletin 631–32–183, dated October 6, 2004. This replacement ends the repetitive inspections required by paragraph (f) of this AD for that side brace only.

(2) Replace the aluminum upper arm of the MLG secondary side brace assembly with a new or serviceable aluminum upper arm in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (or its delegated agent). ATR Component Maintenance Manual, Chapter 32–18–41, Revision 3, dated September 30, 2002, is one approved method. Accomplish a general visual inspection for contamination of the surface of the upper arm before the accumulation of 4,000 total flight cycles on the replacement aluminum upper arm, and if cracks are found, before further flight, replace the aluminum upper arm with a steel upper arm as required by paragraph (g)(1) of this AD. If no cracks are found, repeat the eddy current inspection thereafter at intervals not to exceed 800 flight cycles until accomplishment of paragraph (h) of this AD.

**Terminating Action**

(h) Replace all aluminum upper arms of the MLG secondary side brace assembly with steel upper arms by doing all the applicable actions in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin 631–32–183, dated October 6, 2004; at the applicable time specified in paragraph (h)(1), (h)(2), (h)(3), or (h)(4) of this AD. Accomplishing this replacement ends the repetitive inspections required by paragraph (f) of this AD.

(1) For airplanes on which any upper arm has been overhauled before the effective date of this AD and on which Messier-Bugatti Service Bulletin 631–32–085, dated August 21, 1992, has not been accomplished, as of the effective date of this AD: Within 15,000 flight cycles or 96 months, whichever is first, since overhaul on the affected upper arm.

(2) For airplanes on which any upper arm has been overhauled before the effective date of this AD and on which Messier-Bugatti Service Bulletin 631–32–085, dated August 21, 1992, has been accomplished, as of the effective date of this AD: Within 18,000 flight cycles or 96 months, whichever is first, since overhaul on the affected upper arm.

(3) For airplanes on which any upper arm has not been overhauled and on which Messier-Bugatti Service Bulletin 631–32–085, dated August 21, 1992, has not been accomplished, as of the effective date of this AD: Before the accumulation of 15,000 total flight cycles on an upper arm since new, or within 96 months on an upper arm since new, whichever is first.

(4) For airplanes on which any upper arm has not been overhauled and on which Messier-Bugatti Service Bulletin 631–32–085, dated August 21, 1992, has been accomplished, as of the effective date of this AD: Before the accumulation of 18,000 total flight cycles on an upper arm since new, or within 96 months on an upper arm since new, whichever is first.

**No Report Required**

(i) Messier-Dowty Special Inspection Service Bulletin 631–32–178, Revision 1, dated September 30, 2004, recommends sending an inspection report to Messier-Dowty, but this AD does not contain that requirement.

**Parts Installation**

(j) As of the effective date of this AD, no person may install, on any airplane, an aluminum upper arm of the MLG secondary side brace assembly, unless the applicable requirements specified in paragraphs (f) and (g) of this AD have been accomplished.

**Alternative Methods of Compliance (AMOCs)**

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

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the

FAA Flight Standards Certificate Holding District Office.

**Related Information**

(l) French airworthiness directive F–2004–164, dated October 13, 2004, also addresses the subject of this AD.

**Material Incorporated by Reference**

(m) You must use Messier-Dowty Special Inspection Service Bulletin 631–32–178, Revision 1, dated September 30, 2004; and Messier-Dowty Service Bulletin 631–32–183, dated October 6, 2004; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. Messier-Dowty Special Inspection Service Bulletin 631–32–178, Revision 1, dated September 30, 2004, contains the following effective pages:

| Page No. | Revision level shown on page | Date shown on page |
|---|---|---|
| 1–3, 5–9 ..... | 1 ..... | Sept. 30, 2004. |
| 4 ..... | Original .... | May 3, 2004. |

The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 06–2849 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2005–23436; Airspace Docket No. 05–ASO–10]**

**RIN 2120–AA66**

## Establishment of Area Navigation Instrument Flight Rules Terminal Transition Route (RITTR) T–210; Jacksonville, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes a RITTR, designated T–210, in the Jacksonville, FL, terminal area. The purpose of this route is to expedite the handling of Instrument Flight Rules (IFR) overflight aircraft transitioning through busy terminal airspace. The FAA is taking this action to enhance the safe and efficient use of the navigable airspace in the Jacksonville, FL, terminal area.

**DATES:** *Effective Date:* 0901 UTC, June 8, 2006.

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

**SUPPLEMENTARY INFORMATION:**

### History

On January 9, 2006, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish route T–210 in the Jacksonville, FL, terminal area (71 FR 1397). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on this proposal to the FAA. One comment was received in response to the proposal.

### Analysis of Comment

The Aircraft Owners and Pilots Association (AOPA) wrote in support of the proposal. AOPA noted that the NPRM did not list a defined altitude for T–210 and recommended that the route be available at multiple altitudes to allow users to take full advantage of the benefits of RITTR. AOPA also asked the FAA to incorporate guidance into FAA publications to allow pilots operating under Visual Flight Rules (VFR) to use the route when transitioning through terminal airspace.

The FAA confirms that the route will be available at various altitudes in the low altitude structure within the airspace assigned to Jacksonville Terminal Radar Approach Control (TRACON). These altitudes will vary depending on factors such as direction of flight, filed altitude, air traffic volume, etc. Altitudes will be assigned by either Jacksonville TRACON or Jacksonville Air Route Traffic Control Center (ARTCC).

The FAA does not plan to issue guidance regarding VFR use of RITTRs at this time. RITTRs were developed specifically to provide routing for Global Navigation Satellite System (GNSS)-equipped aircraft that are operating on an IFR flight plan, to transition through busy terminal areas. The fixes/waypoints used to define the routes do not have associated visual landmarks for reference by VFR pilots when navigating through the area. Pilots of suitably equipped VFR aircraft could utilize the route for navigation, in compliance with all applicable VFR regulations. This is similar to current practice where a pilot operating in accordance with VFR may use a Very High Frequency Omni-directional Range Federal airway for navigation.

RITTRs are low altitude RNAV routes and are published under Area Navigation Routes in paragraph 6011 of FAA Order 7400.9N dated September 1, 2006 and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The RITTR route listed in this document will be published subsequently in the order.

### The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing route T–210 in the Jacksonville, FL, terminal area. The route may be used by GNSS-equipped aircraft that are capable of filing flight plan equipment code "/G." The route will be depicted in blue on the appropriate IFR en route low altitude charts. The FAA is taking this action to enhance safety and the flexible and efficient use of the navigable airspace by en route IFR aircraft transitioning through the Jacksonville, FL, terminal area.

In the NPRM, the point BRADO was erroneously identified as a "WP" (waypoint). This point is currently a charted navigation fix, therefore, an editorial change is being made in this rule to replace "WP" with "Fix" in the description of BRADO. With the exception of this change, this amendment is the same as that proposed in the notice.

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

number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**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, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

*Paragraph 6011 Area Navigation Routes*

* * * * *

**T 210 BRADO, FL to Taylor, FL [New]**

| | | |
|---|---|---|
| BRADO, FL | Fix | (Lat. 29°55′22″ N., long. 81°28′08″ W.) |
| OHLEE, FL | WP | (Lat. 30°16′00″ N., long. 82°06′34″ W.) |
| Taylor, FL (TAY) | VORTAC | (Lat. 30°30′17″ N., long. 82°33′10″ W.) |

* * * * *

Issued in Washington, DC, on March 21, 2006.

**Edith V. Parish,**

*Manager, Airspace and Rules.*

[FR Doc. 06–2920 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### 30 CFR Parts 48, 50, and 75

**RIN 1219–AB46**

### Emergency Mine Evacuation

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Change of hearing date.

**SUMMARY:** MSHA is rescheduling the date of a public hearing announced in the March 9, 2006 Emergency Temporary Standard on Emergency Mine Evacuation (71 FR 12252). The April 11, 2006 public hearing is rescheduled for May 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Robert Stone, Acting Director; Office of Standards, Regulations, and Variances, MSHA; phone: (202) 693–9440; facsimile: (202) 693–9441; E-mail: *Stone.Robert@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Public Hearings**

One of the hearing dates announced in the preamble of the Emergency Temporary Standard conflicts with the United Mine Workers of America (UMWA) Constitutional Convention that is scheduled for the second week of April. Following a request from the UMWA, the hearing in Charleston, WV has been changed from April 11, 2006 to May 9, 2006.

For the convenience of the reader, the following table contains information on the hearing dates, locations, and phone numbers for all of the hearings for the Emergency Temporary Standard on Emergency Mine Evacuation.

| Date | Location | Phone |
|---|---|---|
| April 24, 2006 | Sheraton Denver West Hotel, 360 Union Boulevard, Lakewood, CO 80228 | 303–987–2000 |
| April 26, 2006 | Sheraton Suites, 2601 Richmond Road, Lexington, KY 40506 | 859–268–0060 |
| April 28, 2006 | MSHA Conference Room, 25th Floor, 1100 Wilson Boulevard, Arlington, VA 22209. | 202–693–9440 |
| May 9, 2006 | Marriott Town Center, 200 Lee Street, East, Charleston, WV 25301 | 304–345–6500 |

Dated: March 20, 2006.

**David G. Dye,**

*Acting Assistant Secretary for Mine Safety and Health.*

[FR Doc. 06–2907 Filed 3–24–06; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 936

**[Docket No. OK–030–FOR]**

### Oklahoma Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposed revisions to its rules concerning cross sections, maps, and plans; subsidence control; impoundments; revegetation success standards; and roads. Oklahoma withdrew its previously proposed revisions to its rules concerning review of decision not to inspect or enforce. Oklahoma intends to revise its program to provide additional safeguards, clarify ambiguities, and improve operational efficiency.

**DATES:** *Effective Date:* March 27, 2006.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. E-mail: *mwolfrom@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**



**I. Background on the Oklahoma 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 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 Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning Oklahoma's program and program amendments at 30 CFR 936.10, 936.15 and 936.16.

## II. Submission of the Amendment

By letter dated July 15, 2005 (Administrative Record No. OK–946.02), Oklahoma sent us an amendment to its approved regulatory program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma proposed revisions to rules concerning cross sections, maps, and plans; subsidence control; impoundments; revegetation success standards; roads; and review of decision not to inspect or enforce. Oklahoma intends to revise its program to provide additional safeguards, clarify ambiguities, and improve operational efficiency.

We announced receipt of the amendment in the October 18, 2005, **Federal Register** (70 FR 60481). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on November 17, 2005. We did not receive any comments.

During our review of the amendment, we identified concerns about subsidence control and subsidence control plan, impoundments, revegetation: standards for success, and review of decision not to inspect or enforce. We notified Oklahoma of these concerns by letters dated September 15, 2005, and October 28, 2005 (Administrative Record Nos. OK–946.04 and OK–946.07, respectively).

Oklahoma responded in letters dated October 14, 2005, and November 17, 2005 (Administrative Record Nos. OK–946.05 and OK–946.08, respectively), by sending us revisions to its amendment and additional explanatory information. Also, in its letter dated November 17, 2005, Oklahoma stated that its staff is continuing to review Oklahoma Administrative Code (OAC) 460:20–57–6, pertaining to review of decision not to inspect or enforce, and will submit a second amendment separately on this issue. Therefore, Oklahoma has withdrawn its previously proposed revisions to OAC 460:20–57–6.

Based upon Oklahoma's additional explanatory information for and revisions to its amendment, we reopened the public comment period in the December 30, 2005, **Federal Register** (70 FR 77348). The comment period closed on January 17, 2006. We did not receive any comments.

## III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

### *A. Minor Revisions to Oklahoma's Rules*

Oklahoma proposed minor wording, editorial, punctuation, and grammatical changes to the following previously-approved rules: Impoundments, OAC 460:20–43–14(a)(1), (a)(3), (a)(9)(A), (a)(9)(B)(iii), and (a)(11)(A); Roads: general, OAC 460:20–43–52 (e)(1); Revegetation: standards for success, OAC 460:20–45–46(c)(2); and Subsidence control, OAC 460:20–45–47(c)(2).

Because these changes are minor, we find that they will not make Oklahoma's regulations less effective than the Federal regulations.

### *B. OAC 460:20–25–11. Cross Sections, Maps, and Plans (Federal Counterpart 30 CFR 779.25) and OAC 460:20–29–11. Cross Sections, Maps, and Plans (Federal Counterpart 30 CFR 783.25)*

The following findings pertain to surface and underground coal mining.

Oklahoma proposed to delete paragraphs (a)(11) that require permit applications to include cross sections, maps, and plans that show sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit area. There are no direct counterpart Federal regulations for the above paragraphs that Oklahoma proposed to delete. We are approving the deletions because they will not render the Oklahoma regulations less effective than the Federal regulations at 30 CFR 779.25 and 783.25.

### *C. OAC 460:20–31–13. Subsidence Control Plan (Federal Counterpart 30 CFR 784.20)*

Oklahoma proposed to revise paragraph (a)(3) regarding conducting surveys of the condition of all Energy Policy Act (EPAct) protected structures and water supplies. The EPAct protected structures are non-commercial buildings or occupied residential dwellings and structures related thereto. The EPAct protected water supplies are all drinking, domestic, and residential water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. Oklahoma proposed to add language that would exempt permit applicants from conducting surveys of EPAct protected structures if the applicants do not propose to use mining technology that results in planned subsidence. The surveys are still required if applicants propose to use mining technology that would result in planned subsidence. The counterpart Federal regulation to OAC 460:20–31–13(a)(3) is found at 30 CFR 784.20(a)(3). When you first read this regulation, it appears to require applicants to conduct pre-mining surveys of EPAct protected structures and EPAct protected water supplies. However, when you continue to read this regulation, it only requires applicants to conduct pre-mining surveys of EPAct protected water supplies. The reason for this is that, on April 27, 1999, the U.S. Court of Appeals for the District of Columbia vacated the Federal regulatory provision requiring applicants to conduct surveys of EPAct protected structures. On December 22, 1999 (64 FR 71653), in response to the Court's action, we suspended that portion of 30 CFR 784.20(a)(3) which required a survey of the EPAct protected structures. The remainder of paragraph (a)(3) continues in force, thereby, requiring applicants to conduct pre-mining surveys of all EPAct protected water supplies.

We are approving Oklahoma's revision because it requires pre-mining surveys of all EPAct protected water supplies as does the Federal regulation at 30 CFR 784.20(a)(3). We are also approving it because it is not inconsistent with and will not render the Oklahoma regulations less effective than the above Federal regulations by requiring pre-mining surveys of EPAct protected structures if applicants propose to use mining technology that results in planned subsidence.

*D. OAC 460:20–43–14. Impoundments (Federal Counterpart 30 CFR 816.49)*

Oklahoma proposed to add new paragraph (a)(14) that prohibits embankment slopes of impoundments from being closer than 100 feet, measured horizontally, from any public road right-of-way unless otherwise approved under procedures established in 460:20–7–4(4) and 460:20–7–5(d). It also requires the area between the road right-of-way and the embankment slopes of an impoundment, which is the clear zone slopes, to not be steeper than a 1V:6H grade.

There is no direct counterpart Federal regulation regarding the distance between an embankment slope of an impoundment and a public road right-of-way. However, the Federal regulation at 30 CFR 761.11(d) ordinarily prohibits or limits surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of any public road. Because impoundments can be part of a surface coal mining operation and Oklahoma proposed to prohibit a part of the surface coal mining operation (impoundments) from being closer than 100 feet, measured horizontally, of the outside right-of-way line of any public road, we are approving this revision as it is consistent with the Federal regulation at 30 CFR 761.11(d).

Also, there is no counterpart Federal regulation regarding clear zone slopes. We find that Oklahoma's proposed revision to require that the clear zone slopes not be steeper than a 1V:6H grade is not inconsistent with the Federal regulations at 30 CFR 816.150, Roads: general, and we are approving it.

*E. OAC 460:20–43–46. Revegetation: Standards for Success (Federal Counterpart 30 CFR 816.116) and OAC 460:20–45–46. Revegetation: Standards for Success (Federal Counterpart 30 CFR 817.116)*

The following findings pertain to surface and underground mining.

Oklahoma proposed to revise paragraphs (b)(3) regarding areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products. Currently, these paragraphs require the Oklahoma Department of Mines (ODM), on a permit-specific basis, to specify the minimum stocking and planting arrangements after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. Oklahoma proposed to revise these paragraphs in order to incorporate in its regulations, on a program-wide basis, minimum stocking and planting arrangements for areas to be developed for fish and wildlife habitat. Oklahoma proposed to retain the currently approved provisions that require the ODM to specify, on a permit-specific basis, the minimum stocking and planting arrangements for areas to be developed for recreation, shelter belts, or forest products after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. When Oklahoma submitted the above proposed revisions, it provided us letters from the Oklahoma Department of Wildlife Conservation and the Oklahoma Department of Agriculture, Food, and Forestry (the State agencies responsible for the administration of forestry and wildlife programs). These letters indicated that the State agencies had no negative comments about the proposed revisions regarding Oklahoma's fish and wildlife habitat plans. The Oklahoma Department of Agriculture, Food, and Forestry recommended that, to be consistent, the ODM should develop additional guidance, to be incorporated into its regulations, for areas to be developed for recreation, shelter belts, or forest products. Specifically, Oklahoma proposed the following:

1. Oklahoma originally proposed to revise paragraphs (b)(3)(A) regarding minimum stocking and planting arrangements for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products. These paragraphs require the ODM, on a permit-specific basis, to specify the minimum stocking and planting arrangements after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. In revising these paragraphs, Oklahoma proposed to make the provisions pertain only to fish and wildlife habitat on a program-wide basis instead of on a permit-specific basis, thereby, eliminating the need for the ODM to obtain approval from the above State agencies for minimum stocking and planting arrangements for every permit. The provision for the ODM to consult with the State agencies is still required. Also, Oklahoma proposed to add new paragraphs (i) to specify a minimum tree and shrub stocking rate and to provide guidance on the types and species to plant if trees or shrubs are to be planted. In addition, Oklahoma proposed to add new paragraphs (ii) to specify a minimum seeding rate and to provide guidance on the species to plant if native grasses and forbs are to be planted. Finally, Oklahoma proposed to add new paragraphs (iii) to allow an applicant to submit an alternative wildlife habitat plan to the ODM if he or she chooses not to follow the provisions set forth in proposed new paragraphs (i) and (ii). This alternative plan must include written approval from the State agencies responsible for the management of fish and wildlife.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) provide that the regulatory authority specify the minimum stocking and planting arrangement for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products after consulting with and obtaining the approval of State agencies responsible for the administration of forestry and wildlife programs. The consultation and approval may occur on either a program-wide or a permit-specific basis.

Oklahoma's above proposed revisions regarding proposed new paragraphs (i) and (ii) meet the requirements of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) because the State has chosen to specify the minimum stocking and planting arrangements for fish and wildlife habitat on a program-wide basis if trees and shrubs and/or native grasses and forbs are to be planted and has consulted with and obtained approval from the appropriate State agencies. The provisions for proposed new paragraphs (iii) are not inconsistent with the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) because the alternative plan must be accompanied by a written approval of the alternative planting rates and species from the State agencies responsible for the management of fish and wildlife and must be reviewed by the ODM. We are, therefore, approving Oklahoma's revisions.

2. Oklahoma proposed to add new paragraphs (b)(3)(B) for areas to be developed for recreation, shelter belts, or forest products and to redesignate existing paragraphs (B) through (D) as new paragraphs (C) through (E). New paragraphs (b)(3)(B) require the ODM, on a permit-specific basis, to specify the minimum stocking and planting arrangements on the basis of local and regional conditions after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. The minimum stocking and planting arrangements would then be incorporated into an approved reclamation plan.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i)

provide that the regulatory authority specify the minimum stocking and planting arrangement for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products after consulting with and obtaining the approval of State agencies responsible for the administration of forestry and wildlife programs. The consultation and approval may occur on either a program-wide or a permit-specific basis.

We are approving Oklahoma's proposed revisions because they are consistent with the provisions of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We are also approving the re-designation of the above applicable paragraphs because the re-designations are only editorial changes and do not render the State regulations less effective than the Federal regulations.

3. Oklahoma proposed to revise newly re-designated paragraphs (b)(3)(D) (formerly paragraphs (b)(3)(C)), regarding the technical standard for vegetative ground cover, by adding new language requiring the cover to be sufficient to control erosion.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(iii) require the vegetative ground cover to be no less than that required to achieve the approved post-mining land use. The Federal regulation at 30 CFR 816.111(a)(4) requires a vegetative cover that is capable of stabilizing the soil surface from erosion.

The addition of the new language proposed by Oklahoma is no less effective than the Federal regulations. Therefore, we are approving the addition of the new language.

4. For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, Oklahoma proposed to add new paragraphs (b)(3)(E) (formerly paragraphs (b)(3)(D)). These new paragraphs require comments on tree and shrub stocking and vegetative ground cover from State agencies responsible for the management of fish and wildlife.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) require the regulatory authority to consult with the State agencies responsible for the administration of forestry and wildlife programs regarding minimum stocking and planting arrangements. Therefore, we are approving Oklahoma's proposed new paragraphs because they are no less effective than the Federal regulations.

*F. OAC 460:20–43–52. Roads: General (Federal Counterpart 30 CFR 816.150)*

Oklahoma proposed to add new paragraph (d)(3) to require that the relocation of a public road must comply with newly proposed OAC 460:20–43–14(a)(14). This newly proposed regulation prohibits embankment slopes of impoundments from being closer than 100 feet, measured horizontally, from any public road right-of-way unless otherwise approved under procedures established in 460:20–7–4(4) and 460:20–7–5(d). It also requires the area between the road right-of-way and the impoundment slopes, which is the clear zone slopes, to not be steeper than a 1V:6H grade.

The counterpart Federal regulations to Oklahoma's regulations is found at 30 CFR 816.150 (Roads: general). There is no direct counterpart Federal regulation regarding the distance between the right-of-way of a relocated public road and an embankment slope of an impoundment. Also, there is no counterpart Federal regulation regarding clear zone slopes. However, there is a Federal regulation at 30 CFR 761.11(d) which ordinarily prohibits or limits surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of any public road.

Oklahoma proposed that relocated public roads comply with the requirements of newly proposed OAC 460:20–43–14(a)(14) and this newly proposed regulation ordinarily prohibits embankment slopes of impoundments from being closer than 100 feet, measured horizontally, of the outside right-of-way line of a relocated public road. Therefore, we are approving this revision because it is not inconsistent with the Federal regulations at 30 CFR 761.11(d) and 30 CFR 816.150. We are also approving Oklahoma's proposed revision to require that the clear zone slopes not be steeper than a 1V:6H grade because it is not inconsistent with the Federal regulations at 30 CFR 816.150.

*G. OAC 460:20–45–47. Subsidence Control (Federal Counterpart 30 CFR 817.121)*

Oklahoma proposed to delete paragraphs (c)(4)(A) through (E) regarding rebuttable presumption of causation by subsidence and to incorporate the language in existing paragraph (c)(4)(E) into paragraph (c)(4) so that paragraph (c)(4) reads as follows:

(4) Be governed by a rebuttable presumption of causation by subsidence. The information to be considered in determination of causation is whether damage to protected structures was caused by subsidence from underground mining. All relevant and reasonably available information will be considered by the Department.

The counterpart Federal regulation is found at 30 CFR 817.121(c)(4)(v). This Federal regulation provides for the regulatory authority to consider all relevant and reasonably available information when determining the cause of damage to EPAct protected structures by underground mining. Because Oklahoma's proposed revision at paragraph (c)(4) has the same provision as the counterpart Federal regulation at 30 CFR 817.121(c)(4)(v), we are approving it.

## IV. Summary and Disposition of Comments

*Public Comments*

We asked for public comments on the amendment, but did not receive any.

*Federal Agency Comments*

On August 31, 2005, and December 15, 2005, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Oklahoma program (Administrative Record Nos. OK–946.03 and OK–946.09). We did not receive any comments.

*Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On August 31, 2005, and December 15, 2005, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Nos. OK–946.03 and OK–946.09). EPA did not respond to our request.

*State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 31, 2005, and December 15, 2005, we requested comments on Oklahoma's amendment

(Administrative Record Nos. OK–946.03 and OK–946.09), but neither responded to our request.

**V. OSM's Decision**

Based on the above findings, we approve the amendment Oklahoma sent us on July 15, 2005, and as revised on October 14, 2005, and November 17, 2005.

We approve the regulations proposed by Oklahoma with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 936, which codify decisions concerning the Oklahoma program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

**VI. Procedural Determinations**

*Executive Order 12630—Takings*

The provisions in the rule based on counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that the provisions have no substantive effect on the regulated industry.

*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, and 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. This determination is based on the fact that the Oklahoma program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Oklahoma program has no effect on Federally-recognized Indian tribes.

*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 a portion of the provisions in this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because they are 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 part of the rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterpart Federal regulations 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.*). This determination is based upon the fact that the provisions are not expected to have a substantive effect on the regulated industry.

*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 a portion of the State provisions are 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. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are not expected to have a substantive effect on the regulated industry.

*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 a portion of 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 regulations did not impose an unfunded mandate. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are not expected to have a substantive effect on the regulated industry.

**List of Subjects in 30 CFR Part 936**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 3, 2006.

**Charles E. Sandberg,**

*Regional Director, Mid-Continent Region.*

■ For the reasons set out in the preamble, 30 CFR part 936 is amended as set forth below:

**PART 936—OKLAHOMA**

■ 1. The authority citation for part 936 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 936.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**§ 936.15 Approval of Oklahoma regulatory program amendments.**

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * | * | * |
| July 15, 2005 .... | March 27, 2006 | Oklahoma Administrative Code (OAC) 460:20–25–11(a)(11); 460:20–29–11(a)(11); 460:20–31–13(a)(3); 460:20–43–14(a)(1), (a)(3),(a)(9)(A), (a)(9)(B)(iii), (a)(11)(A), and (a)(14); 460:20–43–46(b)(3)(A), (b)(3)(A)(i)–(iii), (b)(3)(B)–(E); 460:20–43–52(d)(3) and (e)(1); OAC 460:20–45–46(b)(3)(A), (b)(3)(A)(i)–(iii), (b)(3)(B)–(E) and(c)(2); and OAC 460:20–45–47(c)(2), (c)(4) and (c)(4)(A)–(E). |

[FR Doc. 06–2899 Filed 3–24–06; 8:45 am]
BILLING CODE 4310–05–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[CGD 07–06–020]**

**RIN 1625–AA08**

## Special Local Regulations: St. Petersburg Grand Prix Air Show; St. Petersburg, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for the St. Petersburg Grand Prix Air Show, St. Petersburg, Florida (Air Show). The Air Show's aeronautic displays will be held daily from 9 a.m. until 4 p.m. on March 31, 2006 through April 3, 2006. This regulation is needed to restrict persons and vessels from entering, anchoring, mooring, or transiting the regulated area. This regulation is necessary to ensure the safety of Air Show participants, spectators, and mariners in the area.

**DATES:** This rule is effective from March 31, 2006 through April 3, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [CGD 07–06–020] and are available for inspection or copying at Coast Guard Sector St. Petersburg, 155 Columbia Drive, Tampa, Florida 33606–3598, between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** BM1 Charles Voss at Coast Guard Sector St. Petersburg (813) 228–2191 Ext 8307.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The necessary information to determine whether the Air Show poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the public during the Air Show. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction and on scene Coast Guard and local law enforcement assets will also provide notice to mariners.

For the same reasons, Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners to advise them of the restriction.

### Background and Purpose

The City of St. Petersburg and Honda Motor Company are sponsoring the St. Petersburg Grand Prix, an auto race in the downtown area of St. Petersburg, Florida on March 31, 2006 through April 3, 2006. An Air Show is also included in the race festivities and consists of aerial demonstrations over the near shore waters of St. Petersburg, Florida. The demonstrations will total approximately seventy-one (71) minutes of flight time per day. Aerial demonstrations will include military aircraft, parachute jumpers, and smaller aircraft flying in formation at approximately fifty (50) feet above the water.

### Discussion of Rule

The Federal Aviation Administration (FAA) will create a sterile "no-fly" zone (air box) above the restricted waters encompassed by this regulation. Following creation of the air box, the

FAA requested all vessels be prohibited from entering the waters underneath the air box (regulated area) to ensure spectator and Air Show participant safety.

All vessels and persons are prohibited from entering, anchoring, mooring, or transiting the regulated area during the aerial demonstrations. This regulation is intended to provide for the safety of life on the navigable waters of the United States for Air Show participants, spectators and mariners transiting in the vicinity of the regulated area.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the impact of this proposal to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary because the regulated area will only be in effect for a limited period of time.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Albert Whitted airport in St. Petersburg, Florida from 9 a.m. to 4 p.m. on March 31, 2006 through April 3, 2006. This special local regulation will not have a significant economic impact on a substantial number of small entities as this rule will be in effect for only a short period of time in an area where vessel traffic is minimal. Additionally, enforcement of this regulation will only occur from 9 a.m. to 4 p.m. each day the regulation in effect and the Captain of the Port of St. Petersburg or his designated representative may allow certain vessels to transit the regulated area if requested.

**Assistance for Small Entities**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

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

**Technical Standards**

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

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

**Environment**

We have analyzed this rule under Commandant Instruction M16475.lD,

which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—MARINE EVENTS & REGATTAS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary section 100.35T–07–020 is added to read as follows:

**§ 100.35T–07–020 St. Petersburg Grand Prix Air Show; St. Petersburg, FL.**

(a) *Regulated Area.* The Coast Guard is establishing a temporary special local regulation on the waters of St., Petersburg, Florida in the vicinity of the Albert Whitted Airport encompassing all waters located within an imaginary line connecting the following points (NAD 83):

1: 27°46′16″ N., 82°37′31″ W.;
2: 27°45′13″ N., 82°37′31″ W.;
3: 27°45′13″ N., 82°36′57″ W.;
4: 27°46′16″ N., 82°36′57″ W.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Coast Guard Sector St. Petersburg, in the enforcement of this special local regulation.

(c) *Special local Regulations.* Non-participant vessels and persons are prohibited from entering, anchoring, mooring, or transiting the Regulated Area, unless authorized by the Captain of the Port St. Petersburg, or his designated representative.

(d) *Enforcement period.* This regulation will be enforced from 9 a.m. until 4 p.m. on March 31, 2006, April 1, 2006, April 2, 2006 and April 3, 2006.

(e) *Dates.* This regulation is effective from March 31, 2006 until April 3, 2006, however enforcement will occur as described in paragraph (d) above.

Dated: March 7, 2006.

**D.B. Peterman,**

*RADM, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 06–2910 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 110

**[CGD11–04–005]**

**RIN 1625–AA01**

## Special Anchorage Regulations; Long Beach, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing three special anchorage areas in Long Beach, California where vessels less than 20 meters (approximately 65 feet) in length, and barges, canal boats, scows, or other nondescript craft, would not be required to sound signals required by Rule 35 of the Inland Navigation Rules. The effect of these special anchorages is to reduce the risk of vessel collisions within the harbors of Los Angeles and Long Beach by grouping unmanned barges, which typically do not sound signals in reduced visibility, within specified areas and indicating these designated areas on charts. Vessels moored in these areas will not have to sound signals in restricted visibility.

**DATES:** *Effective Date:* April 26, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD11–04–005 and are available for inspection or copying at Sector Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California 90731, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Peter Gooding, USCG, Chief of Waterways Management Division, at (310) 732–2020.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On November 5, 2004, we published a notice of proposed rulemaking (NPRM) entitled Special Anchorage Regulations; Long Beach, CA in the **Federal Register** (69 FR 64546). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

The Coast Guard is establishing three new special anchorage areas in Long Beach outer harbor. A "special anchorage" is an area on the water where vessels less than 20 meters (approximately 65 feet) in length, and barges, canal boats, scows, or other nondescript craft, are not required to sound signals required by rule 35 of the Inland Navigation Rules, codified at 33 U.S.C. 2035. The regulations will reconfigure existing anchorages to reflect current use of the anchorage grounds. Currently, the primary users of these anchorages are unmanned barges, with the majority of them being long-term users. By establishing these areas as special anchorages, these barges will not be required to sound signals in restricted visibility as prescribed in Rule 35 of the Inland Navigation Rules. The anchorages are depicted on the local charts, are well removed from fairways and are located where general navigation will not endanger or be endangered by unmanned barges not sounding signals in restricted visibility.

**Discussion of Comments and Changes**

The Coast Guard received no comments on this rule and has not changed the regulations from the published NPRM.

**Regulatory Evaluation**

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This rule will impose no cost on vessel operators, and have minimal impact to vessel traffic.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered

whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule will possibly affect the following entities, some of which may be small entities: the owners and operators of private and commercial vessels intending to transit or anchor in the affected area. The impact to these entities will not, however, be significant since this zone will encompass only a small portion of the waterway and vessels can safely navigate around the anchored vessels.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. However, we received no requests for assistance from any small entities.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

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

**Technical Standards**

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

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

**Environment**

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(f), of the Instruction, from further environmental documentation because we are proposing to create a special anchorage area.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 110**

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

## PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 33 CFR 1.05–1(g). Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 110.100, add paragraphs (c), (d), (e), and (f) to read as follows:

**§ 110.100 Los Angeles and Long Beach Harbors, CA**

* * * * *

(c) *Area B–1.* Long Beach outer harbor along east side of Pier 400 beginning at latitude 33°44′22.8″ N., longitude 118°13′51.0″ W.; thence south to latitude 33°43′54.5″ N., longitude 118°13′50.0″ W.; thence southwesterly to latitude 33°43′46.0″ N., longitude 118°14′13.6″ W.; thence northwesterly to latitude 33°44′15.3″ N., longitude 118°14′26.6″ W.; thence northeasterly to latitude 33°44′25.1″ N., longitude 118°14′15.6″ W.; thence easterly to the beginning point.

(d) *Area C–1.* Long Beach outer harbor between Island Freeman and Island Chaffee beginning at latitude 33°44′20.0″ N., longitude 118°08′26.2″ W.; thence west to latitude 33°44′23.5″ N., longitude 118°09′32.6″ W.; thence north to latitude 33°44′52.8″ N., longitude 118°09′33.2″ W.; thence southeast to latitude 33°44′25.5″ N., longitude 118°08′26.2″ W.; thence south to the beginning point.

(e) *Area E–1.* Long Beach outer harbor northwest of Island Freeman beginning at latitude 33°44′55.0″ N., longitude 118°09′40.0″ W.; thence southwesterly to latitude 33°44′37.0″ N., longitude 118°09′48.5″ W.; thence northwesterly to latitude 33°44′52.0″ N., longitude 118°10′32.0″ W.; thence north to latitude 33°45′11.0″ N., longitude 118°10′32.0″ W.

(f) *Restrictions.* Special anchorage areas B–1, C–1, and E–1 are reserved for barges on mooring balls, unless otherwise authorized by the Captain of the Port Los Angeles-Long Beach.

■ 3. In § 110.214, revise paragraphs (b)(2) and (5) to read as follows:

**§ 110.214 Los Angeles and Long Beach Harbors, CA**

* * * * *

(b) * * *

(2) *Commercial Anchorage B (Long Beach Harbor).* An area enclosed by a line joining the following coordinates:

| | Latitude | Longitude |
|---|---|---|
| Beginning point | 33 deg.–44′–37.0″ N | 118 deg.–13′–00.0″ W. |
| Thence south/southeast to | 33 deg.–44′–12.0″ N | 118 deg.–12′–36.2″ W. |
| Thence southeast to | 33 deg.–43′–38.2″ N | 118 deg.–11′–36.9″ W. |
| Thence southwest to | 33 deg.–43′–26.1″ N | 118 deg.–11′–47.2″ W. |
| Thence west to | 33 deg.–43′–26.1″ N | 118 deg.–12′–22.7″ W. |
| Thence west/southwest to | 33 deg.–42′–58.9″ N | 118 deg.–13′–53.0″ W. |
| Thence north/northwest to | 33 deg.–43′–46.0″ N | 118 deg.–14′–13.6″ W. |
| Thence east/northeast to | 33 deg.–43′–54.5″ N | 118 deg.–13′–50.0″ W. |
| Thence north to | 33 deg.–44′–22.8″ N | 118 deg.–13′–51.0″ W. |
| Thence east/northeast to the beginning point. | | |

* * * * *

(5) *Commercial Anchorage E (Long Beach Harbor).* An area enclosed by a line joining the following coordinates:

| | Latitude | Longitude |
|---|---|---|
| Beginning point | 33 deg.–44′–37.0″ N | 118 deg.–09′–48.5″ W. |
| Thence southwest to | 33 deg.–44′–18.5″ N | 118 deg.–09′–56.8″ W. |
| Thence west to | 33 deg.–44′–18.5″ N | 118 deg.–10′–27.2″ W. |
| Thence northwest to | 33 deg.–44′–27.6″ N | 118 deg.–10′–41.0″ W. |
| Thence west/northwest to | 33 deg.–44′–29.0″ N | 118 deg.–10′–57.4″ W. |
| Thence north/northwest to | 33 deg.–45′–06.4″ N | 118 deg.–11′–09.5″ W. |
| Thence northeast to | 33 deg.–45′–15.2″ N | 118 deg.–10′–46.1″ W. |
| Thence southeast to | 33 deg.–45′–11.0″ N | 118 deg.–10′–32.0″ W. |
| Thence south to | 33 deg.–44′–52.0″ N | 118 deg.–10′–32.0″ W. |
| Thence southeast to the beginning point. | | |

* * * * *

Dated: March 16, 2006.

**Kevin J. Eldridge,**

*Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. 06–2876 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[COTP San Francisco 06–009]**

**RIN 1625–AA87**

## Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary fixed security zones in the waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area. These security zones are an integral part of the Coast Guard's efforts to protect these facilities and the surrounding areas from destruction or damage due to accidents, subversive acts, or other causes of a similar nature. Entry into the zones is prohibited, unless specifically authorized by the Captain of the Port (COTP) San Francisco Bay, or his designated representative. These zones will be subject to discretionary and random patrol and monitoring by Coast Guard, Federal, state and local law enforcement assets.

**DATES:** This rule is effective from 11:59 p.m. PST on March 31, 2006 to 12 a.m. PST on April 10, 2006.

**ADDRESSES:** Documents indicated in this preamble, as being available in the docket, are part of docket COTP San Francisco Bay 06–009 and are available for inspection or copying at the Waterways Safety Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ian Callander, Waterways Safety Branch, U.S. Coast Guard Sector San Francisco, (415) 556–2950 extension 142, or the Sector San Francisco Command Center, at (415) 399–3547.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because the threat to U.S. assets and the public currently exists and is ongoing.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the threat of maritime attacks is real and any delay in the effective date of this temporary final rule (TFR) is impractical and contrary to the public interest.

On September 22, 2005 we published a notice of proposed rulemaking (NPRM) entitled, Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA, in the **Federal Register** (70 FR 55607). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. On September 22, 2005 we also published a temporary final rule (TFR) in the **Federal Register** (70 FR 55607) establishing temporary fixed security zones in the waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area, effective from 11:59 p.m. PST on September 9, 2005, to 11:59 p.m. PST on March 31, 2006. On February 17, 2006 the final rule (FR) was signed and was published on March 9, 2006 (71 FR 12136). The final rule becomes effective on April 10, 2006. For continuity this rule is necessary to maintain the security zones during the period that the TFR expires at 11:59 p.m. PST on March 31, 2006 until the FR becomes effective on April 10, 2006.

**Background and Purpose**

In its effort to manage the threat posed by terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. The measures contemplated by this rule are intended to assist the Coast Guard in protecting vessels and facilities within or adjacent to the six marine oil terminals in San Francisco Bay. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

To address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against marine oil terminals within San Francisco Bay would have on the public interest, the Coast Guard is establishing temporary fixed security zones in the waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay, California. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these facilities. Due to heightened security concerns, and due to the catastrophic impact a terrorist attack on a marine oil terminal would have on the surrounding waterways, area, and community, security zones are prudent for these facilities.

**Discussion of Rule**

In this temporary final rule, the Coast Guard is establishing temporary fixed security zones in the waters extending from the surface to the sea floor and approximately 100 yards around six separate oil refinery piers in the San Francisco Bay Area.

For the Chevron-Texaco oil facility, the proposed security zone would extend approximately 100 yards into the waters of San Francisco Bay around the Chevron Long Wharf, located in Richmond, California.

For the Conoco-Phillips oil facility, the proposed security zone would extend approximately 100 yards into the waters of San Pablo Bay around the Conoco-Philips Wharf, located in Rodeo, California.

For the Shell Martinez oil facility, the proposed security zone would extend approximately 100 yards into the waters of Carquinez Strait around the Shell Terminal, located in Martinez, California.

For the Tesoro-Amorco oil facility, the proposed security zone would extend approximately 100 yards into the waters of Carquinez Strait around the Amorco Pier, located in Martinez, California.

For the Valero oil facility, the proposed security zone would extend approximately 100 yards into the waters of Carquinez Strait around the Valero Pier, located in Benicia, California.

For the Tesoro-Avon oil facility, the proposed security zone would extend approximately 100 yards into the waters of Suisun Bay around the Avon Pier, located in Martinez, California.

These zones will be subject to discretionary and random patrol and monitoring by Coast Guard, Federal, state and local law enforcement assets. Vessels and people may be allowed to enter these security zones on a case-by-case basis with authorization from the COTP or his designated representative.

Vessels or persons violating this section may be subject to both civil and criminal penalties as set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. The Captain of the Port may enlist the aid and cooperation of any Federal, State, county, municipal, or private agency to assist in the enforcement of the regulation.

**Regulatory Evaluation**

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

We expect the impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this rule restricts access to the waters encompassed by the security zones, the effect of this rule is not significant because: (i) The zones encompass only small portions of the waterways; (ii) vessels are able to pass safely around the zones; and (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of

the Captain of the Port or his designated representative.

The size of the zones is the minimum necessary to provide adequate protection for all of the six marine oil facilities. The entities most likely to be affected are fishing vessels and pleasure craft engaged in recreational activities and sightseeing.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

We expect this rule may affect owners and operators of vessels, some of which may be small entities, intending to fish, sightsee, transit, or anchor in the waters affected by these security zones. These security zones will not have a significant economic impact on a substantial number of small entities for several reasons: Small vessel traffic will be able to pass safely around the security zones and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the zones to engage in these activities. Small entities and the maritime public will be advised of these security zones via public notice to mariners.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

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

**Technical Standards**

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

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

**Environment**

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" (CED) will be available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 165**

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–070, to read as follows:

**§ 165.T11–070 Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, California.**

(a) *Locations.* The following areas are security zones:

(1) *Chevron Richmond Long Wharf, San Francisco Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Chevron Richmond Long Wharf and encompasses all waters in San Francisco Bay within a line connecting the following geographical positions—

| *Latitude* | *Longitude* |
|---|---|
| 37°55′52.2″ N. | 122°24′04.7″ W. |
| 37°55′41.8″ N. | 122°24′07.1″ W. |
| 37°55′26.8″ N. | 122°24′35.9″ W. |
| 37°55′47.1″ N. | 122°24′55.5″ W. |
| 37°55′42.9″ N. | 122°25′03.5″ W. |
| 37°55′11.2″ N. | 122°24′32.8″ W. |
| 37°55′14.4″ N. | 122°24′27.5″ W. |
| 37°55′19.7″ N. | 122°24′23.7″ W. |
| 37°55′22.2″ N. | 122°24′26.2″ W. |
| 37°55′38.5″ N. | 122°23′56.9″ W. |
| 37°55′47.8″ N. | 122°23′53.3″ W. |

and along the shoreline back to the beginning point.

(2) *Conoco-Phillips, San Pablo Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Conoco-Phillips Rodeo Terminal and encompasses all waters in San Pablo Bay within a line connecting the following geographical positions—

| *Latitude* | *Longitude* |
|---|---|
| 38°03′06.0″ N. | 122°15′32.4″ W. |
| 38°03′20.7″ N. | 122°15′35.8″ W. |
| 38°03′21.8″ N. | 122°15′29.8″ W. |
| 38°03′29.1″ N. | 122°15′31.8″ W. |
| 38°03′23.8″ N. | 122°15′55.8″ W. |
| 38°03′16.8″ N. | 122°15′53.2″ W. |
| 38°03′18.6″ N. | 122°15′45.2″ W. |
| 38°03′04.0″ N. | 122°15′42.0″ W. |

and along the shoreline back to the beginning point.

(3) *Shell Martinez, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Shell Martinez Terminal and encompasses all waters in San Pablo Bay within a line connecting the following geographical positions—

| *Latitude* | *Longitude* |
|---|---|
| 38°01′39.8″ N. | 122°07′40.3″ W. |
| 38°01′54.0″ N. | 122°07′43.0″ W. |
| 38°01′56.9″ N. | 122°07′37.9″ W. |
| 38°02′02.7″ N. | 122°07′42.6″ W. |
| 38°01′49.5″ N. | 122°08′08.7″ W. |
| 38°01′43.7″ N. | 122°08′04.2″ W. |
| 38°01′50.1″ N. | 122°07′50.5″ W, |
| 38°01′36.3″ N. | 122°07′47.6″ W. |

and along the shoreline back to the beginning point.

(4) *Tesoro-Amorco, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Tesoro-Amorco oil terminal wharf and encompasses all waters in the Carquinez Strait within a line connecting the following geographical positions—

| *Latitude* | *Longitude* |
|---|---|
| 38°02′03.1″ N. | 122°07′11.9″ W. |
| 38°02′05.6″ N. | 122°07′18.9″ W. |
| 38°02′07.9″ N. | 122°07′14.9″ W. |
| 38°02′13.0″ N. | 122°07′19.4″ W. |
| 38°02′05.7″ N. | 122°07′35.9″ W. |
| 38°02′00.5″ N. | 122°07′31.1″ W. |
| 38°02′01.8″ N. | 122°07′27.3″ W. |
| 38°01′55.0″ N. | 122°07′11.0″ W. |

and along the shoreline back to the beginning point.

(5) *Valero, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Valero Benicia Pier and encompasses all waters in the Carquinez Strait within a line connecting the following geographical positions—

| *Latitude* | *Longitude* |
|---|---|
| 38°02′37.6″ N. | 122°07′51.5″ W. |
| 38°02′34.7″ N. | 122°07′48.9″ W. |
| 38°02′44.1″ N. | 122°07′34.9″ W. |
| 38°02′48.0″ N. | 122°07′37.9″ W. |
| 38°02′47.7″ N. | 122°07′42.1″ W. |

and along the shoreline back to the beginning point.

(6) *Tesoro-Avon, Suisun Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Tesoro-Avon Wharf and encompasses all waters in Suisun Bay within a line connecting the following geographical positions—

| *Latitude* | *Longitude* |
|---|---|
| 38°02′24.6″ N. | 122°04′52.9″ W. |
| 38°02′54.0″ N. | 122°05′19.5″ W. |
| 38°02′55.8″ N. | 122°05′16.1″ W. |
| 38°03′02.1″ N. | 122°05′19.4″ W. |
| 38°02′55.1″ N. | 122°05′42.6″ W. |
| 38°02′48.8″ N. | 122°05′39.2″ W. |
| 38°02′52.4″ N. | 122°05′27.7″ W. |
| 38°02′46.5″ N. | 122°05′22.4″ W. |

and along the shoreline back to the beginning point.

(b) *Regulations.*

(1) In accordance with the general regulations in § 165 of this part, entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of a security zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of these security zones by local law enforcement as necessary.

(d) *Effective period.* This section becomes effective at 11:59 p.m. PST on March 31, 2006, and will terminate at 12 a.m. PST on April 10, 2006.

Dated: March 20, 2006.

**W.J. Uberti,**

*Captain, U.S. Coast Guard, Captain of the Port.*

[FR Doc. 06–2911 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–15–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2005–NV–0001; FRL–8045–9]

### Revisions to the Nevada State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Nevada State

Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on September 13, 2005 and include definitions, sulfur oxide emission regulations, and various other burning regulations. We are approving these regulations in order to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on April 26, 2006.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2005–NV–0001 for this action. The index to the docket is available electronically at *http://regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947–4126, *rose.julie@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

## I. Proposed Action

On September 13, 2005 (70 FR 53975), EPA proposed to approve into the Nevada SIP those regulations that are listed below in Table 1. We have revised the submittal date from February 16, 2005 (as listed in our proposal) to January 12, 2006 to reflect the most recent submittal of the rules to EPA. With respect to the rules listed in Table 1, the submittals dated February 16, 2005 and January 12, 2006 are identical, and we consider the earlier submittal to be superseded by the later submittal. As explained in section II, Public Comments and EPA Responses, of this notice, we are not taking final action in this notice on five of the definitions for which we had proposed approval in our September 13, 2005 notice.

TABLE 1.—SUBMITTED REGULATIONS

| NAC No. | NAC title | Adopted | Submitted |
|---|---|---|---|
| 445B.001 | Definitions | 08/19/04 | 01/12/06 |
| 445B.002 | Act | 09/16/76 | 01/12/06 |
| 445B.004 | Administrator | 08/19/82 | 01/12/06 |
| 445B.005 | Affected Facility | 10/03/95 | 01/12/06 |
| 445B.006 | Affected Source | 09/18/01 | 01/12/06 |
| 445B.009 | Air-conditioning equipment | 09/16/76 | 01/12/06 |
| 445B.011 | Air pollution | 01/22/98 | 01/12/06 |
| 445B.018 | Ambient air | 09/03/87 | 01/12/06 |
| 445B.022 | Atmosphere | 09/16/76 | 01/12/06 |
| 445B.030 | British thermal units | 09/03/87 | 01/12/06 |
| 445B.042 | Combustible refuse | 09/16/76 | 01/12/06 |
| 445B.0425 | Commission | 01/22/98 | 01/12/06 |
| 445B.047 | Continuous monitoring system | 09/16/76 | 01/12/06 |
| 445B.051 | Day | 09/03/87 | 01/12/06 |
| 445B.053 | Director | 09/16/76 | 01/12/06 |
| 445B.055 | Effective date of the program | 11/03/93 | 01/12/06 |
| 445B.056 | Emergency | 11/03/93 | 01/12/06 |
| 445B.058 | Emission | 01/22/98 | 01/12/06 |
| 445B.059 | Emission unit | 10/03/95 | 01/12/06 |
| 445B.060 | Enforceable | 08/19/82 | 01/12/06 |
| 445B.061 | EPA | 11/03/93 | 01/12/06 |
| 445B.072 | Fuel | 09/03/87 | 01/12/06 |
| 445B.073 | Fuel-burning equipment | 08/29/90 | 01/12/06 |
| 445B.075 | Fugitive dust | 03/03/94 | 01/12/06 |
| 445B.077 | Fugitive emissions | 10/03/95 | 01/12/06 |
| 445B.080 | Garbage | 09/16/76 | 01/12/06 |
| 445B.086 | Incinerator | 09/16/76 | 01/12/06 |
| 445B.091 | Local air pollution control agency | 09/16/76 | 01/12/06 |
| 445B.095 | Malfunction | 09/16/76 | 01/12/06 |
| 445B.097 | Maximum allowable throughput | 09/03/87 | 01/12/06 |
| 445B.103 | Monitoring device | 03/03/94 | 01/12/06 |
| 445B.106 | Multiple chamber incinerator | 09/16/76 | 01/12/06 |
| 445B.109 | Nitrogen oxides | 03/03/94 | 01/12/06 |
| 445B.112 | Nonattainment area | 10/03/95 | 01/12/06 |
| 445B.113 | Nonroad engine | 05/10/01 | 01/12/06 |
| 445B.1135 | Nonroad vehicle | 05/10/01 | 01/12/06 |
| 445B.116 | Odor | 10/03/95 | 01/12/06 |
| 445B.119 | One-hour period | 09/03/87 | 01/12/06 |
| 445B.121 | Opacity | 09/16/76 | 01/12/06 |
| 445B.122 | Open burning | 09/16/76 | 01/12/06 |
| 445B.125 | Ore | 09/12/78 | 01/12/06 |
| 445B.127 | Owner or operator | 09/16/76 | 01/12/06 |
| 445B.129 | Particulate matter | 09/16/76 | 01/12/06 |
| 445B.130 | Pathological wastes | 10/03/95 | 01/12/06 |
| 445B.135 | $PM_{10}$ | 11/18/91 | 01/12/06 |
| 445B.144 | Process equipment | 09/16/76 | 01/12/06 |
| 445B.145 | Process weight | 10/03/95 | 01/12/06 |
| 445B.151 | Reference conditions | 09/03/87 | 01/12/06 |
| 445B.152 | Reference method | 10/03/95 | 01/12/06 |

TABLE 1.—SUBMITTED REGULATIONS—Continued

| NAC No. | NAC title | Adopted | Submitted |
|---|---|---|---|
| 445B.161 | Run | 09/16/76 | 01/12/06 |
| 445B.163 | Salvage operation | 09/16/76 | 01/12/06 |
| 445B.167 | Shutdown | 09/16/76 | 01/12/06 |
| 445B.168 | Single chamber incinerator | 11/08/77 | 01/12/06 |
| 445B.174 | Smoke | 09/16/76 | 01/12/06 |
| 445B.176 | Solid waste | 09/16/76 | 01/12/06 |
| 445B.177 | Source | 10/03/95 | 01/12/06 |
| 445B.180 | Stack and chimney | 10/03/95 | 01/12/06 |
| 445B.182 | Standard | 03/03/94 | 01/12/06 |
| 445B.185 | Start-up | 09/16/76 | 01/12/06 |
| 445B.198 | Uncombined water | 09/16/76 | 01/12/06 |
| 445B.205 | Waste | 09/16/76 | 01/12/06 |
| 445B.207 | Wet garbage | 09/16/76 | 01/12/06 |
| 445B.209 | Year | 09/03/87 | 01/12/06 |
| 445B.211 | Abbreviations | 08/19/04 | 01/12/06 |
| 445B.2204 | Sulfur emission | 09/16/76 | 01/12/06 |
| 445B.22043 | Sulfur emissions: Calculation of total feed sulfur | 08/19/04 | 01/12/06 |
| 445B.22047 | Sulfur emissions: Fuel-burning equipment | 09/09/99 | 01/12/06 |
| 445B.2205 | Sulfur emissions: Other processes which emit sulfur | 08/19/04 | 01/12/06 |
| 445B.22067 | Open burning | 02/26/04 | 01/12/06 |
| 445B.2207 | Incinerator burning | 02/26/04 | 01/12/06 |
| 445B.2209 | Reduction of animal matter | 09/16/76 | 01/12/06 |
| 445B.22097 | Standards of quality for ambient air | 02/26/04 | 01/12/06 |
| 445B.230 | Plan for reduction of emissions | 08/19/04 | 01/12/06 |

We proposed to approve these regulations because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the regulations and our evaluation.

## II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received a comment from Jennifer L. Carr, P.E., Chief, Bureau of Air Quality Planning, Nevada Division of Environmental Protection (NDEP), in a letter dated October 5, 2005. The comment requested that EPA not approve two definitions, NAC 445B.063, Excess emissions; and NAC 445B.153, Regulated air pollutant, that EPA had proposed for approval. In response, we are not taking final action on those two definitions in today's notice. EPA will take action on revised versions of these provisions in a separate **Federal Register** action.

While no other comments were received, we have decided, upon further review, not to take final action at this time on three additional definitions for which we had proposed approval in our September 13, 2005 notice: NAC 445B.134, Person; NAC 445B.084, Hazardous air pollutant; and NAC 445B.196, Toxic regulated air pollutant. We have decided not to take final action on NAC 445B.134, Person, because it relies upon two statutory definitions of the term, only one of which has been submitted to EPA as a SIP revision. The other two definitions, NAC 445B.084, Hazardous air pollutant; and NAC 445B.196, Toxic regulated air pollutant, do not relate to criteria air pollutants and thus are not appropriate for approval as part of the SIP. EPA will take action on NAC 445B.134, Person, in a separate **Federal Register** action.

Lastly, in this notice, we have corrected erroneous adoption dates listed in the proposal for the following rules: NAC 445B.103, Monitoring device; NAC 445B.125, Ore; and NAC 445B.2205, Sulfur emissions: Other processes which emit sulfur.

## III. EPA Action

The comment submitted does not change our assessment of the remaining regulations. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these regulations into the Nevada SIP.

## IV. Statutory and Executive Order Reviews

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

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

Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxide.

Dated: March 7, 2006.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

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

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

### Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraph (c)(56) to read as follows:

**§ 52.1470 Identification of plan.**

* * * * *

(c) * * *

(56) The following regulations and statutes were submitted on January 12, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(*1*) The following sections of the Nevada Air Quality Regulations were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(*i*) September 16, 1976: 445B.002, 445B.009, 445B.022, 445B.042, 445B.047, 445B.053, 445B.080, 445B.086, 445B.091, 445B.095, 445B.106, 445B.121, 445B.122, 445B.127, 445B.129, 445B.144, 445B.161, 445B.163, 445B.167, 445B.174, 445B.176, 445B.185, 445B.198, 445B.205, 445B.207, 445B.2204, and 445B.2209.

(*ii*) November 8, 1977: 445B.168.

(*iii*) September 12, 1978: 445B.125.

(*2*) The following sections of Chapter 445 of the Nevada Administrative Code were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(*i*) August 19, 1982: 445B.004 and 445B.060.

(*ii*) September 3, 1987: 445B.018, 445B.030, 445B.051, 445B.072, 445B.097, 445B.119, 445B.151, and 445B.209.

(*iii*) August 29, 1990: 445B.073.

(*iv*) November 18, 1991: 445B.135.

(*v*) November 3, 1993: 445B.055, 445B.056, and 445B.061.

(*vi*) March 3, 1994: 445B.075, 445B.103, 445B.109, and 445B.182.

(*3*) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on the dates listed below:

(*i*) October 3, 1995: 445B.005, 445B.059, 445B.077, 445B.112, 445B.116, 445B.130, 445B.145, 445B.152, 445B.177, and 445B.180.

(*ii*) January 22, 1998: 445B.011, 445B.0425, and 445B.058.

(*iii*) September 9, 1999: 445B.22047.

(*iv*) May 10, 2001: 445B.113 and 445B.1135.

(*v*) September 18, 2001: 445B.006.

(*vi*) February 26, 2004: 445B.22067, 445B.2207, and 445B.22097.

(*vii*) August 19, 2004: 445B.001, 445B.211, 445B.22043, 445B.2205, and 445B.230.

[FR Doc. 06–2868 Filed 3–24–06; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2005–AZ–0007; FRL–8046–1]**

### Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Pinal County Air Quality Control District (PCAQCD) portion of the Arizona State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on November 10, 2005 and concern opacity standards. We are approving local rules that regulate PM–10 emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on April 26, 2006.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2005–AZ–0007 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, EPA Region IX, (415) 947–4118, *petersen.alfred@epa.gov.*

**SUPPLEMENTARY INFORMATION:**
Throughout this document, "we," "us" and "our" refer to EPA.

## I. Proposed Action

On November 10, 2005 (70 FR 68388), EPA proposed to approve the following rule into the Arizona SIP.

TABLE 1.—SUBMITTED RULE APPROVED

| Local agency | Rule No. | Rule title | Revised | Submitted |
|---|---|---|---|---|
| PCAQCD | 2–8–300 | Performance standards | 05/18/05 | 09/12/05 |

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

## II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. We did not receive any comments on the proposed action.

## III. EPA Action

No comments were submitted that change our assessment that the submitted rule complies with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the CAA, EPA is fully approving PCAQCD Rule 2–8–300 into the Arizona SIP.

## IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 24, 2006.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

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

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

### Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(129) to read as follows:

**§ 52.120 Identification of plan.**

* * * * *

(c) * * *

(129) The following amended rule was submitted on September 12, 2005, by the Governor's designee.

(i) Incorporation by reference.

(A) Pinal County Air Quality Control District.

(*1*) Rule 2–8–300, adopted on June 29, 1993 and amended on May 18, 2005.

* * * * *

[FR Doc. 06–2912 Filed 3–24–06; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 010319075-1217-02; I.D. 032206A]**

### Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category

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

**ACTION:** Temporary rule; part-time permit category closure.

**SUMMARY:** NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the Part-time permit category for the 2006 fishing year has been harvested. Commercial vessels fishing under the Part-time tilefish category may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2006 fishing year (through October 31, 2006). Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

**DATES:** Effective 0001 hrs local time, March 27, 2006 , through 2400 hrs local time, October 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Brian R. Hooker, Fishery Policy Analyst, at (978) 281–9220.

**SUPPLEMENTARY INFORMATION:** Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the Golden Tilefish Management Unit. The Golden Tilefish Management Unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36′ N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the U.S.-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access Incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories: Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2006 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2006 fishing year. Thus, the Part-time permit category quota for the 2006 fishing year, which is equal to 19 percent of the TAL, is 360,098 lb (163,338 kg). Notification of the 2006 Part-time permit category quota for the 2006 fishing year was made via letters sent to all permit holders on November 10, 2005, and January 12, 2006, and was published in the **Federal Register** on January 12, 2006 (71 FR 1982).

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the Federal Register notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial quota is available for harvesting tilefish by that category for the remainder of the fishing year, from within the Golden Tilefish Management Unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2006 tilefish TAL for the Part-time category has been harvested. Therefore, effective 0001 hrs local time, March 27, 2006, further landings of tilefish harvested from within the Golden Tilefish Management Unit by tilefish vessels holding Part-time category Federal fisheries permits are prohibited through October 31, 2006. The 2007 fishing year for commercial tilefish harvest will open on November 1, 2006. Federally permitted dealers are also advised that, effective March 27, 2006, they may not purchase tilefish from Part-time category federally permitted tilefish vessels who land tilefish harvested from within the Golden Tilefish Management Unit for the remainder of the 2006 fishing year (through October 31, 2006).

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

March 22, 2006.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Services.*

[FR Doc. 06–2927 Filed 3–22–06; 1:07 pm]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 660

**[Docket No. 051014263-6028-03; I.D. 120805A]**

**RIN 0648–AU00**

### Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** On February 17, 2006, a final rule was published in the **Federal Register** implementing revisions to the 2006 commercial and recreational groundfish fishery management measures for groundfish taken in the U.S. (exclusive economic zone) EEZ off the coasts of Washington, Oregon, and California. This final rule contained an error in the amendatory language for instruction 2.

**DATES:** Effective March 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jamie Goen (Northwest Region, NMFS), phone: 206-526-4646; fax: 206–526–6736 and; e-mail: *jamie.goen@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** On February 17, 2006, (71 FR 8489) a final rule was published that implemented revisions to the 2006 commercial and recreational groundfish fishery management measures for groundfish taken in the U.S. EEZ off the coasts of Washington, Oregon, and California. This final rule contained an error in the amendatory language for instruction 2.

**Correction**

In FR Doc. 06-1451, in the issue of Friday, February 17, 2006 (71 FR 8489) beginning on page 8496, in column 3, amendatory instruction 2 and the regulatory text to paragraph (c)(1)(i) introductory text is corrected to read as follows:

■ 2. In § 660.370 paragraph (c)(1)(i) introductory text is revised, and paragraphs (c)(1)(iii), (c)(1)(iv) and (i) are removed to read as follows:

**§ 660.370 Specifications and management measures.**

* * * * *

(c) * * *

(1) * * *

(i) *Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, black rockfish, blue rockfish, splitnose rockfish, chilipepper rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; Pacific cod; spiny dogfish; and "other fish" as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section.

* * * * *

Dated: March 22, 2006.

**James W. Balsiger,**

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

[FR Doc. 06–2929 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 71, No. 58
Monday, March 27, 2006

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Parts 82 and 94

**[Docket No. APHIS–2006–0036]**

### Exotic Newcastle Disease; Quarantine Restrictions

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to make several changes to the exotic Newcastle disease domestic quarantine regulations, including adding an option for the movement of pet birds; adding restrictions on the interstate movement of live ratites out of quarantined areas; harmonizing the domestic and foreign regulations regarding the movement of dressed carcasses of dead birds and dead poultry, including one change to the importation regulations; providing for the use of alternative procedures for treating manure and litter and for composting; and adding an additional surveillance period after the conditions for removing quarantine are met before quarantine is removed. We have concluded that these proposed changes are necessary based on our experiences during the eradication programs for the 2002–2003 outbreaks of exotic Newcastle disease in California, Arizona, Nevada, and Texas. In the event of an exotic Newcastle disease outbreak, these changes would help to ensure that exotic Newcastle disease does not spread from quarantined areas and that exotic Newcastle disease is eradicated within quarantined areas.

**DATES:** We will consider all comments that we receive on or before May 26, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower "Search Regulations and Federal Actions" box, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select APHIS–2006–0036 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the "Advanced Search" function in Regulations.gov.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0036, Regulatory Analysis and Development, PPD, APHIS, Station 3A.03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0036.

*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:* Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Glen Garris, Chief of Staff, Emergency Management, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

**SUPPLEMENTARY INFORMATION:**

## Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in "Subpart A—Exotic Newcastle Disease (END)" (9 CFR 82.1 through 82.16, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. These regulations specify the conditions under which certain articles, including live birds and live poultry, dead birds and dead poultry, manure and litter, eggs other than hatching eggs, hatching eggs, and vehicles and conveyances, may be moved out of areas listed in § 82.3 as quarantined for END.

END is spread primarily through direct contact between healthy birds and poultry and the bodily discharges of infected birds. Due to the high concentrations of END virus in such bodily discharges, the virus can be spread not only by the movement of infected birds but also by the movement of objects or people bearing discharges containing the virus. Therefore, the disease is often spread via such vectors as manure haulers, rendering trucks, feed delivery personnel, poultry buyers, egg service people, and poultry farm owners and employees.

The END virus can survive for several weeks on birds' feathers, manure, and other organic material. It can survive indefinitely in frozen material. However, the destruction of the virus is accelerated by warm and dry environments and by the ultraviolet rays in sunlight.

Between November 21, 2002, and September 16, 2003, areas of the States of California, Arizona, Nevada, New Mexico, and Texas were quarantined due to the presence of END. In order to make better decisions on how to eradicate END from those areas, we completed several risk assessments and epidemiological investigations in the context of our activities under the regulations. The experience we gained during those outbreaks in enforcing the regulations and conducting the risk assessments and epidemiological investigations illustrated the need for changes in the regulations. Therefore, we are proposing to make several changes to the regulations in order to strengthen our regulations and incorporate changes we identified as necessary during those outbreaks. These changes are discussed below by topic.

### *Live Pet Birds*

The regulations in § 82.5 regarding the interstate movement of live birds and live poultry from an area quarantined for END distinguish between the movement of pet birds and other birds and poultry.

Pet birds that are not known to be infected with or exposed to END are allowed to move interstate from an area quarantined for END only if the

following conditions are met, as described in § 82.5(a): They are accompanied by a permit; epidemiological evidence indicates that they are not infected with any communicable disease; the birds show no clinical signs of sickness during the 90 days before movement; the birds have been maintained apart from other birds and poultry in the quarantined area during the 90 days before movement; the birds have been under the ownership and control of the individual to whom the permit is issued for the 90 days before movement and are moved by the individual to whom the permit is issued; the birds are caged during movement; and the individual to whom the permit is issued submits copies of the permit so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds at the destination listed on the permit.

Because pet bird owners typically do not practice biosecurity controls as restrictive as those that are practiced at commercial facilities, the individual to whom the permit is issued is required to maintain ownership and control of the birds and maintain them apart from other birds and poultry from the time they arrive at the place to which the individual is taking them until a Federal or State representative examines the birds and determines that the birds show no clinical signs of END. The regulations provide that the examination must take place no less than 30 days or more after the interstate movement. The individual to whom the permit is issued is also required to allow Federal and State representatives to examine the birds at any time until they are declared free of END and to notify the veterinarian in charge or the State animal health official in the State to which the birds are moved within 24 hours in the event that the birds die or show any clinical signs of END.

During the 2002–2003 outbreaks of END, many owners of pet birds who had been in control of the pet birds for less than 90 days requested that APHIS allow them to move their pet birds out of the quarantined areas. Because these individuals had been in control of their pet birds for less than 90 days, these individuals could not fulfill that requirement of the regulations or verify that during the 90 days before movement the birds had shown no clinical signs of sickness and the birds had been maintained away from other birds and poultry in the quarantined area. However, many of the pet birds in question were not known to be infected with or exposed to END, and no epidemiological evidence indicated that they had been exposed to END or any other communicable disease.

We determined that these birds could be moved safely out of the quarantined area if they were moved directly to a USDA-approved quarantine facility for a 30-day quarantine. If no evidence of disease was found during the quarantine period, the pet birds were allowed to move freely after being released from quarantine. Pet birds moved using this option had to meet all the other requirements of § 82.5, including epidemiological criteria and transit requirements. We are proposing to add this option to the regulations so that owners of pet birds within areas quarantined for END will have additional flexibility.

Under this proposed option, if pet bird owners choose to move their pet birds to a USDA-approved quarantine facility in order to move them out of an area quarantined for END, they would assume the costs of keeping their pet bird in quarantine for the 30-day period. At a USDA quarantine facility, a 30-day quarantine for a pet bird would currently cost $390. USDA-approved quarantine facilities not owned by USDA may set their own fees for holding birds in quarantine.

To accomplish this change, we are proposing to revise § 82.5(a). In the proposed revision, existing paragraph (a)(1) would be moved into paragraph (a)(2), and a new paragraph (a)(1) would set out epidemiological and testing requirements for pet birds. These requirements, except for the requirement that epidemiological evidence must indicate that the birds are not infected with any communicable disease, would differ on the basis of whether the bird has been under the control and ownership of the owner for 90 days. Paragraph (a)(1)(i) would set out the requirements for pet birds that have been under the control and ownership of the owner for 90 days; this paragraph would incorporate the existing § 82.5(a)(3), (a)(4), (a)(5), (a)(8), and (a)(9). If the pet bird could not meet all these requirements, it could only be moved from a quarantined area if it was moved to a USDA-approved quarantine station under § 82.5(a)(1)(ii). (Pet birds that have been under the control and ownership of the owner for 90 days and meet the epidemiological requirements but do not meet one or more of the other requirements in § 82.5(a)(1)(i) would also be eligible to be moved from a quarantined area to a USDA-approved quarantine station under § 82.5(a)(1)(ii), if the owner so chooses.) Paragraph § 82.5(a)(2) would set out movement restrictions that would apply to all pet birds; these proposed restrictions are identical to those currently in § 82.5(a)(6), (a)(7), (a)(10), and (a)(11).

We are also proposing to correct an error in the regulations governing the movement of pet birds. In § 82.5, paragraph (a)(2) currently reads "Epidemiological evidence, as described in § 82.2(a), indicates that the birds are not infected with any communicable disease." However, the epidemiological criteria in § 82.2(a) specifically address infection with END, not communicable diseases in general. Therefore, we are proposing to remove the phrase "as described in § 82.2(a)" from this requirement as it appears in § 82.5(a)(2). (In this revision, § 82.5(a)(2) would be moved to § 82.5(a)(1).)

*Other Live Birds, Including Ratites*

Other birds and poultry not known to be infected with or exposed to END are allowed to be moved interstate from an area quarantined for END only if the following conditions are met, as described in § 82.5(b): They are accompanied by a permit; they are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance; they are moved in a means of conveyance either under official seal or are accompanied by a Federal representative; they are not unloaded until their arrival at their destination listed on the permit, except for emergencies; and the permit is presented upon arrival at the destination and copies of the permit are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival. Birds other than poultry are required to be moved to a site approved by the Administrator. Poultry are required to be moved to a recognized slaughtering establishment and must be slaughtered within 24 hours of arrival at such an establishment; the required permit must be presented to a State or Federal representative upon arrival at such an establishment.

During the outbreak of END in California, we found that there existed some confusion about whether the interstate movement from quarantined areas of birds imported for eventual resale as pet birds should be governed by the regulations for the movement of pet birds or the regulations for the movement of other birds and poultry. As noted previously, the regulations in § 82.5(a) governing the interstate movement of pet birds from a quarantined area are stricter than the regulations for other birds and poultry because pet bird owners typically do not

practice biological security controls as restrictive as those that would be practiced at commercial facilities. Birds imported for eventual resale as pet birds, by contrast, are typically imported from and into biologically secure facilities; therefore, they should be subject to the regulations in § 82.5(b) governing the movement of other birds and poultry from a quarantined area.

To clarify this distinction, we are proposing to change the definition of *pet birds* and add a new definition of *commercial birds* in § 82.1. The proposed definitions are modeled on the definitions of these terms in the regulations governing the importation of birds other than poultry in § 93.100. The new definition of *pet birds* would read: "Birds, except ratites, that are kept for the personal pleasure of their individual owners and are not intended for resale." The new definition of *commercial birds* would read: "Birds that are moved or kept for resale, breeding, public display, or any other purpose, except pet birds." We would also revise the heading of paragraph (b) in § 82.5 to read *"Other birds (including commercial birds) and poultry"* and revise the introductory text of paragraph (b) to explicitly indicate that commercial birds moved interstate must fulfill the requirements in paragraph (b). These proposed revisions are intended to clarify that birds imported for eventual resale as pet birds would be included in the definition of *commercial birds* and thus subject to the regulations in § 82.5(b), rather than the regulations in § 82.5(a).

As noted previously, the regulations require that live poultry moved interstate from an area quarantined for END must be moved to an approved slaughtering establishment and slaughtered within 24 hours of arrival. For the reasons discussed in the following paragraphs, we are proposing to amend the regulations to place the same requirements on ratites moved interstate from a quarantined area.

The term "ratites" encompasses cassowaries, emus, kiwis, ostriches, and rheas. Surveillance of these birds for infection with END is more difficult than surveillance of poultry. Detection of virus shedding in live ratites is unpredictable. Examiners may not always be able to detect END infection by examination or testing of swabs for virus, which are the standard procedures for testing other birds whose movement is regulated by § 82.5(b). Tissue samples can provide additional certainty in diagnosing END; however, while the death loss rates in production flocks of poultry mean that tissue samples are normally available for testing, the death loss rates in flocks of ratites are much lower, meaning that tissue samples of ratites may be unavailable. The relative lack of dead ratites for surveillance purposes also means that tests on tissues of dead ratites are less reliable than tests on tissues of dead poultry. For these reasons, no consensus exists on optimal surveillance techniques for END in live ratites. This means that any determination that ratites to be moved interstate from a quarantined area are not known to be infected with or exposed to END is, at best, uncertain.

In addition, it is often difficult to determine whether ratites have been exposed to END; they are mostly maintained in outdoor pens or in backyard flocks, which are often less biologically secure than the facilities in which commercial flocks of poultry are maintained. Ratites that have been kept in these conditions within a quarantined area may therefore be more likely to have actually been exposed to END than other birds kept under more biologically secure conditions. Finally, ratites typically live in highly concentrated populations, meaning that END could be spread quickly by an infected or exposed ratite moved interstate from a quarantined area.

Slaughtering and disposing of live poultry moved interstate from a quarantined area, as required by § 82.5(b), ensures that END virus is not spread from any poultry that, despite not being known to be infected with or exposed to END, may pose a risk of spreading the END virus during interstate movement. Requiring that ratites be moved to slaughter under the same conditions under which live poultry are required to be moved would ensure that the END virus would not be spread through the movement of ratites from quarantined areas.

Therefore, we are proposing to amend § 82.5(b)(5) to indicate that ratites as well as poultry must be moved directly to slaughter when moved interstate from a quarantined area. In order to accomplish this change, we would also add a definition of the term *ratites* to § 82.1. The definition we would add is identical to the definition of *ratites* found in the regulations governing the importation of birds other than poultry in § 93.100. It reads "Cassowaries, emus, kiwis, ostriches, and rheas."

*Dressed Carcasses of Dead Birds and Dead Poultry*

The regulations in § 82.6(b) regarding interstate movement of dressed carcasses of dead birds and dead poultry from an area quarantined for END allow dressed carcasses from dead birds and dead poultry that are not known to be infected with END to be moved interstate from a quarantined area under the following conditions: The birds or poultry from which the dressed carcasses were derived were slaughtered in a recognized slaughtering establishment; the dressed carcasses are accompanied by a permit; they are moved in a means of conveyance either under official seal or accompanied by a Federal representative; they are not unloaded until their arrival at the destination listed on the permit; they are moved without stopping to the destination listed on the permit; and copies of the permit are submitted so that a copy is received by the State animal health official and the State veterinarian in charge for the State of destination within 72 hours of the arrival at the destination of the dressed carcasses listed on the permit.

In this proposal, we would replace the current restrictions on the interstate movement of dressed carcasses from birds and poultry from an area quarantined for END with new restrictions based on the restrictions on the importation of birds and poultry from foreign regions where END is considered to exist. Those regulations are found in 9 CFR 94.6.

The current restrictions placed on the movement of dressed carcasses in the regulations do not provide a sufficient level of protection against the possible spread of END from the quarantined area through the movement of dressed carcasses of dead birds and dead poultry. One study has demonstrated that the END virus can survive for 134 days in the bone marrow and 98 days in the skin of plucked and eviscerated carcasses stored at 34 to 35 °F (1 to 2 ° C). The virus survived for more than 300 days in the bone marrow and skin of plucked and eviscerated carcasses stored at −4 °F (−20 °C).[1]

Although the regulations currently require that dressed carcasses to be moved out of the quarantined area be derived from birds and poultry not known to be infected with END, this restriction may not be sufficient to ensure that END is not present in the dressed carcasses. Birds and poultry not known to be infected with END may still be infected with the virus, because the criteria used to determine whether a bird is known to be infected with or exposed to END do not require that the birds and poultry actually be physically tested for the virus; for example, birds or poultry suffering from presymptomatic stages of END might

[1] Asplin, F.B. "Observations on the viability of Newcastle disease virus," *The Veterinary Record*, 61:159, 1949.

not be known to be infected but might be infected nonetheless. Indeed, the spread of END in dozens of outbreaks of the disease in the United Kingdom was apparently related to feeding uncooked poultry swill to chickens.[2]

The END virus can be completely destroyed in meat by exposure to high temperatures such as those necessary to fully cook bird and poultry meat. For this reason, the regulations governing the importation of birds and poultry from foreign regions where END is considered to exist require that carcasses or parts or products of carcasses from poultry or other birds imported into the United States from those regions must either be: Packed in hermetically sealed containers and cooked by a commercial method after packing to produce articles that are shelf-stable without refrigeration, or cooked so that they have a thoroughly cooked appearance throughout, as determined by an inspector. (Carcasses of game birds and carcasses intended for importation to museums, educational establishments, or other establishments from regions where END is considered to exist may be imported into the United States under different conditions; these are discussed later in this document.) Section 94.6 also sets out certain requirements for establishments in regions where END is considered to exist that process carcasses or parts or products of carcasses of poultry and other birds for export to the United States. We believe that these requirements for cooking dressed carcasses of dead birds and dead poultry from foreign regions where END is considered to exist and for establishments in those regions that process dead birds and dead poultry, as applied to the equivalent products and establishments in domestic areas quarantined for END, would be more effective at reducing the risk of spreading END into nonquarantined areas due to the movement of dead birds and dead poultry than the previous regulations in § 82.6.

In addition, under the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures, APHIS must apply the same movement restrictions on both foreign and domestic commodities from regions where an animal disease is present, under the principle of national treatment. The regulations on the movement of dressed carcasses from areas in the United States that have been quarantined for END have been less restrictive than the regulations on the movement of dressed carcasses from foreign regions where END is considered to exist. Applying the same restrictions to these commodities allows APHIS to meet its obligations under international trade agreements while reducing the risk that END could spread from a quarantined area through the movement of dressed carcasses.

Therefore, we are proposing to replace the current restrictions on the movement of dressed carcasses from areas within the United States that are quarantined for END with restrictions that are substantively the same as those currently in place to prevent the introduction of END into the United States via bird and poultry carcasses and parts or products of carcasses that originate in regions specified in § 94.6 where END is known to exist. In addition, the regulations governing the importation of birds and poultry from foreign regions where END is considered to exist refer to "carcasses and parts or products of carcasses"; to make our domestic and import regulations consistent, we would change the definition of *dressed carcasses* in § 82.1 to read "Carcasses of birds or poultry that have been eviscerated, with heads and feet removed, or parts or products of such carcasses."

We are proposing to add one provision to § 82.6 that is not found in the regulations in § 94.6. The regulations in § 94.6 prohibit any establishment in a region where END is known to exist that processes dressed carcasses for export to the United States from receiving or handling any live poultry, with no exceptions. In § 82.6, we would allow establishments within an area quarantined for END that process dressed carcasses to receive live poultry as long as there is complete separation between the slaughter portion of the establishment and the portions of the establishment in which further processing takes place. Processing establishments in the United States are constructed on the assumption that non-endemic diseases such as END will not be present; prohibiting these establishments from receiving live poultry, as we prohibit processing establishments in regions outside the United States where END is known to exist from receiving live poultry, would disrupt established business practices. If complete separation between the slaughter portion of the establishment and the portions of the establishment in which further processing takes place can be achieved, we believe dressed carcasses can be processed safely in an establishment within a quarantined area that receives live poultry.

We would not add any provisions to the domestic END regulations to allow for the movement of dead birds and dead poultry out of quarantined areas to museums, educational institutions, or other establishments, as is provided for imported carcasses in § 94.6(b)(2). We believe it is likely that any dead birds and dead poultry that might be required by a museum, educational institution, or other establishment in the United States would be available from a nonquarantined area within the United States.

Finally, we have reviewed paragraph (b)(1) of § 94.6, which addresses the importation into the United States of carcasses of game birds from regions where END is considered to exist. This paragraph has allowed the carcasses of game birds to be imported into the United States as long as they are eviscerated and their heads and feet have been removed. For reasons discussed above, the importation of such carcasses poses a high risk of introducing END into the United States. Accordingly, we are proposing to remove and reserve paragraph § 94.6(b)(1).

We would continue to allow dead birds and dead poultry to be moved interstate from a quarantined area for disposal, as described in § 82.6(a).

*Manure and Litter*

The regulations in § 82.7 regarding the interstate movement of manure and litter from an area quarantined for END allow manure generated by and litter used by birds or poultry not known to be infected with END to be moved interstate from a quarantined area only if the manure or litter is accompanied by a permit with an affidavit stating the location of the poultry or birds that generated the manure or used the litter and the name and address of the flockowner; the manure or litter has been heated throughout to a temperature of 175 °F (79.4 °C) throughout; the manure or litter has been subsequently placed in a container that has never before been used or that has been disinfected, since last being used, in accordance with the regulations in 9 CFR part 71; and copies of the permit are submitted so that a copy is received by the State animal health official and the State veterinarian in charge for the State of destination within 72 hours of the arrival at the destination of the manure and litter listed on the permit.

We are proposing to amend these regulations to allow any other treatment judged by the Administrator to be

[2] Alexander, D.J. "Newcastle disease and other avian paramyxoviruses," *Revue Scientifique et Technique Office International des Epizooties*, 19(2):443–462, 2000.

adequate to prevent the dissemination of END to be used to treat manure generated by and litter used by birds or poultry not known to be infected with END, as an alternative to the heat treatment that has been required by the regulations.

While heating manure or litter to a temperature of 175 °F (79.4 °C) throughout is an effective means of killing the END virus, other treatments may be available within quarantined areas that utilize different means to achieve the same end with the same efficacy. Some composting techniques are also effective at killing the END virus and could be used in place of heat treatment to ensure that manure and litter moved interstate from a quarantined area is not contaminated with the END virus. Occasionally, site-specific treatments may be appropriate. For example, premises not known to be infected with END in counties in California, Arizona, and Nevada that were quarantined as of March 5, 2003, could safely ship manure or litter that had been stored for more than 90 days on the premises; we determined that those commodities had been adequately heated to kill the END virus, based on average daily temperatures in those counties. Providing that other equally effective options can be used as an alternative to the heat treatment specified by the regulations would benefit both producers in quarantined areas, who may be able to use different treatments to comply with quarantine restrictions on the interstate movement of manure and litter at less cost, and quarantine authorities, who could see increased compliance with the quarantine regulations if lower cost options are available.

Therefore, we are proposing to amend the regulations to provide that manure generated by and litter used by birds or poultry not known to be infected with END that is to be moved interstate from a quarantined area may be treated either with the heat treatment described above or with any other treatment approved by the Administrator as being adequate to prevent the dissemination of END. This change would give persons who wish to move manure and litter interstate from quarantined areas more flexibility while continuing to ensure that manure generated by and litter used by birds or poultry not known to be infected with END that is moved interstate is not contaminated with the END virus.

*Manure and Litter From Infected Flocks*

As stated above, the regulations in § 82.7 only allow the movement of manure generated by or litter used by bird or poultry not known to be infected with END. In addition, the regulations in § 82.4, which lists general prohibitions and restrictions on the movement of articles from a quarantined area, specifically prohibit the movement of litter used by or manure generated by birds or poultry, or a flock of birds or poultry, infected with END. However, we have determined that, under certain conditions, compost generated from manure generated by or litter used by END-infected flocks may be safely moved interstate from quarantined areas. Therefore, we are proposing to amend § 82.7 to provide conditions under which such manure and litter may be moved interstate from quarantined areas. Under this proposal, the existing provisions of § 82.7 would be incorporated into a new paragraph (a) and the proposed new provisions would be added as a new paragraph (b). The conditions under which manure and litter from END-infected flocks would be allowed to move interstate from quarantined areas are:

- The manure and litter would have to be accompanied by a permit.
- All birds and poultry would have to be removed from the premises where the manure or litter was held.
- After all birds are removed from the premises where the manure or litter was held, all manure and litter inside and outside the bird or poultry house would have to remain undisturbed for at least 28 days before being moved from the infected premises for composting.
- Composting would have to be done at a site approved by the Administrator and under a protocol approved by the Administrator as being adequate to prevent the dissemination of END. All manure and litter from the infected premises would have to be moved to the composting site at the same time.
- Following the composting process, the composted manure or litter would have to remain undisturbed for an additional 15 days before movement.
- After this 15-day period, all of the composted manure or litter from the infected site would have to be removed at the same time.
- The resulting compost would have to be transported either in a previously unused container or in a container that has been cleaned and disinfected, since last being used, in accordance with 9 CFR part 71.
- The vehicle in which the resulting compost is transported would have to have been cleaned and disinfected, since last being used, in accordance with 9 CFR part 71.
- Copies of the permit accompanying the compost derived from the manure and the litter would have to be submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival of the compost at the destination listed on the permit.

Leaving the composted manure or litter undisturbed during two lengthy periods allows the END virus to die out in the environment; the END virus can only survive without host material for a limited length of time.

This addition would give owners of infected flocks an additional option for disposal of their manure and litter while ensuring that END is not spread to nonquarantined areas via the interstate movement of composted manure and litter from END-infected flocks.

To reflect this change, we would also revise paragraph (a)(2) of § 82.4, which prohibits the interstate movement of litter or manure from an END-infected flock in a quarantined area, to indicate that such litter and manure may be moved interstate from a quarantined area under the conditions described in new § 82.7(b).

*Eggs, Other Than Hatching Eggs*

The regulations in § 82.8 regarding the interstate movement of eggs, other than hatching eggs, from an area quarantined for END allow the interstate movement of eggs, other than hatching eggs, from flocks not known to be infected with END from a quarantined area if the eggs are accompanied by a permit; the eggs have been cleaned and sanitized in accordance with 7 CFR part 59; [3] the eggs are packed either in previously unused flats or in used plastic flats or cases that were cleaned and disinfected, since last being used, in accordance with 9 CFR part 71; the eggs are moved to a facility where they are examined to ensure that they have been cleaned and sanitized; and copies of the permit are submitted so that a copy is received by the State animal health official and the State veterinarian in charge for the State of destination within 72 hours of the arrival of the eggs at the facility.

While these safeguards are essential to ensuring that eggs, other than hatching eggs, from flocks not known to be infected with END can be moved interstate without spreading END from the quarantined area, they do not fully address the risks that may arise at the processing plants that prepare the eggs for eventual sale. Processing plants accepting eggs, other than hatching eggs, under these regulations typically accept eggs from both quarantined areas and

[3] The regulations in 7 CFR part 59 were moved to 9 CFR part 590 in a final rule published in the **Federal Register** on December 31, 1998 (63 FR 72351–72356). We would update the regulations in § 82.8(a)(2) to reflect that change.

nonquarantined areas and, once the eggs have been processed, send them to destinations both within and outside the quarantined area. In addition, some processing plants have facilities in which poultry lay eggs onsite, meaning that eggs, other than hatching eggs, that are contaminated with END and are not properly handled could expose live poultry to the virus. As described previously, END can be transmitted in many ways, and the virus can survive on the surface of eggshells for extended periods. We believe that risks of transmission of END at plants that process eggs, other than hatching eggs, from flocks not known to be infected with END within a quarantined area should be addressed by the regulations.

Therefore, we would revise paragraph (a)(3) to set out the following standards for processing plants:

- Processing plants would have to separate their processing and layer facilities, the incoming and outgoing eggs at the facilities, and any flocks that may reside at the processing plant.
- Adequate controls would have to be in place to ensure that trucks, shipping companies, or other visitors do not expose the processing plant to END.
- Equipment used in the processing plant would have to be cleaned and disinfected in accordance with 9 CFR part 71 at intervals deemed appropriate by the Administrator to ensure that the equipment cannot transmit END to the eggs, other than hatching eggs, being processed.
- The eggs would have to be packed either in previously unused flats or cases or in used plastic flats that were cleaned or disinfected, since last being used, in accordance with 9 CFR part 71. (This provision is the only one currently found in § 82.8 (a)(3) of the regulations.)

Requiring that these standards be met in processing plants would assist quarantine authorities in ensuring that eggs are processed safely while continuing to allow the interstate movement of eggs, other than hatching eggs, from flocks not known to be infected with END.

*Hatching Eggs*

The regulations in § 82.9 regarding the interstate movement of hatching eggs from an area quarantined for END allow the interstate movement of hatching eggs from birds or poultry not known to be infected with or exposed to END from a quarantined area if the eggs are accompanied by a permit; the copies of the permit accompanying the hatching eggs are submitted so that a copy is received by both the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the hatching eggs at their destination facility; the hatching eggs are moved to a premises designated jointly by the veterinarian in charge and the State animal health official from the time of arrival until hatch; and the birds or poultry hatched from the eggs are held at the premises for not less than 30 days after hatch to determine their freedom from END.

We are proposing to add a requirement to the regulations that hatching eggs moved interstate from an area quarantined for END must have been kept in accordance with the conditions set out in §§ 147.22 and 147.25 of the National Poultry Improvement Plan, a voluntary program for producers of poultry whose provisions are enumerated in 9 CFR parts 145 and 147. Section 147.22 prescribes conditions for sanitation in a hatchery; § 147.25 states that fumigation may be used for sanitizing hatching eggs and hatchery equipment or rooms as part of a sanitation program, such as the one in § 147.22. The National Poultry Improvement Plan's standards are developed by Federal and State officials working with industry representatives and are widely accepted among poultry producers. Requiring that these sanitation procedures be followed would provide further protection against transmission of END from the quarantine zone via hatching eggs moved interstate from the quarantine zone.

*Removal of Quarantine*

The regulations in § 82.14 state that an area will be removed from quarantine only when all the following requirements have been met: All birds and poultry exposed to END in the quarantined area have been found to be free of END; all birds and poultry infected with END in the quarantined area have been euthanized; all birds and poultry that have been euthanized and all birds and poultry that died from any cause other than slaughter have been buried in the quarantined area, rendered to ashes by incineration, rendered, or reduced to dust by composting in the quarantined area; all eggs produced by birds or poultry infected with or exposed to END in the quarantined area have been buried, reduced to ashes by incineration, or rendered; all manure generated by or litter used by birds or poultry infected with or exposed to END in the quarantined area has been reduced to ashes by incineration, or has been buried, composted, or spread on a field or turned under; and all vehicles, cages, coops, containers, troughs, and other equipment that have had physical contact with birds infected with or exposed to END, and all premises that have housed birds that have been infected with or exposed to END, are disinfected in accordance with 9 CFR part 71. We are proposing to amend these regulations to indicate that, as an alternative to the composting procedures that has been mandated by the regulations, any treatment judged by the Administrator to be adequate to prevent the dissemination of END may be used to treat the relevant materials.

The procedures for composting that are described in this section are effective at eliminating END virus from birds and poultry and from manure and litter. However, as in the situation described previously under the heading "Manure and Litter," other composting procedures exist that would provide equivalent lethality for the END virus while giving flockowners and Federal and State quarantine officials the option of selecting an effective procedure that may be more adaptable to the flockowners' individual situations. Therefore, we are proposing to amend the detailed descriptions of composting procedures found in the current regulations in paragraphs § 82.14(c)(2) and (e)(2) to indicate that the relevant articles may also be composted according to a procedure approved by the Administrator as being adequate to prevent the dissemination of END. This change would provide flockowners with additional flexibility as they attempt to comply with the requirements to be removed from quarantine.

We would also add a provision to require follow-up surveillance for a length of time determined by the Administrator after the conditions of § 82.14 are met and before a quarantined area is released from quarantine. Specifically, we are proposing to add a new paragraph § 82.14(i) to the end of § 82.14 that would read: "An area will not be released from quarantine until follow-up surveillance over a period of time determined by the Administrator indicates END is not present in the quarantined area."

The conditions in § 82.14 describe what must occur before an area may be released from quarantine, but do not obligate APHIS to release an area from quarantine once those conditions are met. During the 2002–2003 outbreaks of END, we determined that an additional surveillance period was necessary to gather additional data and ensure that areas were not removed from quarantine prematurely, and we anticipate that such a surveillance period would be necessary after the conditions of § 82.14 are met if there are any future outbreaks of END within the United States. (The need for an additional surveillance

period is also recognized in the Terrestrial Animal Health Code of the World Organization for Animal Health, which is recognized by the World Trade Organization as an international standards-setting organization for animal health. The Code states that a country that eradicates END should only be considered free of END 6 months after the last affected animal is slaughtered.[4]) Adding this provision to the regulations would clarify that an additional surveillance period will follow the completion of the conditions in § 82.14 before an area will be released from quarantine.

**Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing several changes to the END domestic quarantine regulations, including adding an option for the movement of pet birds; harmonizing the domestic and foreign regulations regarding the movement of dressed carcasses of dead birds and dead poultry; adding restrictions on the interstate movement of ratites out of quarantined areas; providing for the use of alternative procedures for treating manure and litter and for composting; and adding an additional surveillance period after the conditions for removing quarantine are met before quarantine is removed. We have determined that these changes are necessary based on our experiences during the eradication programs for the recent outbreaks of END in California, Arizona, Nevada, and Texas. These changes would help to ensure that END does not spread from quarantined areas and that END is eradicated within quarantined areas.

Exotic Newcastle disease (END), also known as velogenic viscerotropic Newcastle disease, is a highly contagious and fatal viral disease affecting all species of birds. As it is one of the most infectious and virulent diseases of poultry in the world, END results in many birds dying before demonstrating any clinical signs. In unvaccinated poultry flocks, END has a death rate of close to 100 percent. Moreover, the mortality rates in vaccinated flocks are 10 to 20 percent, clearly showing that vaccination does not guarantee protection against END.

[4] See *http://www.oie.int/eng/normes/mcode/en_chapitre_2.7.13.htm.*

END affects the respiratory, nervous, and digestive systems of birds. After an incubation period of 2 to 15 days, an infected bird may show any of the following signs: Respiratory effects such as sneezing, gasping for air, nasal discharge, and coughing; digestive effects such as greenish, watery diarrhea; upsets in the nervous system such as depression, muscular tremors, drooping wings, twisting of the head and neck, circling, and complete paralysis; drop in egg production; production of thin-shelled eggs; swelling of tissue around eyes and neck; and death. As mentioned before, not all birds demonstrate clinical signs before dying, and some pet birds, such as parrots, may shed the virus for more than a year without showing any of the common clinical signs. The virus is spread primarily through direct contact between healthy birds and the bodily discharges, such as fecal material or nose, mouth, and eye secretions, of infected birds. Not surprisingly, the closer the physical proximity of birds the more rapidly END spreads, clearly posing a significant threat to the commercial poultry industry. END is also effectively spread by means of indirect contact. For instance, virus-bearing material can be picked up on shoes and clothing of laborers in the poultry industry and transported from an infected flock to a healthy one. Considering birds can still shed the disease while not exhibiting signs, the opportunity to spread END by means of indirect contact represents a real hazard.

END was first identified in the United States in 1950 in California. The outbreak was traced to game birds and pheasants imported from Hong Kong. The disease spread to five poultry farms in Contra Costa County, but it was quickly eliminated by destroying infected chickens. In 1971, a major outbreak of END occurred in California commercial poultry and lasted for 2 years. As a result of that outbreak, 1,341 infected flocks were identified, and almost 12 million birds were destroyed. The eradication program cost taxpayers $56 million ($228 million in 2002 dollars), severely disrupted the operations of many producers, and increased the prices of poultry and poultry products to consumers. On October 1, 2002, END was confirmed in backyard poultry in Southern California. The disease spread from backyard poultry to commercial poultry operations in California, backyard poultry in Nevada and Arizona, and poultry in Texas and New Mexico. USDA's APHIS took the lead in END eradication efforts. Immediately a task force of over 1,500 people from APHIS and the California Department of Food and Agriculture combined forces to fight the disease. At last count, almost 4 million birds were destroyed to contain the spread of END.

*Economic Analysis*

The proposed changes to the END regulations would have an effect on all persons and entities handling birds of any type, including farm and commercial operations, backyard flock owners and enthusiasts, and pet bird owners in an END quarantined area wishing to engage in interstate movement. While accurate statistics on farm and commercial operations in the United States are readily available, there is a significant information gap on the backyard flocks and pet bird owners. As such, we have no way of quantifying the true number of persons who would be affected by these changes.

The United States is the world's largest producer of poultry meat and the second-largest egg producer behind China. Preliminary reports for the year 2004 indicate there were a total of 454.1 million chickens, excluding commercial broilers, with a cash value of $1.120 billion. In the year 2003, broiler production, raised for the purpose of meat production, totaled 8.492 billion, with a combined live weight of over 43.9 billion pounds. The value of broiler production for that year was over $15.2 billion. In 2003, the date of the last full report available, there were a total of 87.1 billion eggs produced with a cash value of $5.3 billion.[5] The United States is also the world's largest turkey producer. In 2003, turkey production totaled over 274 million birds with a combined live weight of 7.549 billion pounds and a cash value of over $2.7 billion.[6]

The U.S. poultry industry plays a significant role in international trade. In fact, the United States is the world's largest exporter of both broilers and turkey products. In 2003, broiler exports totaled 4.93 billion pounds, valued at $1.5 billion. Turkey exports for the same year totaled 482 million pounds and were valued at $265 million. In addition, 41 million dozen shell eggs for consumption and 59 million dozen of egg products, on an egg-equivalent

[5] USDA, *Agricultural Statistics 2005*. Washington, DC: National Agricultural Statistics Service, 2005. Estimates cover the 12-month period, December 1 of the previous year through November 30.

[6] USDA, *Agricultural Statistics 2005*. Washington, DC: National Agricultural Statistics Service, 2005. Estimates based on turkeys placed September 1, 2002 through August 31, 2003 and excludes young turkeys lost.

basis, were exported in 2003.[7] When END is present in the United States, it significantly reduces our ability to be competitive in international markets in the trade of poultry and poultry products. By extension, any efforts made to contain and prevent the spread of END throughout the United States would serve to enhance our reputation for providing high-quality products. Thus, the proposed changes would benefit the commercial poultry industry in the event of an outbreak by increasing product marketability, both domestically and internationally.

These proposed changes would also impact the movement of ratites out of a quarantined area. Ratites are a family of flightless birds with small wings and flat breastbones. Most important of the ratite family are ostriches, emus, and rheas. This industry is still in its infancy, so new in fact that ratites have only been under mandatory USDA inspection since April 22, 2002. Ostrich was the first ratite to be raised in the United States. As of February 2003, there were about 1,000 ostrich growers in the United States raising about 100,000 birds. Emu are now raised in at least 43 States by about 10,000 families (3,000) in Texas, with a total emu population of about a million. Rheas are the newest farm-raised ratite, but at over 15,000 birds, the United States has the largest population of farmed rheas. [8]

The ratite family of birds is approximately 95 percent usable for such marketable products as leather, feathers, meat, and oil. Ratite oil is being produced for niche cosmetic markets and the hides are usually set aside for more expensive garments. Ratite meat is a small industry, with only a small amount being sold to some higher scale restaurants and markets. Though the meat is more expensive than beef, pork, chicken and turkey, the future price of ratite meat is projected to decrease as the quantity becomes more widely available. In July 1996, the last available price report, ratites raised for slaughter were valued at $500 to $750 per bird.[9] Based on the populations and number of farms, we can assume that each farm has an average of 100 ostriches or emus. Thus, average ratite farms are bringing in annual sales of $750,000, the limit by which they can be considered small entities. In addition, as the very nature of the ratite industry is in its infancy, we can be safe in assuming the majority of ratite farms are small entities.[10]

Furthermore, it is important to note that regulations will affect backyard poultry not kept for commercial sale and pet owners in the quarantined area, the numbers of which are indeterminate. Although the specific numbers of persons in this category are unknown, we feel safe in determining that the impact of this proposal would not be significant as it only affects those constituents located within a quarantined area for the limited time the quarantine is actually in place. The remainder of this analysis will consider each of the major proposed changes individually and examine the expected benefits and costs.

**Live Pet Birds**

Current regulations, found in § 82.5, prohibit the movement of pet birds out of a quarantined area unless they have been in the owner's control for 90 days. The proposed rule would add a new option to allow pet birds, except those that are imported for eventual resale as pets, that have been in the owner's control for less than 90 days to be moved out of the quarantined area if they enter a 30-day quarantine at a USDA quarantine station outside of the quarantined area and meet all other requirements for movement. There is a user fee of $390 to enter into this 30-day USDA quarantine station. Entering into this quarantine station is voluntary and is meant to increase the flexibility for pet owners who have been in control of their pet birds for less than 90 days. Intuitively, we would expect only those pet owners who place a higher value on protecting and moving their birds out of the quarantine area than the expense of $390 to voluntarily enter the USDA facility. Hence, it is safe to assume the cost of entering the facility would not be significant to those pet owners that decide to do so. While that does pose an expense to pet owners, in light of the benefits of greater flexibility and protection from destruction, it is safe to assume the cost is acceptable for those pet owners that would decide to enter their birds into the USDA facility.

Those birds that are imported for eventual resale as pets, which fall under the added definition of commercial birds, are not bound by the restrictions in § 82.5(a). Current regulations require that commercial birds be imported from and into biologically secure facilities. As such, birds imported for eventual resale as pets have already met the necessary requirements to be determined free of END. The proposed amendment is more of a clarification rather than an actual change in movement requirements. Generally, END regulations governing pet birds are more restrictive than for other birds due to the fact that there are fewer biological security measures in place, and pet birds are thus more vulnerable to contracting and spreading END.

*Other Live Birds, Including Ratites*

Ratites have a tendency to be housed in outdoor pens or backyard flocks, thereby making surveillance of END for these birds more difficult. Also, virus detection techniques that are widely used to detect END were inconclusive when used on ratites. Combined, this creates a situation where infection of ratites in a quarantined area is highly possible and detection is uncertain, thus increasing the risk for widespread END dissemination. Consequently, the proposed rule would amend § 82.5(b)(5) to prohibit interstate movement of ratites from an area quarantined for END unless they are moved to a recognized slaughtering establishment and slaughtered within 24 hours of arrival at that establishment.

Previously, ratites not known to be infected with or exposed to END were allowed to move interstate as long as they were accompanied by a permit. Coupled with the knowledge that epidemiological tests of END were inconclusive in ratites, this created a situation where widespread dissemination of END was highly possible. In situations where ratites were thought to be exposed to END, these flocks were depopulated and the owners were paid indemnities based on current market values. While this regulation change would place restrictions on movement of ratites where there previously were none, we do not believe the economic impacts of this proposed change would be significant. Even though all movement of ratites must be directly to slaughter, considering the many marketable products of ratites such as leather, feathers, meat and oil, slaughtering these birds continues to allow owners the opportunity to market these products. Essentially, the proposed change seeks to increase biological security measures by restricting movement of ratites in a quarantined area. We do not expect that the

[7] USDA, *Poultry and Eggs: Trade*. Washington, DC: Economic Research Service, 2005.

[8] USDA, *FOCUS ON: Ratites (Emu, Ostrich, and Rhea)*. Washington, DC: Food Safety and Inspection Service, February 2003.

[9] J.C. Hermes. "Raising ratites: ostriches, emu, and rheas," *Pacific Northwest Extension Publications 494*, July 1996.

[10] Though there is no specific reference to ratite farming size standards, there is a line item with the NAICS code 112390, "Other Poultry Production," where annual receipts of $750,000 or less satisfies the definition of a small entity. We feel safe in concluding ratite farming would be placed under this grouping. Table of Size Standards based on NAICS 2002. Washington, DC: U.S. Small Business Administration, 2002.

economic impacts to affected producers would be significant. We welcome public comment from ratite owners on what the expected costs of conforming to this change would entail.

*Dressed Carcasses of Dead Birds and Dead Poultry*

We would harmonize § 82.6 with the regulations in § 94.6 under which carcasses, and parts or products of carcasses, of birds and poultry may be imported into the United States from an area where END is considered to exist. The principal effect of this proposed change would be to prohibit any movement of uncooked bird or poultry meat out of a quarantined area. Only meat that has both been packed in hermetically sealed containers and cooked by a commercial method after packing to produce articles that are shelf-stable without refrigeration, or cooked so that it has a thoroughly cooked appearance throughout, would be allowed to move from the quarantined area. Current regulations, which do not require sealing and commercial cooking, do not provide a sufficient level of protection against the spread of END. The cost burdens of these proposed changes would be fairly obvious for those producers in a quarantined area engaged in the interstate movement of dead birds and poultry. Specifically, these costs would include gathering materials to seal the dead birds or poultry; the expense of electricity and/or gas, and perhaps equipment, needed to commercially cook the dead birds or poultry, and the additional labor costs associated with this change. These costs would vary by producer. We do not anticipate that these costs would significantly impact producers, the majority of which are small entities. We welcome public comment on what these costs would entail. The major benefit of this proposed change, outside of increasing safeguards against END, would be to harmonize domestic requirements of movement out of a quarantined area with import requirements from an area where END is known to exist, thereby satisfying the WTO requirement of national treatment.

In addition, all importation of eviscerated game birds from areas where END exists would be prohibited. Current regulations allow importation of eviscerated game birds from these regions even if the birds were infected. The biological security hazards such importation presented are all too clear. There would be no direct costs of complying with this proposed change outside of the loss in economic proceeds from the sale of these birds. For the most part, eviscerated game birds are imported for sale in specialty markets and restaurants. As the proposed rule would only discontinue importation from regions where END exists, it is possible that the price for eviscerated game birds from regions where END does not exist may increase, as the supply on the import market shrinks, but we would not expect this impact to be significant. The overall goal is to eliminate all biological security hazards posed with regard to END. Surely, the costs, as far as can be determined, would be insignificant in comparison to the benefits of eliminating END from domestic flocks.

*Manure and Litter*

Currently, the only way manure and/or litter used by birds and poultry not known to be infected with END can be moved interstate from a quarantined area is by heating throughout to a temperature of not less than 175 °F along with other requirements. This proposed change would eliminate some of the burdens placed on producers, the majority of whom are considered small entities, of moving manure and litter from a quarantined area while still maintaining an effective stance against END. Instead of requiring a heat treatment, APHIS would allow any alternative treatment to be used as long as it is determined by the Administrator of APHIS to be adequate in preventing the dissemination of END. This change would result in a potential decrease in cost, as we assume producers are profit maximizing entities; hence, it is safe to assume any alternative treatment proposed and accepted would be cheaper than the heat treatment previously required. As such, it is hard to quantify the actual cost savings of this proposed change as it would vary based on the alternative chosen.

Also, a procedure would be specified by which composted manure and/or litter from infected premises will be allowed to move outside the quarantined area. Current regulations, as found in § 82.7(a)(2), prohibit movement from a quarantined area of any manure or litter from infected premises. This amendment would be of benefit to small entities by allowing them greater flexibility. Thus, the proposed changes with regard to movement of manure and/or litter would pose no significant economic impact to small entities. Rather, small entities would benefit by having greater flexibility and the opportunity to decrease their present costs by looking into cheaper alternatives to heat treatment.

*Eggs, Other Than Hatching Eggs*

We would add performance standards for processing plants, those facilities that prepare eggs for eventual sale. Current conditions in many of these plants pose a high risk of END dissemination. For example, many of these plants commingle eggs from both quarantine and non-quarantined areas. Another commonplace occurrence is that many of these processing plants have facilities where poultry lay eggs on-site. This situation is particularly high-risk because if the eggs are contaminated with END and not properly handled, the virus could spread to the live on-site poultry. In an effort to increase biological security at these sites, these processing plants would have to meet several standards. They include:

- Physically separating processing and layer facilities, the incoming and outgoing eggs by quarantined and non-quarantined areas, and any flocks that may reside at the processing plant.
- Putting in place adequate controls to ensure processing plants are not exposed to END by any outside sources (*i.e.* those persons higher up in the vertical chain of production).
- Disinfecting equipment in accordance with 9 CFR part 71 at intervals deemed appropriate by the Administrator of APHIS so that there is less of a chance equipment transmits END to the eggs being processed.

Implementing these biological security standards would pose some burdens on processing plants. The actual cost imposed is indeterminable, because that would vary by processing plant. We welcome public comment on what these costs would entail. However, it is of note that the majority of these standards have to do with modifications in the procedures rather than any sort of capital investment. As such, it is not expected processing plants would incur a significant economic burden by conforming to these standards.

*Hatching Eggs*

This portion of the regulation would better harmonize domestic requirements for movement from a quarantined area with import requirements from an area where END is considered to exist. As a result, persons wishing to move hatching eggs out of the quarantined area would have to follow the procedures in the National Poultry Improvement Plan for sanitizing hatching eggs, as found in §§ 147.22 and 147.25. By harmonizing domestic requirements with import requirements, movement of hatching eggs out of quarantined areas would be slightly

more restrictive. However, the effect is not expected to pose a significant economic burden upon affected entities.

*Removal of Quarantine*

Finally, before the quarantine is lifted, birds and poultry that died from any cause other than slaughter, along with accompanying manure and litter generated by these birds and poultry, must be composted. This proposed change would allow the use of any alternative composting treatment that is determined by the Administrator to be adequate to prevent the dissemination of END. This change would be expected to produce cost savings, as we would expect producers to only adopt alternative treatment mechanisms that are cheaper than those currently prescribed. In addition, the proposal would require follow-up surveillance after a quarantined area has fulfilled all requirements to have the quarantine lifted. The time period necessary to conduct this follow-up surveillance would be determined by the Administrator of APHIS. This additional observation period would ensure the quarantine is not lifted prematurely.

*Impact on Small Entities*

The proposed rule intends to ensure any future END outbreaks in the United States are contained to as small an area as possible while allowing emergency authorities the flexibility to choose the methods best suited to meet that goal. Costs of complying with the changes this regulation proposes are relatively minimal and for the most part are not borne by producers. Specifically, there would be a user fee of $390 to enter the 30-day USDA quarantine station for those pet owners in control of their pets for less than 90 days wishing to move their birds interstate. In compliance with harmonizing domestic and import regulations for END, producers located within the quarantined area wishing to engage in interstate movement of dead birds and poultry would have to sustain the costs relating to sealing and commercially cooking the birds. In the case of processing plants, the costs inherent in complying with the proposed changes are not expected to require capital investment; rather, there would be the cost of extra labor and materials required with respect to meeting the proposed standards. Finally, State and/or Federal governments, depending on the type of quarantine, would shoulder the cost of inspection and certification of hatching eggs from a quarantined area. The benefits of the changes in the proposed rule, which would ensure more efficient and effective END containment and eradication efforts, are numerous. In many cases, the actual benefit in monetary terms is impossible to quantify. For example, ratite owners would be given the chance to slaughter and market the leather, feathers, meat and oil of their ratites instead of just receiving an indemnity payment. Alternative treatment procedures of moving manure and litter from a quarantined area would be considered and accepted by APHIS, thus potentially lifting some of the cost burdens previously faced by producers. Most importantly, the changes proposed seek to eliminate all biological security hazards posed with regard to END. The costs of compliance are insignificant in comparison to the benefits of eliminating END from domestic flocks. Therefore, APHIS believes the net benefit of the proposal would be positive.

The Regulatory Flexibility Act requires that agencies consider the economic impact of a regulation on small entities. The Small Business Administration (SBA) has established size criteria using the North American Industry Classification System (NAICS) to determine which economic entities meet the definition of a small firm. A small chicken egg operation (NAICS code 112310) is one having $11.5 million or less in annual receipts. All other poultry products and meat operations are small if they have $750,000 or less in annual receipts.

The last agricultural census estimated there were 83,381 domestic poultry and poultry products farms. Unfortunately, concrete information on the size distribution is unknown, but the census does indicate that only 29,393 of those poultry operations have annual sales of $50,000 or more.[11] Also, as was mentioned on the outset, the ratite farming industry is in its infancy. Therefore, it would be safe to assume that the majority of poultry operations in the United States are classified as small entities. While we acknowledge that these small entities would incur some costs of compliance, we do not believe these costs would be significant. Further, it is vital to remember that the proposed changes would only affect those small poultry operations located within an area quarantined as respects END, only for as long as the quarantine is in place.

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

[11] USDA, *2002 Census of Agriculture, Table 56.* Washington, DC: National Agricultural Statistics Service.

**Executive Order 12372**

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

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

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

**Lists of Subjects**

*9 CFR Part 82*

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

*9 CFR Part 94*

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR parts 82 and 94 as follows:

## PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS

1. The authority citation for part 82 would continue to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

2. Section 82.1 would be amended as follows:

a. By removing the definition of *pet bird.*

b. By adding, in alphabetical order, definitions of *commercial birds, pet birds, and ratites* to read as set forth below.

c. By revising the definition of *dressed carcasses* to read as set forth below.

**§ 82.1 Definitions.**

* * * * *

*Commercial birds.* Birds that are moved or kept for resale, breeding,

public display, or any other purpose, except pet birds.

*Dressed carcasses.* Carcasses of birds or poultry that have been eviscerated, with heads and feet removed, or parts or products of such carcasses.

* * * * *

*Pet birds.* Birds, except ratites, that are kept for the personal pleasure of their individual owners and are not intended for resale.

* * * * *

*Ratites.* Cassowaries, emus, kiwis, ostriches, and rheas.

* * * * *

**§ 82.4 [Amended]**

3. In §82.4, paragraph (a)(2) would be amended by adding the words ", except as provided in § 82.7(b)" after the word "END".

4. Section 82.5 would be amended as follows:

a. By revising paragraph (a) and the introductory text of paragraph (b) to read as set forth below.

b. In paragraph (b)(5), by adding the words "or ratites" after the word "poultry" each time it occurs.

**§ 82.5 Interstate movement of live birds and live poultry from a quarantined area.**

(a) *Pet birds.* An individual may move his or her pet birds interstate from a quarantined area only if the birds are not known to be infected with or exposed to END and the following requirements are fulfilled:

(1) *Epidemiological and testing requirements.* For all pet birds moved interstate, epidemiological evidence must indicate that the birds are not infected with any communicable disease.

(i) *Pet birds that have been under the control and ownership of the owner for at least 90 days.* Pet birds that have been under the ownership and control of the individual to whom the permit is issued for the 90 days before interstate movement, show no clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite) during the 90 days before interstate movement, and have been maintained apart from other birds and poultry in the quarantined area during the 90 days before interstate movement may be moved to a location outside the quarantined area for subsequent examination. The individual to whom the permit is issued must maintain ownership and control of the birds and maintain them apart from other birds and poultry from the time they arrive at the place to which the individual is taking them until a Federal representative or State representative[3] examines the birds and determines that the birds show no clinical signs of END. The examination will not be less than 30 days after the interstate movement. The individual to whom the permit is issued must allow Federal representatives and State representatives to examine the birds at any time until they are declared free of END by either a Federal veterinarian or a State veterinarian.

(ii) *All other pet birds.* Pet birds that do not meet the criteria in paragraph (a)(2)(i) of this section may only be moved to a USDA-approved quarantine facility outside the quarantined area for a 30-day quarantine before being released. The individual to whom the permit is issued must maintain ownership and control of the birds and maintain them isolated from other birds or poultry until the time they arrive at the USDA-approved quarantine facility. The pet bird owner is responsible for all costs associated for keeping his or her pet birds at the USDA-approved quarantine facility for the 30-day quarantine period.

(2) *Movement restrictions.* All pet birds must be moved interstate from a quarantined area under the following conditions:

(i) The birds are accompanied by a permit obtained in accordance with § 82.11.

(ii) The birds are moved interstate by the individual to whom the permit is issued.

(iii) The birds are caged while being moved interstate.

(iv) Within 24 hours of a bird's dying or showing clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite), the individual to whom the permit is issued notifies the veterinarian in charge or the State animal health official[4] in the State to which the birds are moved.

(v) The individual to whom the permit is issued submits copies of the permit so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds at the destination listed on the permit.

[3] The location of Federal representatives and State representatives may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737–1231.

[4] The location of the veterinarian in charge or the State animal health official may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 41, Riverdale, MD 20737–1231, or by referring to the local telephone book.

(b) *Other birds (including commercial birds) and poultry.* Except as provided for pet birds in paragraph (a) of this section, a person may move live birds (including commercial birds) and live poultry that are not known to be infected with or exposed to END interstate from a quarantined area only if:

* * * * *

5. In § 82.6, paragraph (b) would be revised to read as follows.

**§ 82.6 Interstate movement of dead birds and dead poultry from a quarantined area.**

* * * * *

(b) Dressed carcasses from birds and poultry that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dressed carcasses are from birds or poultry that were slaughtered in a recognized slaughtering establishment;[5]

(2) The dressed carcasses have been processed in one of the following ways:

(i) They are packed in hermetically sealed containers and cooked by a commercial method after such packing to produce articles which are shelf stable without refrigeration; or

(ii) They have been thoroughly cooked and have a thoroughly cooked appearance throughout;

(3) If the dressed carcasses are from poultry, the processing establishment that treats the dressed carcasses in accordance with paragraph (b)(2) of this section employs the following safeguards:

(i) If receiving or handling any live poultry, there must be complete separation between the slaughter portion of the establishment and the portions of the establishment in which further processing takes place;

(ii) If the plant processes dressed carcasses from both quarantined and nonquarantined areas, all areas, utensils, and equipment likely to contact the poultry carcasses to be processed, including skimming, deboning, cutting, and packing areas, are cleaned and disinfected in accordance with part 71 of this chapter between the processing of dressed poultry carcasses from the quarantined area and the processing of dressed poultry carcasses from nonquarantined areas;

(iii) The dressed carcasses are stored in a manner that ensures that no cross-contamination with potentially infectious materials, such as raw or unprocessed products, occurs;

[5] See footnote 5 to § 82.5.

(4) The dressed carcasses are accompanied by a permit obtained in accordance with § 82.11;

(5) The dressed carcasses are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(6) The dressed carcasses are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(4) of this section;

(7) The dressed carcasses are moved, without stopping, to the destination listed on the permit required by paragraph (b)(4) of this section, except for normal traffic conditions, such as traffic lights and stop signs; and

(8) Copies of the permit accompanying the dressed carcasses are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dressed carcasses at the destination listed on the permit required by paragraph (b)(4) of this section.

* * * * *

6. Section 82.7 would be amended as follows:

a. By redesignating paragraphs (a), (b), (c), and (d) as paragraphs (a)(1), (a)(2), (a)(3), and (a)(4), respectively, and designating the introductory text of the section as paragraph (a).

b. In newly redesignated paragraph (a)(2), by adding the words "or subjected to any other treatment approved by the Administrator as being adequate to prevent the dissemination of END" after the words "not less than 175 °F (79.4 °C).

c. By adding a new paragraph (b) to read as set forth below.

**§ 82.7 Interstate movement of manure and litter from a quarantined area.**

* * * * *

(b) Compost derived from manure generated by and litter used by birds or poultry known to be infected with END may be moved interstate from a quarantined area only if:

(1) The manure and litter is accompanied by a permit obtained in accordance with § 82.11;

(2) All birds and poultry have been removed from the premises where the manure or litter is held;

(3) After all birds are removed from the premises where the manure or litter is held, all manure and litter inside and outside the bird or poultry house remains undisturbed for at least 28 days before being moved from the infected premises for composting;

(4) Composting is done at a site approved by the Administrator and under a protocol approved by the Administrator as being adequate to prevent the dissemination of END. All manure and litter from the infected premises must be moved to the composting site at the same time;

(5) Following the composting process, the composted manure or litter remains undisturbed for an additional 15 days before movement;

(6) After this 15-day period, all of the composted manure or litter from the infected site is removed at the same time;

(7) The resulting compost must be transported in either in a previously unused container or in a container that has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(8) The vehicle in which the resulting compost is to be transported has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter; and

(9) Copies of the permit accompanying the compost derived from the manure and the litter are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival of the compost at the destination listed on the permit.

7. Section 82.8 would be amended as follows:

a. In paragraph (a)(2), by removing the citation "7 CFR part 59" and adding the citation "9 CFR part 590" in its place.

b. By revising paragraph (a)(3) to read as set forth below.

**§ 82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.**

(a) * * *

(3) The establishment that processes the eggs, other than hatching eggs, for sale establishes procedures adequate to ensure that the eggs are free of END, including:

(i) The establishment separates processing and layer facilities, the incoming and outgoing eggs at the establishment, and any flocks that may reside at the establishment;

(ii) The establishment implements controls to ensure that trucks, shipping companies, or other visitors do not expose the processing plant to END;

(iii) Equipment used in the establishment is cleaned and disinfected in accordance with part 71 of this chapter at intervals determined by the Administrator to ensure that the equipment cannot transmit END to the eggs, other than hatching eggs, being processed; and

(iv) The eggs are packed either in previously unused flats or cases or in used plastic flats that were cleaned or disinfected, since last being used, in accordance with part 71 of this chapter;

* * * * *

8. Section 82.9 would be amended as follows:

a. In paragraph (b), by removing the word "and" at the end of the paragraph.

b. By redesignating paragraph (c) as paragraph (d).

c. By adding a new paragraph (c) to read as set forth below.

**§ 82.9 Interstate movement of hatching eggs from a quarantined area.**

* * * * *

(c) The hatching eggs have been kept in accordance with the sanitation practices specified in § 147.22 and § 147.25 of the National Poultry Improvement Plan; and

* * * * *

9. Section 82.14 would be amended as follows:

a. In paragraph (c)(2), in the introductory text, by revising the second sentence to read as set forth below.

b. In paragraph (e)(2), by removing the first sentence and by adding two new sentences in its place to read as set forth below.

c. By adding a new paragraph (i) to read as set forth below.

**§ 82.14 Removal of quarantine.**

* * * * *

(c) * * *

(2) * * * The birds and poultry must be composted according to the following instructions or according to another procedure approved by the Administrator as being adequate to prevent the dissemination of END:

* * * * *

(e) * * *

(2) *Composting.* If the manure and litter is composted, the manure and litter must be composted in the quarantined area. The manure and litter must be composted according to the following method, or according to another procedure approved by the Administrator as being adequate to prevent the dissemination of END: Place the manure and litter in rows 3 to 5 feet high and 5 to 10 feet at the base. * * *

* * * * *

(i) After the other conditions of this section are fulfilled, an area will not be released from quarantine until followup surveillance over a period of time determined by the Administrator indicates END is not present in the quarantined area.

* * * * *

## PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

10. The authority citation for part 94 would continue to read as follows:

**Authority:** 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

**§ 94.6 [Amended]**

11. In § 94.6, paragraph (b)(1) would be removed and reserved.

Done in Washington, DC, this 20th day of March 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 06–2864 Filed 3–24–06; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### 10 CFR Part 430 and 431

**[Docket No. EE–2006–STD–0127]**

**RIN 1904–AB49**

## Energy Conservation Standards for Residential Electric and Gas Ranges and Microwave Ovens, Dishwashers, Dehumidifiers, and Commercial Clothes Washers: Public Meeting and Availability of the Framework Document

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

**ACTION:** Notice of public meeting and availability of the Framework Document.

**SUMMARY:** The Department of Energy (DOE or Department) will hold an informal public meeting to discuss and receive comments on issues it will address in this rulemaking proceeding. The Department is also initiating the data collection process for establishing energy conservation standards for residential electric and gas ranges and ovens and microwave ovens, dishwashers, dehumidifiers, and commercial clothes washers. The Department also encourages written comments on these subjects. In addition, this effort is the result of the Energy Policy Act of 2005 (EPACT 2005) directive to publish a final rule to determine whether the standards established by EPACT 2005 should be amended no later than October 1, 2009, for dehumidifiers, and no later than January 1, 2010, for commercial clothes washers. To inform stakeholders and facilitate this process, DOE has prepared a Framework Document, a draft of which is available at: *http://www.eere.energy.gov/buildings/appliance_standards/.*

**DATES:** The Department will hold a public meeting on Thursday, April 27, 2006, from 9 a.m. to 5 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit a request to speak before 4 p.m, Thursday, April 13, 2006. The Department must receive a signed original and an electronic copy of statements to be given at the public meeting before 4 p.m., Thursday, April 13, 2006. Written comments are welcome, especially following the public meeting, and should be submitted by Thursday, May 11, 2006.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room GE–086 (Large Auditorium), 1000 Independence Avenue, SW., Washington, DC 20585–0121. (Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the workshop, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards-Jones at (202) 586–2945 so that the necessary procedures can be completed.)

Stakeholders may submit comments, identified by docket number EE–2006–STD–0127 and/or RIN number 1904–AB49, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *home_appliance.rulemaking@ee.doe.gov.* Include EE–2006–STD–0127 and/or RIN 1904–AB49 in the subject line of the message.
- Mail: Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Framework Document for Home Appliance Products, EE–2006–STD–0127 and/or RIN 1904–AB49, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed paper original.
- Hand Delivery/Courier: Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Room 1J–018, 1000 Independence Avenue, SW., Washington, DC 20585–0121.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking.

*Docket:* For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC 20585–0121, (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 that 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:** Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–0371. E-mail: *bryan.berringer@ee.doe.gov.* Thomas DePriest, U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9507. E-mail: *Thomas.DePriest@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** Part B of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), 42 U.S.C. 6291 *et seq.*, established an energy conservation program for major household appliances, which includes residential electric and gas ranges and ovens and microwave ovens, and dishwashers. This program authorizes the Department to establish technologically feasible, economically justified energy-efficiency regulations for certain consumer products for which such regulations would incur substantial national energy saving, and for which both natural market forces and voluntary labeling programs have been and/or are expected to be ineffective in promoting energy efficiency. The National Energy Conservation Policy Act of 1978 (NECPA) amended EPCA to add Part C of Title III, 42 U.S.C. 6311 *et seq.*, which established an energy-conservation program for certain industrial equipment. Amendments to EPCA in

the Energy Conservation Act of 1987 (NAECA) established prescriptive energy conservation standards for dishwashers and cooking products, as well as requirements for determining whether these standards should be amended. (42 U.S.C. 6295(g) and (h)) The Energy Policy Act of 1992 (EPACT 1992), Public Law 102–486, included amendments to EPCA that expanded Title III to include certain commercial equipment. The recent Energy Policy Act of 2005 (EPACT 2005), Public Law 109–58, updated several existing standards and test procedures, prescribed definitions, standards, and test procedures for certain new consumer products and commercial equipment, and mandated that the Secretary of Energy (the Secretary) commence rulemakings to develop test procedures and standards for certain other new consumer products and commercial equipment, including dehumidifiers and commercial clothes washers.

The prescriptive standards for dishwashers in EPCA, as amended, require that they be equipped with an option to dry without heat, and EPCA further requires that DOE conduct two cycles of rulemakings to determine if more stringent standards are justified. (42 U.S.C. 6295(g)(1), (4)) On May 14, 1991, DOE issued a final rule establishing the first set of performance standards for dishwashers; the new standards became effective on May 14, 1994. 56 FR 22250. The Department initiated a second standards rulemaking for dishwashers by issuing an advance notice of proposed rulemaking (ANOPR) on November 14, 1994. 59 FR 56423. As a result of the priority-setting process outlined in the July 15, 1996, Procedures for Consideration of New or Revised Energy Conservation Standards for Consumer Products (the "Process Rule"), 61 FR 36974, 10 CFR part 430, Subpart C, Appendix A, DOE suspended the standards rulemaking for dishwashers.

The prescriptive standards for gas cooking products in EPCA, as amended, require units with an electrical supply cord not to be equipped with constant burning pilots. EPCA, as amended, also directs DOE to conduct two cycles of rulemakings to determine if more stringent standards are justified. (42 U.S.C. 6295(h)) The Department initially analyzed standards for cooking products as part of an eight-product standards rulemaking. It issued a notice of proposed rulemaking (NOPR) on March 4, 1994, proposing performance standards for gas and electric residential cooking products, including microwave ovens. 59 FR 10464. In accordance with the 1996 Process Rule, DOE refined its standards analysis of cooking products. With regard to gas cooking products, DOE focused on the economic justification for eliminating standing pilots. Partially due to the difficulty of conclusively demonstrating that elimination of standing pilots was economically justified, DOE issued a final rule on September 8, 1998, that covered only electric cooking products, including microwave ovens. 63 FR 48038. The final rule found that no standards were feasible for electric cooking products. The Department never completed its standards rulemaking for gas cooking products.

Commercial clothes washers and dehumidifiers are new products covered by the EPACT 2005 legislation. Commercial clothes washers are defined in EPACT 2005 as soft-mount, front-loading or soft-mount, top-loading washers that have a clothes container compartment that is not more than 3.5 cubic feet for horizontal-axis clothes washers and not more than 4.0 cubic feet for vertical-axis clothes washers. (EPACT 2005, section 136(a)(4)) EPACT 2005 also defines commercial clothes washers as products designed for applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas, coin laundries, or other commercial applications. (*Id.*) EPACT 2005 established standards for commercial clothes washers, which will become effective on January 1, 2007. (EPACT 2005, section 136(e)) EPACT 2005 also requires that DOE issue a final rule by January 1, 2010, to determine whether these standards should be amended. (*Id.*)

In EPACT 2005, dehumidifiers are defined as self-contained, electrically operated, and mechanically encased assemblies consisting of: (1) A refrigerated surface (evaporator) that condenses moisture from the atmosphere; (2) a refrigerating system, including an electric motor; (3) an air-circulating fan; and (4) a means for collecting or disposing of the condensate. (EPACT 2005, section 135(a)(3)) EPACT 2005 established standards for dehumidifiers that will become effective on October 1, 2007. (Section 135(c)(4)) EPACT 2005 also requires that DOE issue a final rule by October 1, 2009, to determine whether these standards should be amended. (*Id.*) If amended standards are justified, EPACT 2005 requires them to become effective by October 1, 2012. (*Id.*) In the event that DOE fails to publish a final rule, EPACT 2005 specifies a new set of amended standards with an effective date of October 1, 2012. (*Id.*)

To begin the required rulemaking process, the Department prepared the Framework Document to explain the issues, analyses, and process it is considering for the development of energy efficiency standards for residential electric and gas ranges and ovens and microwave ovens, dishwashers, dehumidifiers, and commercial clothes washers. The focus of the public meeting will be to discuss the analyses and issues contained in various sections of the Framework Document. For each item listed, the Department will make a presentation with discussion to follow. In addition, the Department will also make a brief presentation on the rulemaking process for these products. The Department encourages those who wish to participate in the public meeting to obtain the Framework Document and be prepared to discuss its contents. A copy of the draft Framework Document is available at: *http://www.eere.energy.gov/buildings/appliance_standards/*. However, public meeting participants need not limit their discussions to the topics in the Framework Document. The Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products. The Department also welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by Thursday, May 11, 2006, comments and information on the matters addressed in the Framework Document and on other matters relevant to consideration of standards for residential electric and gas ranges and ovens and microwave ovens, dishwashers, dehumidifiers, and commercial clothes washers.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by the U.S. antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, the Department will begin collecting data, conducting the analyses as discussed at the public meeting, and reviewing the comments received.

Anyone who would like to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information regarding residential electric and gas ranges and ovens and microwave ovens, dishwashers, dehumidifiers, and commercial clothes

washers, should contact Ms. Brenda Edwards-Jones at (202) 586–2945.

Issued in Washington, DC, on March 21, 2006.

**Douglas L. Faulkner,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E6–4390 Filed 3–24–06; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2006–24018; Directorate Identifier 2006–CE–15–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Pacific Aerospace Corporation Ltd. Model 750XL Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Pacific Aerospace Corporation Ltd. Model 750XL airplanes. This proposed AD would require you to inspect the condition of the insulation of the wiring adjacent to the electrical plugs mounted in the left-hand (LH) and right-hand (RH) sides of the forward end of the cockpit center console for signs of abrasion and arcing. If you find evidence of abrasion or arcing, this proposed AD would require you to replace the affected wire(s) and secure the wires away from the back shells of the electrical plugs. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for New Zealand. We are proposing this AD to detect and correct damaged wires on the LH and RH sides of the forward end of the cockpit center console, which could result in short-circuiting of the related wiring. This could lead to electrical failure of affected systems and potential fire in the cockpit.

**DATES:** We must receive comments on this proposed AD by April 24, 2006.

**ADDRESSES:** Use one of the following addresses to comment on this proposed AD:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Pacific Aerospace Corporation Ltd., Hamilton Airport, Private Bag HN 3027, Hamilton, New Zealand; telephone: 011 (64) 7–843–6144; fax: 011 (64) 7–843–6134.

**FOR FURTHER INFORMATION CONTACT:** Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed airworthiness directive (AD). Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, "FAA–2006–24018; Directorate Identifier 2006–CE–15–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

### Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for New Zealand, notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on certain Pacific Aerospace Corporation Ltd. (Pacific Aerospace) Model 750XL airplanes. The CAA reports an incident in which short-circuiting of the wiring in the cockpit center console occurred.

Abrasion of the wiring insulation caused by the fasteners of the electrical plug back-shells located in the cockpit center console resulted in the short-circuit.

This condition, if not corrected, could result in short-circuiting of the related wiring in the forward end of the cockpit center console. This could lead to electrical failure of affected systems and potential fire in the cockpit.

### Relevant Service Information

We have reviewed Pacific Aerospace Corporation Mandatory Service Bulletin No. PACSB/XL/016, Issue 1, Date Issued: September 23, 2005.

The service information describes procedures for:

- Inspecting the condition of the insulation of the wiring adjacent to the electrical plugs mounted in the left-hand (LH) and (RH) right-hand sides of the forward end of the cockpit center console for signs of abrasion and arcing;
- Replacing the affected wire(s) if any evidence of abrasion or arcing is found; and
- Securing the wires away from the back shells of the electrical plugs.

### Foreign Airworthiness Authority Information

The CAA classified this service bulletin as mandatory and issued New Zealand AD Number DCA/750XL/6, Effective Date: December 1, 2005, to ensure the continued airworthiness of these airplanes in New Zealand.

These Pacific Aerospace Model 750XL airplanes are manufactured in New Zealand and are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the CAA has kept us informed of the situation described above.

### FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we have examined the CAA's findings, evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design that are certificated for operation in the United States.

This proposed AD would require you to inspect the condition of the insulation of the wiring adjacent to the electrical plugs mounted in the LH and RH sides of the forward end of the cockpit center console for signs of abrasion and arcing. If any evidence of abrasion or arcing is found, this proposed AD would require you to replace the affected wire(s) and secure the wires away from the back shells of the electrical plugs.

**Costs of Compliance**

We estimate that this proposed AD would affect 5 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection:

| Labor cost | Parts cost | Total cost per airplane | Total cost on U.S. operators |
|---|---|---|---|
| 4 work hours × $80 per hour = $320 | Not applicable | $320 | $320 × 5 = $1,600 |

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

| Labor cost | Parts cost | Total cost per airplane |
|---|---|---|
| 28 work hours × $80 per hour = $2,240 | $200 | $2,440 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

**Examining the AD Docket**

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**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 AD:

**Pacific Aerospace Corporation Ltd.:** Docket No. FAA–2006–24018; Directorate Identifier 2006–CE–15–AD.

**Comments Due Date**

(a) We must receive comments on this airworthiness directive (AD) action by April 24, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD affects Model 750XL airplanes, serial numbers 110 through 120, that are certificated in any category.

**Unsafe Condition**

(d) This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for New Zealand. We are issuing this AD to detect and correct damaged wires on the left-hand (LH) and right-hand (RH) sides of the forward end of the cockpit center console, which could result in short-circuiting of the related wiring. This condition could lead to electrical failure of affected systems and potential fire in the cockpit.

**Compliance**

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

| Actions | Compliance | Procedures |
|---|---|---|
| (1) Inspect the condition of the insulation of the wiring adjacent to the electrical plugs mounted in the LH and RH sides of the forward end of the cockpit center console for signs of abrasion and arcing. | Within the next 50 hours time-in-service (TIS) after the effective date of this AD. | Follow Pacific Aerospace Corporation Mandatory Service Bulletin No. PACSB / XL / 016, Issue 1, Date Issued: September 23, 2005. |

| Actions | Compliance | Procedures |
|---|---|---|
| (2) If you find any evidence of abrasion or arcing, replace the affected wire(s) and secure the wires away from the back shells of the electrical plugs. | Before further flight after the inspection required in paragraph (e)(1) of this AD. | Follow Pacific Aerospace Corporation Mandatory Service Bulletin No. PACSB / XL / 016, Issue 1, Date Issued: September 23, 2005. |
| (3) If you do not find any evidence of abrasion or arcing, secure the wires away from the back shells of the electrical plugs. | Before further flight after the inspection required in paragraph (e)(1) of this AD. | Follow Pacific Aerospace Corporation Mandatory Service Bulletin No. PACSB / XL / 016, Issue 1, Date Issued: September 23, 2005. |

**Alternative Methods of Compliance (AMOCs)**

(f) The Manager, Standards Office, Small Airplane Directorate, Federal Aviation Administration (FAA), ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

**Related Information**

(g) New Zealand AD No. DCA/750XL/6, Effective Date: December 1, 2005, also addresses the subject of this AD. To get copies of the documents referenced in this AD, contact Pacific Aerospace Corporation Ltd., Hamilton Airport, Private Bag HN 3027, Hamilton, New Zealand; telephone: 011 (64) 7–843–6144; facsimile: 011 (64) 7–843–6134. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov*. The docket number is Docket No. FAA–2006–24018; Directorate Identifier 2006–CE–15–AD.

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

**Kim Smith,**

*Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4386 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–22146; Directorate Identifier 2002–NM–184–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model DHC–7 Airplanes

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to all Bombardier Model DHC–7 airplanes. The original NPRM would have required implementing a corrosion prevention and control program (CPCP) either by accomplishing specific tasks or by revising the maintenance inspection program to include a CPCP. The original NPRM resulted from a determination that, as airplanes age, they are more likely to exhibit indications of corrosion. This action revises the original NPRM by clarifying certain compliance aspects of the proposed AD that were not adequately defined in the original NPRM. We are proposing this supplemental NPRM to prevent structural failure of the airplane due to corrosion.

**DATES:** We must receive comments on this supplemental NPRM by April 21, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this supplemental NPRM.

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

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

**FOR FURTHER INFORMATION CONTACT:** Jon Hjelm, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7323; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2005–22146; Directorate Identifier 2002–NM–184–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

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

**Examining the Docket**

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

**Discussion**

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the "original NPRM"). The original NPRM applies to all Bombardier Model DHC–7 series

airplanes. The original NPRM was published in the **Federal Register** on August 22, 2005 (70 FR 48908). The original NPRM proposed to require implementing a corrosion prevention and control program (CPCP) either by accomplishing specific tasks or by revising the maintenance inspection program to include a CPCP.

**Actions Since Issuance of the Original NPRM**

Since the original NPRM was issued, we have determined that we did not properly define certain compliance aspects of the proposed AD. Specifically, we have determined that it is necessary to clarify the following:

- The FAA, not Transport Canada Civil Aviation (TCCA), may approve the incorporation of the CPCP into the U.S. operator's approved maintenance/inspection program.
- The term "the FAA" is defined differently for different operators.
- We may approve an alternative method of recordkeeping for the actions that would be required by the proposed AD.
- We may approve extension of the repetitive intervals for the actions that would be required by the proposed.AD.
- If Level 3 corrosion is found, we may impose a schedule for inspecting other affected airplanes in an operator's fleet to ensure timely detection of any Level 3 corrosion and require the operator to adhere to that schedule.
- If corrosion findings exceed Level 1 in any area, operators must implement a means approved by the FAA to reduce future findings of corrosion in that area to Level 1 or better.
- If an airplane is transferred from one operator to another, the new operator must establish an acceptable schedule for accomplishing the actions that would be required by the proposed AD.

**Explanation of Change to Applicability**

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

**Clarification of Alternative Method of Compliance (AMOC) Paragraph**

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

**FAA's Determination and Proposed Requirements of the Supplemental NPRM**

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

**Costs of Compliance**

This supplemental NPRM would affect about 26 airplanes of U.S. registry. The 148 specific inspections specified in the Manual would take about 48 work hours per airplane, per inspection cycle, 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 $81,120, or $3,120 per airplane, per inspection cycle.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Bombardier, Inc. (Formerly de Havilland, Inc.):** Docket No. FAA–2005–22146; Directorate Identifier 2002–NM–184–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 21, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Bombardier Model DHC–7–1, DHC–7–100, DHC–7–101, DHC–7–102, and DHC–7–103 airplanes, certificated in any category.

**Unsafe Condition**

(d) This AD results from a determination that, as airplanes age, they are more likely to exhibit indications of corrosion. We are issuing this AD to prevent structural failure of the airplane due to corrosion.

**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.

**Manual References**

(f) The term "the Manual," as used in this AD, means the de Havilland Inc. Corrosion Prevention and Control Manual, DHC–7 (Dash 7), Product Support Manual (PSM) 1–7–5, dated May 13, 1997.

**Approval of Information Collection Requirements**

(g) Information collection requirements in paragraphs (l) and (m) of this AD are approved by the Office of Management and Budget (OMB) under the provisions of the

Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and are assigned OMB Control Number 2120–0056.

**Initial Inspections**

(h) Within 12 months after the effective date of this AD, perform each of the Corrosion Tasks, including re-protection actions, as applicable, specified in Part 3 of the Manual by accomplishing the basic tasks defined in Parts 2 and 3 of the Manual, in accordance with the procedures of the Manual.

**Repetitive Inspections**

(i) Except as provided by paragraph (j) of this AD, repeat each of the Corrosion Tasks, and re-protection actions, as applicable, specified in Part 3 of the Manual at intervals not to exceed 3 or 6 years, as specified in Part 3 of the Manual.

(j) After accomplishment of each initial Corrosion Task required by paragraph (h) of this AD, the FAA may approve the incorporation into the operator's approved maintenance/inspection program of the Corrosion Prevention and Control Program (CPCP) specified in the Manual and this AD; or an equivalent program that is approved by the FAA. In all cases, the initial Corrosion Task for each airplane area must be completed at the compliance time specified in paragraph (h) of this AD.

(1) Any operator complying with paragraph (j) of this AD may use an alternative recordkeeping method to that otherwise required by Section 91.417 ("Maintenance records") or Section 121.380 ("Maintenance recording requirements") of the Federal Aviation Regulations (14 CFR 91.417 or 14 CFR 121.380, respectively) for the actions required by this AD, provided that the recordkeeping method is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program. For the purposes of this paragraph, the FAA is defined as the cognizant Flight Standards District Office.

(2) After the initial accomplishment of the Corrosion Tasks required by paragraph (h) of this AD, any extension of the repetitive intervals specified in the Manual must be approved by the FAA. For the purposes of this paragraph, the FAA is defined as the Manager, New York Aircraft Certification Office (ACO), FAA.

**Corrective Actions**

(k) If any corrosion is found during accomplishment of any action required by paragraph (h) or (i) of this AD: Within 30 days after the finding; rework, repair, or replace, as applicable, any subject part, in accordance with Section 4.0 of Part 3 of the Manual.

**Reporting Requirements and Repetitive Actions for Remainder of Affected Fleet**

(l) If any Level 3 corrosion, as defined in the Introduction of the Manual, is found during accomplishment of any action required by this AD: Do paragraphs (l)(1), (l)(2), and (l)(3) of this AD.

(1) Within 10 days after the finding of Level 3 corrosion, submit a report of the findings to the Manager, New York Aircraft Certification Office (ACO), FAA, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; fax (516) 794–5531. The report must follow the format specified in Section 5.0 of Part 3 of the Manual, or be submitted using a Service Difficulty Report, as applicable.

(2) Within 10 days after the finding of Level 3 corrosion, submit a plan to the FAA to identify a schedule for accomplishing the applicable Corrosion Task on the remainder of the airplanes in the operator's fleet that are subject to this AD, or data substantiating that the Level 3 corrosion that was found is an isolated case. The FAA may impose a schedule other than proposed in the plan upon finding that a change to the schedule is needed to ensure that any other Level 3 corrosion is detected in a timely manner. For the purposes of this paragraph, the FAA is defined as the cognizant Principal Maintenance Inspector (PMI) for operators that are assigned a PMI (*e.g.*, part 121, 125, and 135 operators), and the cognizant Flight Standards District Office for other operators (*e.g.*, part 91 operators).

(3) Within the time schedule approved in accordance with paragraph (l)(2) of this AD, accomplish the applicable Corrosion Task on the remainder of the airplanes in the operator's fleet that are subject to this AD.

(m) If any Level 2 or 3 corrosion, as defined in the Introduction of the Manual, is found during accomplishment of any action required by this AD: At the applicable time specified in Section 5.0 of Part 3 of the Manual, report these findings to the manufacturer according to Section 5.0 of Part 3 of the Manual.

**Limiting Future Corrosion Findings**

(n) If corrosion findings that exceed Level 1 are found in any area during any repeat of any Corrosion Task after the initial accomplishment required by paragraph (h) of this AD: Within 60 days after such finding, implement a means approved by the FAA to reduce future findings of corrosion in that area to Level 1 or better. For the purposes of this paragraph, the FAA is defined as the cognizant Principal Maintenance Inspector (PMI) for operators that are assigned a PMI (*e.g.*, part 121, 125, and 135 operators), and the cognizant Flight Standards District Office for other operators (*e.g.*, part 91 operators).

**Scheduling Corrosion Tasks for Transferred Airplanes**

(o) Before any airplane subject to this AD is transferred and placed into service by an operator: Establish a schedule for accomplishing the Corrosion Tasks required by this AD in accordance with paragraph (o)(1) or (o)(2) of this AD, as applicable.

(1) For airplanes on which the Corrosion Tasks required by this AD have been accomplished previously at the schedule established by this AD: Perform the first Corrosion Task in each area in accordance with the previous operator's schedule, or in accordance with the new operator's schedule, whichever results in an earlier accomplishment of that Corrosion Task. After the initial accomplishment of each Corrosion Task in each area as required by this paragraph, repeat each Corrosion Task in accordance with the new operator's schedule.

(2) For airplanes on which the Corrosion Tasks required by this AD have not been accomplished previously, or have not been accomplished at the schedule established by this AD: The new operator must perform the initial accomplishment of each Corrosion Task in each area before further flight or in accordance with a schedule approved by the FAA. For the purposes of this paragraph, the FAA is defined as the cognizant Principal Maintenance Inspector (PMI) for operators that are assigned a PMI (*e.g.*, part 121, 125, and 135 operators), and the cognizant Flight Standards District Office for other operators (*e.g.*, part 91 operators).

**Alternative Methods of Compliance (AMOCs)**

(p)(1) The Manager, New York ACO, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

**Related Information**

(q) Canadian airworthiness directive CF–98–03, dated February 27, 1998, also addresses the subject of this AD.

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4400 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2006–24199; Directorate Identifier 2006–NM–025–AD]**

**RIN 2120–AA64**

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Model A318, A319, A320, and A321 airplanes. This proposed AD would require revising the Limitations section of the airplane flight manual (AFM); performing a one-time hardness test of certain ribs of the left- and right-hand engine pylons, as applicable, which would terminate the AFM limitations; and performing related corrective actions if necessary.

This proposed AD results from a report that certain stainless steel ribs installed in the engine pylon may not have been heat-treated during manufacture, which could result in significantly reduced structural integrity of the pylon. We are proposing this AD to detect and correct reduced structural integrity of the engine pylon, which could lead to separation of the engine from the airplane.

**DATES:** We must receive comments on this proposed AD by April 26, 2006.

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

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA–2006–24199; Directorate Identifier 2006–NM–025–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

### Examining the Docket

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

### Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A318, A319, A320, and A321 airplanes. The DGAC advises that certain stainless steel ribs of the engine pylon may not have been heat-treated during manufacture, which could result in significantly reduced structural integrity of those ribs. This condition, if not corrected, could result in reduced structural integrity of the engine pylon, which could lead to separation of the engine from the airplane.

### Relevant Service Information

Airbus has issued All Operators Telex (AOT) A320–54A1015, dated December 14, 2005. The AOT describes procedures for performing a one-time inspection (hardness test) to determine the hardness of stainless steel ribs 7, 8, and 9 of the left- and right-hand engine pylons; and performing corrective actions if necessary. The corrective actions include installing reinforcing components on ribs 8 and 9, as applicable. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

The AOT refers to Airbus Repair Instruction 546 12081, Issue B, dated January 3, 2006, as an additional source of service information for accomplishing the instructions of the AOT.

The DGAC mandated the service information and issued French airworthiness directive F–2006–011 R1, dated January 18, 2006, to ensure the continued airworthiness of these airplanes in France.

French airworthiness directive F–2006–011 R1 also specifies strict adherence to reduced speed limitations for flight in severe turbulence, as described in Airbus A318/319/320/321 Airplane Flight Manual (AFM) 4.03.00 P 03.

### FAA's Determination and Requirements of This AD

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

Therefore, we are proposing this AD, which would require revising the Limitations section of the AFM to require strict adherence to reduced speed limitations for flight in severe turbulence and accomplishing the actions specified in the AOT described previously, except as discussed under "Differences Between French Airworthiness Directive, Service Information, and This AD." The proposed AD would also require sending the inspection results to Airbus.

### Differences Between French Airworthiness Directive, Service Information, and This AD

French airworthiness directive F–2006–011 R1 requires, as of the effective date of that AD, that flightcrews strictly adhere to the requirement for operating at reduced speed in case of flight in severe turbulence, as specified in AFM 4.03.00 P03. This AD requires revising the Limitations section of the AFM to include this provision. To prevent immediate grounding of any airplane, this proposed AD would require revising the limitations of the AFM within 10 days after the effective date of this proposed AD to include this requirement of strict adherence to reduced speeds.

AOT A320–54A1015 specifies hardness testing of ribs 7, 8, and 9. However, the AOT states that rib 7 is able to sustain certification loads even

if not heat-treated and no corrective action is available for rib 7. Since rib 7 does not contribute to the unsafe condition, this proposed AD would not require testing of rib 7.

Although the AOT and French airworthiness directive refer to an "inspection" of the spar box ribs, for clarity's sake, this proposed AD would refer to a "hardness test" as described in related Airbus Repair Instruction 546 12081, Issue B.

Operators should note that, although the AOT and French airworthiness directive describe procedures for submitting certain findings to the manufacturer, this proposed AD would not require those actions.

**Costs of Compliance**

This proposed AD would affect about 112 airplanes of U.S. registry. The proposed hardness test would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $7,280, or $65 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2006–24199; Directorate Identifier 2006–NM–025–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 26, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Airbus Model A318, A319, A320, and A321 airplanes, certificated in any category; having a manufacturer serial number as identified in Airbus All Operators Telex (AOT) A320–54A1015, dated December 14, 2005 (referred to after this paragraph as "the AOT").

**Unsafe Condition**

(d) This AD results from a report that certain stainless steel ribs installed in the engine pylon may not have been heat-treated during manufacture, which could result in significantly reduced structural integrity of the pylon. We are issuing this AD to detect and correct reduced structural integrity of the engine pylon, which could lead to separation of the engine from the airplane.

**Compliance**

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

**Revise Limitations**

(f) Within 10 days after the effective date of this AD, revise the Limitations section of Airbus A318/319/320/321 Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD into the AFM.

• "In case of flight in severe turbulence, strictly adhere to reduced speeds as defined in Aircraft Flight Manual 4.03.00 P 03."

**Note 1:** When a statement identical to that specified in paragraph (f) of this AD has been included in the general revisions of the AFM, and the general revisions have been inserted into the AFM, the copy of this AD may be removed from the Limitations section of the AFM unless it has already been removed as specified in paragraph (g) or (h) of this AD.

**Hardness Test**

(g) Within the compliance time specified in paragraph (g)(1) or (g)(2) of this AD, as applicable, or before further flight after a hard or overweight landing, whichever occurs first: Perform a one-time hardness test to determine the hardness of ribs 8 and 9 of the left- and right-hand engine pylons, in accordance with the instructions of the AOT. If no discrepant rib is found installed on the airplane, the statement specified in paragraph (f) of this AD may be removed from the Limitations section of the AFM.

(1) For airplanes equipped with CFM engines: Within 6 months after the effective date of this AD.

(2) For airplanes equipped with IAE engines: Within 9 months after the effective date of this AD.

**Note 2:** Airbus AOT A320–54A1015, dated December 14, 2005, refers to Airbus Repair Instruction 546 12081, Issue B, dated January 3, 2006, as an additional source of service information for accomplishing the actions specified by the AOT.

**Corrective Actions**

(h) Within the compliance time specified in paragraph (h)(1) or (h)(2) of this AD, as applicable: Perform applicable corrective actions in accordance with the instructions of the AOT. When corrective actions have been applied to any discrepant rib found on the airplane, the statement specified in paragraph (f) of this AD may be removed from the Limitations section of the AFM.

(1) For airplanes equipped with CFM engines: Within 14 days after accomplishing the hardness test required by paragraph (g) of this AD.

(2) For airplanes equipped with IAE engines: Within 28 days after accomplishing the hardness test required by paragraph (g) of this AD.

**No Reporting Requirement**

(i) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**Alternative Methods of Compliance (AMOCs)**

(j)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs

for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

**Related Information**

(k) French airworthiness directive F–2006–011 R1, dated January 18, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on March 13, 2006.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4409 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2004–19002; Directorate Identifier 2003–NM–27–AD]**

**RIN 2120–AA64**

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

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to certain Airbus Model A300 B2 and A300 B4 series airplanes, and A300–600 series airplanes. The original NPRM would have superseded an existing AD that currently requires repetitive inspections to detect cracks in Gear Rib 5 of the main landing gear (MLG) attachment fittings at the lower flange, and repair, if necessary. That AD also requires modification of Gear Rib 5 of the MLG attachment fittings, which constitutes terminating action for the repetitive inspections. The original NPRM proposed to reduce the compliance times for all inspections, and require doing the inspections in accordance with new revisions of the service bulletins. The original NPRM resulted from new service information that was issued by the manufacturer and mandated by the French airworthiness authority. This new action revises the original NPRM by proposing new repetitive inspections of certain areas of the attachment fittings that were repaired in accordance with the actions specified in both the existing AD and the original NPRM. We are proposing this supplemental NPRM to prevent fatigue cracking of the MLG attachment fittings, which could result in reduced structural integrity of the airplane.

**DATES:** We must receive comments on this supplemental NPRM by April 21, 2006.

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

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

For Model A300 B2 and A300 B4 series airplanes, contact Jacques Leborgne, Airbus Customer Service Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, fax (+33) 5 61 93 36 14, for service information identified in this proposed AD. For Model A300 600 series airplanes, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposal. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2004–19002; Directorate Identifier 2003–NM–27–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

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

### Examining the Docket

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

### Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (the original NPRM) for an AD for certain Airbus Model A300 B2 and A300 B4 series airplanes; and Model A300–600 series airplanes. The original NPRM proposed to supersede AD 2000–05–07, amendment 39–11616 (65 FR 12077, March 8, 2000), which applies to certain Airbus Model A300 and A300–600 series airplanes. The original NPRM was published in the **Federal Register** on September 7, 2004 (69 FR 54063). The original NPRM proposed to reduce the compliance times for all inspections required by AD 2000–05–07, and to require inspections in accordance with new revisions of the service bulletins. The original NPRM resulted from new service information that was issued by the manufacturer and mandated by the French airworthiness authority. We proposed the original NPRM to prevent fatigue cracking of the main landing gear (MLG) attachment fittings, which could result in reduced structural integrity of the airplane.

**Actions Since Original NPRM Was Issued**

Since we issued the original NPRM, we have received reports of cracks on airplanes that were modified in accordance with Airbus Service Bulletin A300–57–0235, Revisions 01 through 05; and Airbus Service Bulletin A300–57–6088, Revisions 01 through 04. These service bulletins were cited in both the original NPRM and in AD 2000–05–07 as the appropriate sources of service information for modifying Gear Rib 5 of the MLG attachment fittings at the lower flange. The manufacturer has indicated that the reported cracks may have existed previously, but were probably missed during the installation of the modification because of improper inspection during installation, or because not enough material was removed during the spotfacing operation. The manufacturer has now issued two new service bulletins, described below, which provide procedures for inspecting the modified airplanes to ensure that the inspection area is crack-free.

**Relevant Service Information**

Airbus has issued the service bulletins identified in the following table.

NEW AIRBUS SERVICE BULLETINS

| Model | Airbus service bulletin | Date |
|---|---|---|
| A300–600 | A300–57A6101, including Appendix 01 | May 20, 2005. |
| A300 B2 and A300 B4 | A300–57A0246, including Appendix 01 | May 20, 2005. |

The service bulletins describe procedures for doing repetitive detailed visual inspections for cracks of the bottom flange and the vertical web in the area between the wing rear spar/gear rib 5 attachment, and the forward reaction-rod pickup lug. On the inboard side, this inspection includes inspecting for cracks of the areas around all fasteners, particularly at holes 47 and 54. On the outboard side, this inspection includes inspecting for cracks of the lower flange, the vertical web, and the areas around all fasteners. If any crack is found during this inspection, the service bulletins specify that operators should measure the length of the crack and contact the manufacturer for repair instructions.

If no crack is found during the detailed visual inspection, the service bulletins provide procedures for related investigative and corrective actions. The related investigative action is doing a high-frequency eddy current inspection for cracks of holes 47 and 54. If any crack is found, the corrective action is to contact the manufacturer for repair instructions. If no crack is found, the corrective action is to install new nuts at holes 47 and 54.

The service bulletins also give instructions for reporting all inspection findings, including nil findings, to the manufacturer. The service bulletins specify that the detailed visual inspection is to be repeated at intervals not to exceed 700 flight cycles. If no crack is found during the inspection performed at or above 2,100 flight cycles after modifying Gear Rib 5 of the MLG attachment fittings at the lower flange, the service bulletins specify that no further action is necessary.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, mandated the service information and issued French airworthiness directive F–2005–113 R1, dated July 20, 2005, to ensure the continued airworthiness of these airplanes in France.

**Comments**

We have considered the following comments on the original NPRM.

**Support for the Proposed AD**

One commenter supports the original NPRM as proposed.

**Request To Extend Compliance Time for Modification**

One commenter requests that the compliance time for the proposed modification of Gear Rib 5 of the MLG attachment fittings be extended from 15 months to 30 months. The commenter states that the request to extend the compliance time is justified because the repetitive interval has been shortened to 700 flight cycles. According to the commenter, the manner in which this crack is expected to grow means that it will not reach an un-repairable length during the inspection interval. Therefore, the operator states that the time needed to complete the modification should be extended to 30 months to fit the heavy maintenance schedule for all operators. The commenter considers that the adoption of the proposed compliance time of 15 months would require operators to schedule special visits to do the repair, at additional expense and downtime.

We do not agree with the commenter's request to extend the compliance time from 15 months to 30 months. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. In addition, because operators' schedules vary substantially, we cannot accommodate every operator's optimal scheduling in each AD. However, according to the provisions of paragraph (p) of this supplemental NPRM, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety.

In addition, based on further evaluation of French airworthiness directive 2003–318(B), dated August 20, 2003, we have extended the compliance time for the proposed modification of Gear Rib 5 of the MLG attachment fittings from 15 months to 16 months. This compliance time parallels the compliance time in the French airworthiness directive.

**Request To Revise Cost Estimate**

The commenter requests that we revise the cost estimate to between 82 and 100 work hours for the modification of gear rib 5. The commenter states that Airbus Service Bulletin A300–57–6088, Revision 04, dated December 3, 2003, includes an estimate of 82 work hours to do this modification. The commenter also states that, in its experience, this modification takes approximately 100 work hours, depending on the difficulty in removing the fasteners. The commenter further states that the need to do the modification during special visits will increase the cost to operators.

We partially agree with the commenter's request. After further analysis of the service information, we agree that the work hours to do the modification as provided in Airbus Service Bulletin A300–57–6088, Revision 04, are higher than the work hours in the original NPRM. The cost information, below, has been revised to

indicate this higher amount. We disagree with the request to revise the work hours to between 82 and 100 work hours. We consider in our cost estimates 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. We have made no further change to this supplemental NPRM regarding this issue.

**Explanation of Change in Applicability**

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

**Clarification of Alternative Method of Compliance (AMOC) Paragraph**

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

**Explanation of Change to Service Bulletin Reference**

We have revised the applicability to correct a reference to Airbus Service Bulletin A300–57A6087. This service bulletin was inadvertently referred to in the original NPRM as Airbus Service Bulletin A300–75A6087.

**FAA's Determination and Proposed Requirements of the Supplemental NPRM**

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

**Difference Between the Supplemental NPRM and Airbus Service Bulletins A300–57A0246 and A300–57A6101**

Airbus Service Bulletins A300–57A0246 and A300–57A6101 specify to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the DGAC approve would be acceptable for compliance with this proposed AD.

**Clarification of Inspection Terminology**

In this supplemental NPRM, the "detailed visual inspection" specified in the Airbus service bulletins and in the French airworthiness directives, is referred to as a "detailed inspection." We have included the definition for a detailed inspection in a note in the supplemental NPRM.

**Explanation of Reporting Requirement**

This proposed AD also specifies that operators report to the manufacturer any positive findings of cracks during the post-modification inspections. These inspection reports will help determine the extent of the cracking in the affected fleet. Based on the results of these reports, we may determine that further corrective action is warranted.

**Costs of Compliance**

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

ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| Modification (required by AD 2000–05–07). | 70 | $65 | $10,270 | $14,820 | 164 | $2,430,480 |
| Pre-modification inspections (new proposed action), per inspection cycle. | 6 | 65 | None | 390 | 164 | $63,960, per inspection cycle. |
| Post-modification inspections (new proposed action), per inspection cycle. | 2 | 65 | None | 130 | 164 | $21,320, per inspection cycle. |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2004–19002; Directorate Identifier 2003–NM–27–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 21, 2006.

**Affected ADs**

(b) This AD supersedes AD 2000–05–07, amendment 39–11616.

**Applicability**

(c) This AD applies to Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, as identified in Airbus Service Bulletin A300–57A0234, Revision 05, dated February 19, 2002; and Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Varian F airplanes, as identified in Airbus Service Bulletin A300–57A6087, Revision 04, dated February 19, 2002; except airplanes on which Airbus Modification 11912 or 11932 has been installed; certificated in any category.

**Unsafe Condition**

(d) This AD was prompted by new service information that was issued by the manufacturer and mandated by the French airworthiness authority. We are issuing this AD to prevent fatigue cracking of the main landing gear (MLG) attachment fittings, which could result in reduced structural integrity of the airplane.

**Compliance**

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

**Restatement of the Requirements of AD 2000–05–07**

*Repetitive Inspections*

(f) Perform a detailed inspection and a high-frequency eddy current (HFEC) inspection to detect cracks in Gear Rib 5 of the MLG attachment fittings at the lower flange, in accordance with the Accomplishment Instructions of any applicable service bulletin listed in Table 1 and Table 2 of this AD, at the time specified in paragraph (f)(1) or (f)(2) of this AD. After April 12, 2000 (the effective date of AD 2000–05–07), only the service bulletins listed in Table 2 of this AD may be used. Repeat the inspections thereafter at intervals not to exceed 1,500 flight cycles, until paragraph (h), (i), or (k) of this AD is accomplished.

TABLE 1.—REVISION 01 OF SERVICE BULLETINS

| Model | Airbus service bulletin | Revision level | Date |
|---|---|---|---|
| A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and A300 C4–605R Variant F airplanes. | A300–57–6087 | 01 | March 11, 1998. |
| A300 B2 and A300 B4 series airplanes | A300–57–0234 | 01 | March 11, 1998. |

TABLE 2.—FURTHER REVISIONS OF SERVICE BULLETINS

| Model | Airbus service bulletin | Revision level | Date |
|---|---|---|---|
| A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and A300 C4–605R Variant F airplanes. | A300–57A6087 | 02, including Appendix 01 | June 24, 1999. |
| | | 03, including Appendix 01 | May 19, 2000. |
| | | 04, including Appendix 01 | February 19, 2002. |
| A300 B2 and A300 B4 series airplanes | A300–57A0234 | 02, including Appendix 01 | June 24, 1999. |
| | | 03, including Appendix 01 | September 2, 1999. |
| | | 04, including Appendix 01 | May 19, 2000. |
| | | 05, including Appendix 01 | February 19, 2002. |

(1) For airplanes that have accumulated 20,000 or more total flight cycles as of March 9, 1998 (the effective date of AD 98–03–06, amendment 39–10298): Inspect within 500 flight cycles after March 9, 1998.

(2) For airplanes that have accumulated less than 20,000 total flight cycles as of March 9, 1998: Inspect prior to the accumulation of 18,000 total flight cycles, or within 1,500 flight cycles after March 9, 1998, whichever occurs later.

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

**Note 2:** Accomplishment of the initial detailed and HFEC inspections in accordance with Airbus Service Bulletin A300–57A0234 or A300–57A6087, both dated August 5, 1997, as applicable, is considered acceptable for compliance with the initial inspections required by paragraph (f) of this AD.

*Repair*

(g) If any crack is detected during any inspection required by paragraph (f) of this AD, prior to further flight, accomplish the requirements of paragraphs (g)(1) or (g)(2) of this AD, as applicable.

(1) If a crack is detected at one hole only, and the crack does not extend out of the spotface of the hole, repair in accordance with the Accomplishment Instructions of the applicable service bulletin in Table 2 of this AD.

(2) If a crack is detected at more than one hole, or if any crack at any hole extends out of the spotface of the hole, repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

*Terminating Modification*

(h) Prior to the accumulation of 21,000 total flight cycles, or within 2 years after October 20, 1999 (the effective date of AD 99–19–26, amendment 39–11313), whichever occurs later: Modify Gear Rib 5 of the MLG attachment fittings at the lower flange in accordance with the Accomplishment Instructions of the applicable service bulletin in Table 3 of this AD. After the effective date of this AD, only Revision 04 of Airbus

Service Bulletin A300–57–6088, and Revisions 04 and 05 of Airbus Service Bulletin A300–57–0235 may be used. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraphs (f) and (i) of this AD.

TABLE 3.—SERVICE BULLETINS FOR TERMINATING MODIFICATION

| Model | Airbus service bulletin | Revision level | Date |
|---|---|---|---|
| A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and A300 C4–605R Variant F airplanes. | A300–57–6088 | 01, including Appendix 01 | February 1, 1999. |
| | | 02 | September 5, 2002. |
| | | 04 | December 3, 2003. |
| A300 B2 and A300 B4 | A300–57–0235 | 01, including Appendix 01 | February, 1, 1999. |
| | | 03 | September 5, 2002. |
| | | 04 | March 13, 2003. |
| | | 05 | December 3, 2003. |

**Note 3:** Accomplishment of the modification required by paragraph (h) of this AD prior to April 12, 2000 (the effective date of AD 2000–05–07), in accordance with Airbus Service Bulletin A300–57–6088 or A300–57–0235, both dated August 5, 1998; as applicable; is acceptable for compliance with the requirements of that paragraph.

**New Requirements of This AD**

*New Repetitive Inspections*

(i) For airplanes on which the modification specified in paragraph (h) or (k) of this AD has not been done as of the effective date of this AD, perform a detailed and an HFEC inspection to detect cracks of the lower flange of Gear Rib 5 of the MLG at holes 43, 47, 48, 49, 50, 52, and 54, in accordance with the applicable service bulletin listed in Table 4 of this AD. Perform the inspections at the applicable time specified in paragraph (i)(1), (i)(2), (i)(3), or (i)(4) of this AD. Repeat the inspections thereafter at intervals not to exceed 700 flight cycles until the terminating modification required by paragraph (k) of this AD is accomplished. Accomplishment of the inspections per paragraph (i) of this AD, terminates the inspection requirements of paragraph (f) of this AD.

TABLE 4.—SERVICE BULLETINS FOR REPETITIVE INSPECTIONS

| Model | Airbus service bulletin | Revision level | Date |
|---|---|---|---|
| A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes. | A300–57A6087 | 04, including Appendix 01 | February 19, 2002. |
| A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes. | A300–57A0234 | 05, including Appendix 01 | February 19, 2002. |

(1) For Model A300 B2–1A, B2–1C; B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes; A300 B4–600, B4–600R, and F4–600R series airplanes; and Model C4–605R Variant F airplanes that have accumulated 18,000 or more total flight cycles as of the effective date of this AD: Within 700 flight cycles after the effective date of this AD.

(2) For Model A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes that have accumulated less than 18,000 total flight cycles as of the effective date of this AD: Prior to the accumulation of 18,000 total flight cycles, or within 700 flight cycles after the effective date of this AD, whichever occurs later.

(3) For Model A300 B4–2C, B4–103, and B4–203 airplanes that have accumulated less than 18,000 total flight cycles as of the effective date of this AD: Prior to the accumulation of 14,500 total flight cycles, or within 700 flight cycles after the effective date of this AD, whichever occurs later.

(4) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes that have accumulated less than 18,000 total flight cycles as of the effective date of this AD: Prior to the accumulation of 11,600 total flight cycles, or within 700 flight cycles after the effective date of this AD, whichever occurs later.

*Crack Repair*

(j) If any crack is detected during any inspection required by paragraph (i) of this AD, prior to further flight, accomplish the requirements of paragraph (j)(1) and (j)(2) of this AD, as applicable.

(1) If a crack is detected at only one hole, and the crack does not extend out of the spotface of the hole, repair in accordance with Airbus Service Bulletin A300–57A0234, Revision 05, including Appendix 01, dated February 19, 2002 (for Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes); or A300–57A6087, Revision 04, including Appendix 01, dated February 19, 2002 (for Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R airplanes); as applicable.

(2) If a crack is detected at more than one hole, or if any crack at any hole extends out of the spotface of the hole, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

*Terminating Modification*

(k) For airplanes on which the terminating modification in paragraph (h) of this AD has not been accomplished before the effective date of this AD: At the earlier of the times specified in paragraphs (k)(1) and (k)(2) of this AD, modify Gear Rib 5 of the MLG attachment fittings at the lower flange. Except as provided by paragraph letter (l) of this AD, do the modification in accordance with the applicable service bulletin in Table 5 of this AD. This action terminates the repetitive inspections requirements of paragraphs (f) and (i) of this AD.

(1) Prior to the accumulation of 21,000 total flight cycles, or within 2 years after October 20, 1999, whichever is later.

(2) Within 16 months after the effective date of this AD.

TABLE 5.—SERVICE BULLETINS FOR TERMINATING MODIFICATION

| Model | Airbus service bulletin | Revision level | Date |
|---|---|---|---|
| A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes. | A300–57–6088 | 04 | December 3, 2003. |
| A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes. | A300–57–0235 | 04 | March 13, 2003. |
| | | 05 | December 3, 2003. |

(l) Where the applicable service bulletin in paragraph (k) of this AD specifies to contact Airbus for modification instructions; or if there is a previously installed repair at any of the affected fastener holes; or if a crack is found when accomplishing the modification: Prior to further flight, modify in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

*Post-Modification Inspections*

(m) Within 700 flight cycles after doing the modification in accordance with paragraph (h), (k), or (l) of this AD, or within 6 months after the effective date of this AD, whichever occurs later, except as provided by paragraph (o) of this AD: Do a detailed and an HFEC inspection for cracks at holes 47 and 54 in the lower flange of Gear Rib 5, and do all related investigative and corrective actions before further flight by doing all the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A300–57A0246, including Appendix 01, dated May 20, 2005; or Airbus Service Bulletin A300–57A6101, including Appendix 01, dated May 20, 2005; as applicable. Where the applicable service bulletin specifies to contact Airbus for repair instructions: Prior to further flight, modify in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent). Repeat the inspection and related investigative and corrective actions thereafter at intervals not to exceed 700 flight cycles. If no crack is detected during the repeat inspection performed at or above 2,100 flight cycles after doing the modification in accordance with paragraph (h), (k), or (l) of this AD, then no further inspection is required. Except, at least one inspection is required after the accumulation of 2,100 flight cycles after installing the modification in accordance with paragraph (h) or (k) of this AD.

*Actions Accomplished Per Previous Issues of the Service Bulletins*

(n) Actions accomplished before the effective date of this AD per the service bulletins listed in Table 6 of this AD, are considered acceptable for compliance with the corresponding action specified in this AD.

TABLE 6.—PREVIOUS ISSUES OF SERVICE BULLETINS

| Airbus service bulletin | Revision level | Date |
|---|---|---|
| A300–57–0235 | 02, including Appendix 01 | September 27, 1999. |
| | 03 | September 5, 2002. |
| A300–57–6088 | 02 | September 5, 2000. |
| | 03 | March 13, 2003. |

*Reporting*

(o)(1) Although Airbus Service Bulletins A300–57A0234, A300–57–0235, A300–57A6087, A300–57–6088, A300–57A0246, and A300–57A6101, specify to submit certain information to the manufacturer, this AD does not include such a requirement, except as provided by paragraph (o)(2) of this AD.

(2) Where Airbus Service Bulletins A300–57A0246 and A300–57A6101, both dated May 20, 2005, specify to submit a report of positive and negative findings of the post-modification inspection required by paragraph (m) of this AD, within 30 days after the effective date of this AD, submit a report only of the positive findings of post-modification inspections to Airbus, Customer Service Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

**Alternative Methods of Compliance (AMOCs)**

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

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

(3) AMOCs, approved previously per AD 2000–05–07, are approved as AMOCs with this AD.

**Related Information**

(q) French airworthiness directives 2003–318(B), dated August 20, 2003; and F–2005–113 R1, dated July 20, 2005; also address the subject of this AD.

Issued in Renton, Washington, on March 9, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4402 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2005–22524; Directorate Identifier 2005–NM–135–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, and A340–300 Series Airplanes, and Model A340–541 and A340–642 Airplanes

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** The FAA is revising an earlier NPRM for an airworthiness directive (AD) that would have applied to certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes, and A340–541 and A340–642 airplanes. The original NPRM would have required inspecting to determine if certain emergency escape slides/slide

rafts (referred to as slide/rafts) are installed in certain crew/passenger doors; and, if so, performing a one-time inspection to determine if the electrical harnesses of the slide/rafts are properly routed, and rerouting the harnesses if necessary. The original NPRM resulted from a report that a slide/raft failed to deploy properly during a deployment test. This action revises the original NPRM by expanding the applicability of the proposed AD. We are proposing this AD to detect and correct improper routing of the electrical harnesses of certain slide/rafts, which could prevent proper deployment of the slide/rafts and delay evacuation of passengers and flightcrew during an emergency.

**DATES:** We must receive comments on this supplemental NPRM by April 21, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this supplemental NPRM.

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2005–22524; Directorate Identifier 2005–NM–135–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

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

### Examining the Docket

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

### Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the "original NPRM"). The original NPRM applies to certain Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes, and A340–541 and A340–642 airplanes. The original NPRM was published in the **Federal Register** on September 27, 2005 (70 FR 56389). The original NPRM proposed to require inspecting to determine if certain emergency escape slides/slide rafts (referred to as slide/rafts) are installed in certain crew/passenger doors; and, if so, performing a one-time inspection to determine if the electrical harnesses of the slide/rafts are properly routed, and rerouting the harnesses if necessary.

Since the original NPRM was issued, we have determined that the applicability of the proposed AD was not properly written. As written, the applicability of the proposed AD would not have ensured that the unsafe condition would not recur if a slide/raft was ever replaced or reinstalled on any subject airplane.

### Comments

We have considered the following comments on the original NPRM.

#### Request To Update Service Information

One commenter, the manufacturer, requests that we update the references to the applicable service information cited in the original NPRM. The commenter states that later revisions of two AOTs are available.

We agree with this request. We have reviewed Airbus All Operators Telex (AOT) A330–25A3272, Revision 02, and AOT A340–25A4259, Revision 02, both dated June 1, 2005. Both AOTs were revised to add a reference to French airworthiness directive F–2005–077, dated May 11, 2005, and to remove the reference to door 3 type A from paragraph 4.1. We have determined that these revisions of the AOTs should be referenced in the AD. Therefore, we have revised paragraphs (c), (f)(1)(ii), and (f)(2)(ii) of the AD to reflect the revised AOTs, and revised paragraph (g) of the AD to give credit for using Revision 01 of those AOTs.

#### Request To Clarify Applicability

The same commenter requests that we clarify the applicability of the original NPRM. The commenter states that airplanes delivered after March 17, 2005, which is the date of issuance of the original issues of the AOTs, are not subject to the inspection required by paragraph (f) of the AD, provided no slide/raft has been replaced on any such airplane. The commenter states that Revision 02 of all three AOTs, all dated June 1, 2005, specifies this exception.

We agree that the AOTs specify the exception noted by the commenter, and that an airplane supplied by the manufacturer after March 17, 2005, may not be subject to the unsafe condition. However, this will not ensure that the unsafe condition won't recur should an operator receive such an airplane and replace or reinstall any subject slide/raft on that airplane. Therefore, we have not revised the applicability of the original NPRM to reflect the specified exception; rather, this supplemental NPRM would require doing the actions specified in the AOTs. As operators must continue to operate the airplane in the configuration required by the supplemental NPRM, unless an alternative method of compliance is approved, this requirement would ensure that the actions specified in the AOTs would be accomplished on all subject airplanes. We have determined that it is necessary to expand the applicability of the original NPRM to ensure that the unsafe condition does

not recur on any subject airplane; therefore, we have revised the applicability of the supplemental NPRM to cover all subject airplanes, certificated in any category. Further, in this supplemental NPRM, we have included a new paragraph (h) that would require performing any replacement or reinstallation of any subject slide/raft on any subject airplane in accordance with this AD. Accordingly, we have re-identified existing paragraphs (h) and (i) of the original NPRM as paragraphs (i) and (j) of this supplemental NPRM.

**Request To Expand Applicability**

The same commenter requests that we add two additional models of airplanes, Model A330–302 and A330–303, to the applicability of the original NPRM. The commenter gave no reason for this request.

We agree with this request. Model A330–302 and A330–303 airplanes may be subject to the same unsafe condition as all other airplanes identified in the original NPRM. We have revised the applicability of the supplemental NPRM accordingly.

**Request To Expand Scope of NPRM**

One commenter states that the one-time inspection specified in the original NPRM will not be effective in preventing future occurrences of misrouting of the slide/raft wiring harness. The commenter states it added a procedure to its aircraft maintenance program for inspecting the slide/raft wiring harness routing during every slide/raft assembly installation, and recommends that the FAA take steps to ensure that all affected operators establish maintenance procedures similar to those of the commenter. We infer that the commenter holds that the NPRM is not sufficient in scope and should be expanded.

We recognize the commenter's concern. The manufacturer is working on revisions to the airplane maintenance manual (AMM) to clarify the differences between the routing of the wiring harnesses on the left- and right-hand sides of the airplane, which will accomplish a function similar to that of the commenter's procedures. When the AMM has been revised, we may consider further rulemaking. However, we do not wish to delay correcting the unsafe condition until the manufacturer issues new service information that revises the AMM. Therefore, we have not changed the AD to reflect this issue.

**FAA's Determination and Proposed Requirements of the Supplemental NPRM**

Certain changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

**Costs of Compliance**

This supplemental NPRM would affect about 27 airplanes of U.S. registry. The required actions would take about 3 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $5,265 or $195 per airplane.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2005–22524; Directorate Identifier 2005–NM–135–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 21, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, –213, –311, –312, and –313 airplanes; and Model A340–541 and –642 airplanes; certificated in any category.

**Unsafe Condition**

(d) This AD results from a report that an emergency escape slide/slide raft (referred to hereafter as a "slide/raft") failed to deploy properly during a deployment test. We are issuing this AD to detect and correct improper routing of the electrical harnesses of certain slide/rafts, which could prevent proper deployment of the slide/raft and delay evacuation of passengers and flightcrew during an emergency.

**Compliance**

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

**Inspections and Corrective Actions**

(f) Within 1,700 flight hours after the effective date of this AD: Inspect certain crew/passenger doors as required by paragraph (f)(1) or (f)(2), as applicable, of this AD to determine if slide/rafts having certain part numbers (P/N) are installed. A review of airplane maintenance records is acceptable in

lieu of this inspection if the presence of the subject slide/rafts can be conclusively determined from that review.

(1) For Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes and Model A340–211, –212, –213, –311, –312, and –313 airplanes: On both right and left hand sides, inspect to determine the P/N of the slide/rafts of crew/passenger doors 1 and 4, and—only if it is a type 1 door—crew/passenger door 3. If crew/passenger door 3 is not a type 1 door, it is not subject to any requirement of this AD.

(i) If a slide/raft does not have P/N 7A1508–( ) or 7A1509–( ), no further action is required for that slide/raft by this paragraph.

(ii) If a slide/raft has P/N 7A1508–( ) or 7A1509–( ), before further flight, perform a general visual inspection of the electrical harness of the slide/raft and reroute the harness, as applicable, in accordance with paragraphs 4.2 through 4.2.4 of Airbus All Operators Telex (AOT) A330–25A3272, Revision 02, or Airbus AOT A340–25A4259, Revision 02; both dated June 1, 2005; as applicable.

(2) For Model A340–541 and –642 airplanes: On both right and left hand sides, inspect to determine the P/N of the slide/rafts of crew/passenger doors 1 and 4.

(i) If a slide/raft does not have P/N 7A1508–( ), no further action is required for that slide/raft by this paragraph.

(ii) If a slide/raft has P/N 7A1508–( ), before further flight, perform a general visual inspection of the electrical harness of that slide/raft and reroute the harness, as applicable, in accordance with paragraphs 4.2 through 4.2.4 of Airbus AOT A340–25A5091, Revision 02, dated June 1, 2005.

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

**Actions Accomplished According to Previous Issues of AOTs**

(g) Actions accomplished before the effective date of this AD in accordance with the Airbus AOTs listed in Table 1 of this AD, as applicable, are considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD.

TABLE 1.—PREVIOUS ISSUES OF AOTS

| Airbus AOT | Revision level | Date |
|---|---|---|
| A330–25A3272 [1] | Original | March 17, 2005. |
| A330–25A3272–2005 [1] | 01 | March 24, 2005. |
| A340–25A4259 [2] | Original | March 17, 2005. |
| A340–25A4259–2005 [2] | 01 | March 24, 2005. |
| A340–25A5091 [3] | Original | March 17, 2005. |
| A340–25A5091 [3] | 01 | March 24, 2005. |

[1] For Model A330–200 and –300 series airplanes.
[2] For Model A340–200 and –300 series airplanes.
[3] For Model A340–541 and –642 airplanes.

**Parts Installation**

(h) After the effective date of this AD, no person may install any slide/raft having P/N 7A1508–( ) or 7A1509–( ) on any airplane unless the electrical harness of that slide/raft is determined to be properly routed in accordance with the requirements of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(j) French airworthiness directive F–2005–077, dated May 11, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on March 9, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4408 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2006–24204; Directorate Identifier 2005–NM–178–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. The existing AD currently requires a one-time inspection to detect corrosion of the flap structure and machined ribs, corrective actions if necessary, and reprotection of the rib boss bores. This proposed AD would require a records review of the results of that inspection, and an additional inspection and related investigative/corrective action if necessary. This proposed AD results from the development of an improved inspection for corrosion in the subject area. We are proposing this AD to detect and correct corrosion in the flap structure and machined ribs, which could result in reduced structural integrity of the airplane.

**DATES:** We must receive comments on this proposed AD by April 26, 2006.

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

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

Contact British Aerospace Regional Aircraft American Support, 13850

Mclearen Road, Herndon, Virginia 20171, for service information identified in this proposed AD.

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2006–24204; Directorate Identifier 2005–NM–178–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

**Examining the Docket**

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

**Discussion**

On February 5, 2002, we issued AD 2002–03–07, amendment 39–12648 (67 FR 6852, February 14, 2002), for certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. That AD requires a one-time inspection to detect corrosion of the flap structure and machined ribs, corrective actions if necessary, and reprotection of the rib boss bores. That AD resulted from corrosion at various locations within the flap structure and machined ribs. We issued that AD to detect and correct corrosion in the flap structure and machined ribs, which could result in reduced structural integrity of the airplane.

**Relevant Service Information**

AD 2002–03–07 cited BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, dated May 15, 2001. Revision 2, dated March 18, 2004, of this service bulletin provides procedures for additional inspection for corrosion and reprotection of the rib boss bores and faces. If the corrosion extended into the boss bores, the service bulletin specifies a "flaps-off" inspection; otherwise the service bulletin specifies a "flaps-on" inspection. Corrective actions for corrosion include repairing (blending), replacing corroded components with new components, and contacting the manufacturer for repair instructions, depending on the extent and location of the corrosion. For airplanes with no corrosion found during the initial inspection, no further work is necessary. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, mandated the service information and issued British airworthiness directive G–2005–0018, dated July 20, 2005, to ensure the continued airworthiness of these airplanes in the United Kingdom.

**FAA's Determination and Requirements of the Proposed AD**

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

This proposed AD would supersede AD 2002–03–07. This proposed AD would require a review of the airplane records for the results, if any, of the inspection required by AD 2002–03–07. For airplanes not already inspected in accordance with AD 2002–03–07, this proposed AD would require an initial inspection. If the results of the initial inspection required by this proposed AD or AD 2002–03–07 reveal corrosion, this proposed AD would require the related investigative/corrective actions specified in Revision 2 of the service bulletin, described previously, except as discussed below.

**Differences Between the Proposed Rule and the British Airworthiness Directive/Service Bulletin**

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions using a method that we or the CAA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair we or the CAA approve would be acceptable for compliance with this proposed AD.

The British airworthiness directive specifies that all Model BAe 146 and Avro RJ series airplanes are affected. But this proposed AD, as well as Inspection Service Bulletin ISB.57–066, Revision 2, would exclude those airplanes modified by BAE Systems Modification HCM01694F. The CAA is aware of this discrepancy and agreed with the intent to so limit the applicability..

**Clarification of Inspection Terminology**

The inspection specified in the service bulletin is referred to as a "general visual inspection" in this proposed AD. Note 1 of this proposed AD defines this type of inspection.

**Explanation of Change to Applicability**

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

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this proposed AD. This proposed AD would affect about 35 airplanes of U.S. registry.

ESTIMATED COSTS

| Action | Work hours | Average labor rate per hour | Parts | Cost per airplane |
|---|---|---|---|---|
| Records review | 1 | $65 | None | $65 |
| Flaps-on inspection, if required | 4 | 65 | None | 260 |
| Flaps-off inspection, if required | 40 | 65 | None | 2,600 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–12648 (67 FR 6852, February 14, 2002) and adding the following new airworthiness directive (AD):

**BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft):** Docket No. FAA–2006–24204; Directorate Identifier 2005–NM–178–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 26, 2006.

**Affected ADs**

(b) This AD supersedes AD 2002–03–07.

**Applicability**

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes, and BAE Systems (Operations) Limited Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; except those modified by BAE Systems Modification HCM01694F.

**Unsafe Condition**

(d) This AD results from the development of an improved inspection for corrosion in the subject area. We are issuing this AD to detect and correct corrosion in the flap structure and machined ribs, which could result in reduced structural integrity 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.

**Records Review**

(f) For airplanes on which the initial inspection required by AD 2002–03–07 was done before the effective date of this AD: Within 24 months after the effective date of this AD, review the airplane maintenance records to identify the results of the inspection.

**Inspection: Airplanes Not Previously Inspected**

(g) For airplanes that were not inspected in accordance with AD 2002–03–07 before the effective date of this AD: Before the accumulation of 72 total months since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness, or within 24 months after the effective date of this AD, whichever occurs later, do a general visual "flaps off" inspection to detect corrosion of the flap structure and machined ribs, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, Revision 2, dated March 18, 2004. If no corrosion is found: Before further flight, reprotect the rib boss bores and faces, in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, Revision 2, dated March 18, 2004.

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

**Follow-on Actions: No Corrosion Found**

(h) If it is positively determined from the records review required by paragraph (f) of this AD that no corrosion was found during the initial inspection, or if no corrosion was found during the initial inspection required by paragraph (g) of this AD: No further work is required by this AD.

**Follow-on Actions: Corrosion Found**

(i) If it is determined during the records review required by paragraph (f) of this AD that any corrosion was found during the initial inspection, or if it cannot be positively determined from the records review required by paragraph (f) of this AD that no corrosion was found during the initial inspection, or if any corrosion was found during the initial inspection required by paragraph (g) of this AD: Within 36 months after the initial inspection or 24 months after the effective date of this AD, whichever occurs later, but

not sooner than 24 months after the initial inspection, perform a general visual inspection of the flap structure and machined ribs to detect corrosion, as specified in paragraph (i)(1) or (i)(2), as applicable, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, Revision 2, dated March 18, 2004.

(1) If the corrosion extended into the boss bores, or if it cannot be positively determined from the records review specified in paragraph (f) of this AD that corrosion did not extend into the boss bores, do a flaps-off inspection.

(2) If the corrosion did not extend into the boss bores, do a flaps-on inspection.

**Corrective Actions**

(j) If any corrosion is found during any inspection required by this AD: Repair before further flight in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, Revision 2, dated March 18, 2004, except as required by paragraph (k) of this AD.

**Exceptions to Service Bulletin Specifications**

(k) If any corrosion is detected and BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, Revision 2, dated March 18, 2004, specifies to contact the manufacturer for repair instructions: Repair before further flight, using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (or its delegated agent).

(l) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**Credit**

(m) Actions done before the effective date of this AD in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.57–066, dated May 15, 2001, or Revision 1, dated September 20, 2002, are acceptable for compliance with the corresponding requirements of paragraph (g), (h), (i), and (j) of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(o) British airworthiness directive G–2005–0018, dated July 20, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4411 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2006–24200; Directorate Identifier 2006–NM–012–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A300 B4 Series Airplanes; Model A300 B4–600 Series Airplanes; Model A300 C4–605R Variant F Airplanes; Model A310–200 Series Airplanes; and Model A310–300 Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Airbus Model A300 B4–600 and A300 C4–600 series airplanes. The existing AD currently requires a one-time inspection to detect damage of the pump diffuser guide slots (bayonet) of the center tank fuel pumps, the pump diffuser housings, and the pump canisters; repetitive inspections to detect damage of the fuel pumps and the fuel pump canisters; and corrective action, if necessary. This proposed AD would add, for new airplanes, repetitive inspections of the pump bodies for cracking, damage, and missing and broken fasteners; repetitive inspections of the fuel pump canisters for a cracked flange web; and corrective actions if necessary. For all airplanes, this proposed AD would also add replacement of the fuel pump canisters with new reinforced fuel pump canisters, which ends the repetitive inspections. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to detect and correct damage of the center tank fuel pumps and fuel pump canisters, which could result in separation of a pump from its electrical motor housing, loss of flame trap capability, and a possible fuel ignition source in the center fuel tank.

**DATES:** We must receive comments on this proposed AD by April 26, 2006.

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

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

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

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2006–24200; Directorate Identifier 2006–NM–012–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

**Examining the Docket**

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

**Discussion**

On April 6, 2004, we issued AD 2004–08–03, amendment 39–13572 (69 FR 19756, April 14, 2004), for certain Airbus Model A300 B4–600 and A300 C4–600 series airplanes. That AD requires a one-time inspection to detect damage of the pump diffuser guide slots (bayonet) of the center tank fuel pumps, the pump diffuser housings, and the pump canisters; repetitive inspections to detect damage of the fuel pumps and the fuel pump canisters; and corrective action, if necessary. That AD resulted from broken fuel tank pump canisters found on Model A300 B4–600 and A300 C4–600 series airplanes. We issued that AD to detect and correct damage of the center tank fuel pumps and fuel pump canisters, which could result in separation of a pump from its electrical motor housing, loss of flame trap capability, and a possible fuel ignition source in the center fuel tank.

**Actions Since Existing AD Was Issued**

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

The Joint Aviation Authorities (JAA) has issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Since we issued AD 2004–08–03, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified us that the unsafe condition addressed in that existing AD may also exist on Airbus Model A300 B4 series airplanes and Model A310–300 series airplanes. Damage to the center tank fuel pumps and fuel pump canisters, if not detected and corrected, could result in separation of a pump from its electrical motor housing, loss of flame trap capability, and a possible fuel ignition source in the center fuel tank.

Additionally, in the notice of proposed rulemaking (NPRM) (68 FR 70473, December 18, 2003) for AD 2004–08–03, we specified that the actions required by AD 2004–08–03 were considered "interim action" and that the manufacturer was developing a modification to address the unsafe condition. We indicated that we may consider further rulemaking action once the modification was developed, approved, and available. The DGAC has notified us that the manufacturer now has developed such a modification. We have determined that further rulemaking action is indeed necessary; this NPRM follows from that determination.

**Other Related Rulemaking**

On January 26, 2006, we issued an NPRM (71 FR 5620, February 2, 2006), Docket No. FAA–2006–23760, that proposes to supersede existing AD 2004–23–08, amendment 39–13863 (69 FR 65528, November 15, 2004). That NPRM is applicable to certain Airbus Model A300 B4–600R and A300 F4–600R series airplanes. That NPRM proposes to continue to require repetitive inspections for damage of the center tank fuel pumps and fuel pump canisters and replacement of any damaged parts, and to mandate modification of the canisters of the center tank fuel pumps, which terminates the repetitive inspections. For certain airplanes, that NPRM also proposes to require a one-time inspection of the attachment bolts of the outlet flange of the canisters of the center tank fuel pumps for bolts that are too short and do not protrude through the nut, and replacement of the bolts if necessary. We are proposing that NPRM to prevent damage to the fuel pump and fuel pump canister, which could result in loss of flame trap capability and could provide a fuel ignition source in the center fuel tank, on certain Model A300 B4–600R and A300 F4–600R series airplanes equipped with a fuel trim tank system. This proposed AD addresses the same unsafe condition on Model A300 B4–600R and A300 F4–600R series airplanes not equipped with a fuel trim tank system. That NPRM does not affect the requirements of this proposed AD.

**Relevant Service Information**

Airbus has issued the following service information:

| Airbus airplanes | Airbus service information | Date |
|---|---|---|
| Model A300 B4 series airplanes | Service Bulletin A300–28–0084 | June 28, 2005. |
| | Service Bulletin A300–28–0085 | July 18, 2005. |
| Model A300 B4–600 series airplanes and Model A300 C4–605R Variant F airplanes. | All Operators Telex (AOT) A300–600–28A6075, Revision 01. | October 24, 2005. |
| | Service Bulletin A300–28–6089, Revision 01 | November 28, 2005. |
| Model A310–200 and –300 series airplanes | Service Bulletin A310–28–2159 | June 28, 2005. |
| | Service Bulletin A310–28–2160 | July 18, 2005. |

Airbus Service Bulletins A300–28–0084 and A310–28–2159 describe doing the following procedures:

- A visual inspection in the area between the impeller assembly and inducer assembly of the fuel booster pumps for cracks and missing or damaged fasteners.
- A visual inspection in the area of the guide slots (bayonet slots) of the fuel booster pumps for signs of damage.
- If any crack or damage to a fuel booster pump is found or if any fastener is missing or damaged, replacement of the pump with a new pump.
- A high frequency eddy current (HFEC) inspection of the flange webs inside the fuel pump canisters for cracks.
- If any crack is found in the flange webs of the fuel pump canisters, replacement of the fuel pump canister with a new fuel pump canister, or with a new reinforced fuel pump canister in accordance with Airbus Service Bulletin A300–28–0085 or A310–28–2160, as applicable.

Airbus AOT A300–600–28A6075, Revision 01, describes doing the following procedures:

- A one-time detailed visual inspection to detect cracks, fretting, and other damage of the lower part of the pump diffuser guide slots (bayonet) of the center tank fuel pumps and the bottom of the pump diffuser housings; and replacement of any damaged pump and its corresponding fuel pump canister with new parts.
- A one-time detailed inspection to detect cracks of the center tank fuel pump canisters, and replacement of any cracked fuel pump canister and its corresponding fuel pump with new parts.
- Repetitive detailed visual inspections to detect damage of the fuel pumps, and replacement of any damaged pump with a new part.
- Repetitive nondestructive test (NDT) inspections to detect damage to the fuel pump canisters, and replacement of any damaged canister with a new part. If a canister is replaced with a new part, the next inspection interval would be extended to 7,000 flight cycles, and thereafter repeated at intervals of 3,000 flight cycles. (The original issue of AOT A300–600–28A6075, dated February 20, 2003, and AD 2004–08–03 specify a repetitive inspection interval of 1,500 flight cycles.) Replacement of a canister ends the repetitive inspections of the fuel pumps.
- A report of inspection findings.

Airbus AOT A300–600–28A6075 refers to Airbus Alert Service Bulletin A300–28A6061, Revision 04, dated August 1, 2002, and the A300–600 Nondestructive Testing Manual (NTM) 57–10–14 as additional sources of service information for accomplishing the NDT inspections.

Airbus Service Bulletins A300–28–0085, A300–28–6089, and A310–28–2160 describe procedures for replacing the fuel pump canisters with new reinforced fuel pump canisters. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued French airworthiness directive F–2005–199, dated December 7, 2005, to ensure the continued airworthiness of these airplanes in France.

**FAA's Determination and Requirements of the Proposed AD**

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

This proposed AD would supersede AD 2004–08–03 and would retain the requirements of the existing AD and extend the repetitive interval for certain eddy current inspections. This proposed AD would also require, for certain airplanes, repetitive detailed inspections of the pump bodies for cracking, damage, and missing and broken fasteners; repetitive HFEC inspections of the fuel pump canisters for a cracked flange web; and corrective actions if necessary. This proposed AD would also require, for all airplanes, replacement of the fuel pump canisters with new reinforced canisters. This proposed AD also contains differences with the French airworthiness directive F–2005–199, as discussed under "Differences Between the NPRM and French Airworthiness Directive."

**Differences Between the NPRM and French Airworthiness Directive**

The applicability of French airworthiness directive F–2005–199 excludes the following airplanes:

- Model A300 B4–600 series airplanes and Model A300 C4–600 series airplanes, manufacturer serial numbers 546, 553, 618, and 623, on which Airbus Service Bulletin A300–28–6082 has been accomplished in service.
- Model A300 B4–600 series airplanes and Model A300 C4–600 series airplanes on which Airbus Service Bulletin A300–28–6089 has been accomplished in service.
- Model A300 series airplanes on which Airbus A300–28–0085 has been accomplished in service.
- Model A310 series airplanes on which Airbus Service Bulletin A310–28–2160 has been accomplished in service.

However, we have not excluded those airplanes in the applicability of this NPRM; rather, this NPRM includes a requirement to accomplish the actions specified in those service bulletins. This requirement would ensure that the actions specified in the service bulletins and required by this NPRM are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this NPRM unless an alternative method of compliance is approved. This difference has been coordinated with the DGAC.

The applicability of French airworthiness directive F–2005–199 also excludes all Airbus Model A300B2–100, –200, and –300 airplanes, and includes all Airbus A300–600ST airplanes except those on which Airbus Service Bulletin

A300–28–2160 has been accomplished in service. However, we have not referenced any of these airplanes in the applicability of this NPRM, since these airplanes are not type certificated in the U.S.

**Clarification of Inspection Terminology**

The "detailed visual inspection" specified in French airworthiness directive F–2005–199 and in the referenced service information is referred to as a "detailed inspection" in this NPRM. We have updated the definition of a "detailed inspection" in Note 1 of this NPRM.

**Changes to Existing AD**

This NPRM would retain all requirements of AD 2004–08–03. Since AD 2004–08–03 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this NPRM, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

| Requirement in AD 2004–08–03 | Corresponding requirement in this NPRM |
|---|---|
| Paragraph (a) | Paragraph (f) |
| Paragraph (b) | Paragraph (g) |
| Paragraph (c) | Paragraph (h) |
| Paragraph (d) | Paragraph (i) |

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

**Note** 2 of AD 2004–08–03 incorrectly references paragraph (b)(2) of that AD. We have revised this NPRM to reference paragraphs (g) and (h).

We have increased the repetitive interval to 3,000 flight cycles for the eddy current inspections in paragraph (g) and (h) of this NPRM to correspond with French airworthiness directive F–2005–199.

**Costs of Compliance**

This proposed AD would affect about 74 airplanes of U.S. registry. The following table provides the estimated costs, at an average labor rate of $80 per hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

| Airbus model | Action | Work hours | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|---|
| A300 B4–600 series airplanes and Model A300 C4–605R Variant F airplanes. | Detailed inspection (required by AD 2004–08–03). | 2 | None | $160 | 2 | $320. |
| | Eddy current inspection (required by AD 2004–08–03). | 5 | None | $400, per inspection cycle. | 2 | $800, per inspection cycle. |
| | Replacements (new proposed action). | 7 | $70 | $630 | 2 | $1,260. |
| A300 B4 series airplanes | Repetitive inspections (new proposed action). | 2 | None | $160, per inspection cycle. | 16 | $2,560, per inspection cycle. |
| | Replacements (new proposed action). | 10 | $80 | $880 | 16 | $14,080. |
| A310–200 and –300 series airplanes | Repetitive inspections (new proposed action). | 2 | None | $160, per inspection cycle. | 56 | $8,960, per inspection cycle. |
| | Replacements (new proposed action). | 10 | $50 | $850 | 56 | $47,600. |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with

this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13572 (69 FR 19756, April 14, 2004) and adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA–2006–24200; Directorate Identifier 2006–NM–012–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 26, 2006.

**Affected ADs**

(b) This AD supersedes AD 2004–08–03.

**Applicability**

(c) This AD applies to the Airbus airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; and Model A300 C4–605R Variant F airplanes; except those airplanes equipped with a fuel trim tank system (that have incorporated Airbus Modification 4801).

(2) All Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.

**Unsafe Condition**

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to detect and correct damage of the center tank fuel pumps and fuel pump canisters, which could result in separation of a pump from its electrical motor housing, loss of flame trap capability, and a possible fuel ignition source in the center fuel tank.

**Compliance**

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

**Restatement of Requirements of AD 2004–08–03**

*Detailed Inspections*

(f) For Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes and Model A300 C4–605R Variant F airplanes: Within 15 days after May 19, 2004 (the effective date of AD 2004–08–03) (unless accomplished previously), perform detailed inspections as specified in paragraphs (f)(1) and (f)(2) of this AD, in accordance with paragraph 4.2 of Airbus All Operators Telex (AOT) A300–600–28A6075, dated February 20, 2003; or Revision 01, dated October 24, 2005.

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

(1) Inspect the lower part of the pump diffuser guide slots (bayonet) of the center tank fuel pumps and the bottom of the pump diffuser housings to detect cracks, fretting, and other damage. Replace any damaged pump and the corresponding fuel pump canister with new parts before further flight in accordance with the AOT.

(2) Inspect the center tank fuel pump canisters to detect cracks. Replace any cracked fuel pump canister and the corresponding fuel pump with new parts before further flight in accordance with the AOT.

*Repetitive Inspections With New Repetitive Intervals*

(g) For Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes and Model A300 C4–605R Variant F airplanes: Within 600 flight hours after May 19, 2004, perform a detailed inspection of the fuel pumps, and an eddy current inspection of the fuel pump canisters, to detect damage. Do the inspections in accordance with paragraph 4.3 of Airbus AOT A300–600–28A6075, dated February 20, 2003; or Revision 01, dated October 24, 2005. Replace any damaged part with a new part before further flight in accordance with the AOT. Repeat the inspections at intervals not to exceed 3,000 flight cycles.

(h) For Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes and Model A300 C4–605R Variant F airplanes: Within 7,000 flight cycles after canister replacement as specified in paragraph (g) of this AD, perform an eddy current inspection of the fuel pump canisters to detect damage in accordance with Airbus AOT A300–600–28A6075, dated February 20, 2003; or Revision 01, dated October 24, 2005. Replace any damaged part with a new part before further flight in accordance with the AOT. Thereafter repeat the inspection at intervals not to exceed 3,000 flight cycles.

**Note 2:** Airbus AOT A300–600–28A6075 refers to Airbus Alert Service Bulletin A300–28A6061, Revision 04, dated August 1, 2002, as an additional source of service information for accomplishment of the eddy current inspection required by paragraphs (g) and (h) of this AD.

*Reporting Requirement*

(i) For Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes and Model A300 C4–605R Variant F airplanes: At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, submit a report of findings (both positive and negative) of each inspection required by this AD, in accordance with Airbus AOT A300–600–28A6075, dated February 20, 2003. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For any inspection accomplished after May 19, 2004: Submit the report within 10 days after performing that inspection.

(2) For any inspection accomplished before May 19, 2004: Submit the report within 10 days after May 19, 2004.

**Requirements of This AD**

*Repetitive Inspections for New Airplanes*

(j) For Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes: At the applicable compliance time specified in paragraphs (j)(1) and (j)(2) of this AD, do a detailed inspection of the pump bodies for cracking, damage, and missing and broken fasteners; and do a high frequency eddy current (HFEC) inspection of the fuel pump canisters for a cracked flange web, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–28–0084, dated June 28, 2005 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); or Airbus Service Bulletin A310–28–2159, dated June 28, 2005 (for Model A310–203, –204, –221, and –222 airplanes and Model A310–304, –322, –324, and –325 airplanes), as applicable. If any crack or damage to the pump bodies is found or any missing or broken fastener is found, before further flight, replace the fuel pump with a new fuel pump in accordance with the applicable service bulletin. Repeat the detailed inspection of the pump bodies thereafter at intervals not to exceed 3,000 flight cycles. If no cracked flange web is found, repeat the HFEC inspection of the fuel pump canisters thereafter at intervals not to exceed 3,000 flight cycles. Accomplishing the replacements specified in paragraph (l) of this AD terminates the repetitive detailed and HFEC inspections.

(1) For Model A300 B4–2C, B4–103, and B4–203 airplanes: Inspect before the airplane has accumulated 19,600 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

(2) For Model A310–203, –204, –221, and –222 airplanes and Model A310–304, –322, –324, and –325 airplanes: Inspect before the airplane has accumulated 27,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

*Corrective Action for Cracked Flange Web*

(k) For Model A300 B4–2C, B4–103, and B4–203; Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes: If any flange web is found cracked during any HFEC inspection required by paragraph (j) of this AD, before further flight after the inspection, replace the fuel pump canister with a new fuel pump canister in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–28–0084, dated June 28, 2005; or Airbus Service Bulletin A310–28–2159, dated June 28, 2005, as applicable. Repeat the HFEC inspection at the applicable compliance times specified in paragraph (k)(1) or (k)(2) of this AD, until the replacements specified in paragraph (l) of this AD are accomplished.

(1) For Model A300 B4–2C, B4–103, and B4–203 airplanes: Inspect within 19,600 flight cycles after replacing the fuel pump canisters and thereafter at intervals not to exceed 3,000 flight cycles.

(2) For Model A310–203, –204, –221, and –222 airplanes and Model A310–304, –322, –324, and –325 airplanes: Inspect within 27,000 flight cycles after replacing the fuel pump canisters and thereafter at intervals not to exceed 3,000 flight cycles.

*Terminating Action: Replacement of Fuel Pump Canisters*

(l) For all airplanes: Within 66 months after the effective date of this AD, replace the fuel pump canisters with new reinforced fuel pump canisters, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–28–0085, dated July 18, 2005 (for Model A300 B4–2C, B4–103, and B4–203 airplanes); Airbus Service Bulletin A300–28–6089, Revision 01, dated November 28, 2005 (for Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes and Model A300 C4–605R Variant F airplanes); or Airbus Service Bulletin A310–28–2160, dated July 18, 2005 (for Model A310–203, –204, –221, and –222 airplanes and Model A310–304, –322, –324, and –325 airplanes), as applicable. Replacement of a fuel pump canister terminates the repetitive inspections required by paragraphs (f), (g), (h), (j) and (k), as applicable, for that fuel pump canister only.

*Credit for Previous Service Bulletin*

(m) For Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes and Model A300 C4–605R Variant F airplanes: Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A300–28–6089, dated July 18, 2005, are acceptable for compliance with the requirements of paragraph (l) of this AD.

*Alternative Methods of Compliance (AMOCs)*

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

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

*Related Information*

(o) French airworthiness directive F–2005–199, dated December 7, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on March 10, 2006.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4407 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD]**

**RIN 2120–AA64**

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

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

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** The FAA is revising an earlier supplemental NPRM for an airworthiness directive (AD) that applies to certain Airbus airplanes as listed above. The first supplemental NPRM would have required repetitively inspecting for cracking in the web of nose rib 7 of the inner flap on the wings, and performing related investigative/corrective actions if necessary. The original NPRM resulted from reports of cracking in the web of nose rib 7 of the inner flap. This action revises the first supplemental NPRM by requiring eventual replacement of nose rib 7 with a new, improved rib, which would terminate the proposed inspections. This action also removes from the applicability airplanes on which the improved nose rib 7 was installed during production. We are proposing this supplemental NPRM to prevent cracking in the web of nose rib 7, which could result in rupture of the attachment fitting between the inner flap and flap track 2, and consequent reduced structural integrity of the flap.

**DATES:** We must receive comments on this supplemental NPRM by April 21, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this supplemental NPRM.

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

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

**Examining the Docket**

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

**Discussion**

We proposed to amend 14 CFR part 39 with a supplemental notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the "first supplemental NPRM"). The first supplemental NPRM applies to all Airbus Model A300 B2 and A300 B4 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes). The first supplemental NPRM was published in the **Federal Register** on September 15, 2005 (70 FR 54486). The first supplemental NPRM proposed to require repetitively inspecting for cracking in the web of nose rib 7 of the inner flap on the wings, and performing related investigative/corrective actions if necessary.

The first supplemental NPRM specified that, if any cracking is found, nose rib 7 must be replaced with a reinforced rib having increased flange thickness and new shape. However, subsequent flight testing of this reinforced rib revealed that further reinforcement of nose rib 7 was necessary.

**Relevant Service Information**

Since the preparation of the first supplemental NPRM, Airbus has issued Service Bulletins A300–57–0245 (for Model A300 B2 and B4 series airplanes) and A300–57–6100 (for Model A300–600 series airplanes), both Revision 01, dated March 9, 2006. These service bulletins state that they supersede Airbus Service Bulletins A300–57–0242 and A300–57–6097, respectively, both dated December 18, 2003. (The first supplemental NPRM referred to Airbus Service Bulletins A300–57–0242 and A300–57–6097 as the acceptable source of service information for the proposed related investigative and corrective actions.)

Airbus Service Bulletins A300–57–0245 and A300–57–6100 describe procedures for replacing nose rib 7 with a new, improved rib. This is the corrective action if any crack is found in the vertical stiffeners or the horizontal flanges of nose rib 7. But, in addition, the service bulletin recommends eventual replacement of nose rib 7 on all airplanes, regardless of whether cracking is found.

Among other things, the new, improved rib has an increased web thickness, thicker vertical stiffeners in a modified position, radius instead of chamfer on hinge lug edges, and thicker lug bases. The procedures for the replacement include doing related investigative and corrective actions if necessary. The related investigative actions include an inspection for any damage of the bearing assembly of the lug of nose rib 7, and high-frequency eddy current inspections or detailed visual inspections, as applicable, to detect cracking in fastener holes and in the upper radii of the skin flanges of the ribs and front spar. If any damage or cracking is found during these inspections, the service bulletins specify contacting Airbus.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, mandated the service information and issued French airworthiness directive F–2005–198, dated December 7, 2005, to ensure the continued airworthiness of these airplanes in France. The effectivity of French airworthiness directive F–2005–198 excludes airplanes on which the new service information or the related production modifications have been done.

**FAA's Determination and Proposed Requirements of the Supplemental NPRM**

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

**Clarification of Inspection Terminology**

In this supplemental NPRM, the "detailed visual inspection"' specified in Airbus Service Bulletins A300–57–0245 and A300–57–6100 is referred to as a "detailed inspection." We have included the definition for a detailed inspection in a note in this supplemental NPRM.

**Differences Among the Supplemental NPRM, French Airworthiness Directive, and Relevant Service Information**

Unlike the procedures described in the service information and French airworthiness directive, this supplemental NPRM would not permit further flight if any crack is detected in nose rib 7 of the inner flap. We have determined that, because of the safety implications and consequences associated with that cracking, the nose rib must be replaced and all applicable related investigative/corrective actions must be done before further flight after the crack finding.

The service information specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this supplemental NPRM would require you to repair those conditions using a method that we or the DGAC (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair that we or the DGAC approve would be acceptable for compliance with this proposed AD.

The applicability of the French airworthiness directive excludes airplanes on which Airbus Service Bulletin A300–57–0245 or A300–57–6100 was accomplished in service. However, we have not excluded those airplanes in the applicability of this supplemental NPRM; rather, this supplemental NPRM includes a requirement to accomplish the actions specified in the applicable service bulletin. This requirement would ensure that the actions specified in the applicable service bulletin and that would be required by this proposed AD are accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance (AMOC) is approved.

Also, the service information and the French airworthiness directive specify reporting inspection findings to Airbus. This supplemental NPRM would not require that action.

These differences have been coordinated with the DGAC.

**Explanation of Removal of Interim Action**

In the first supplemental NPRM, we explain that we considered the action interim because the manufacturer was currently developing a modification that would address the unsafe condition

identified in this AD. As we explained previously, since we prepared the first supplemental NPRM, Airbus has developed a new, improved nose rib 7. Installing the new, improved rib is intended to adequately address the unsafe condition. Thus, this second supplemental NPRM is no longer considered interim action.

**Clarification of AMOC Paragraph**

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

**Costs of Compliance**

The following table provides the estimated costs for U.S. operators to comply with this supplemental NPRM, at an average labor rate of $65 per hour.

ESTIMATED COSTS

| Action | Work hours | Parts | Cost per airplane | Number of U.S.-registered airplanes | Fleet cost |
|---|---|---|---|---|---|
| Inspection, per inspection cycle | 3 | None | $195 | 143 | $27,885, per inspection cycle. |
| Rib replacement | 10 | $10,980 | 11,630 | 143 | $1,663,090. |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus:** Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD.

**Comments Due Date**

(a) The FAA must receive comments on this AD action by April 21, 2006.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, B4–203, B4–601, B4–603, B4–605R, B4–620, B4–622, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; certificated in any category; except those on which Airbus Modification 13031 or 19575 was accomplished in production.

**Unsafe Condition**

(d) This AD was prompted by reports of cracking in the web of nose rib 7 of the inner flap. We are issuing this AD to prevent cracking in the web of nose rib 7, which could result in rupture of the attachment fitting between the inner flap and flap track 2, and consequent reduced structural integrity of the flap.

**Compliance**

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

**Inspections**

(f) Do a detailed inspection, using a borescope or endoscope, for cracking of the vertical stiffeners, and of the horizontal flanges between the stiffeners, of nose rib 7 of the inner flap of the left- and right-hand wings; and do an eddy current inspection to detect cracking in the horizontal flanges of the attachment lug root of nose rib 7 of the inner flap of the left- and right-hand wings; in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0240 or A300–57–6095, both Revision 01, both dated December 2, 2004, as applicable. Do the initial inspections at the applicable compliance time specified in paragraph (f)(1) or (f)(2) of this AD.

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

(1) For airplanes on which nose rib 7 has not been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspections at the applicable time specified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(i) For airplanes with 18,599 or fewer total flight cycles as of the effective date of this AD: Prior to the accumulation of 5,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

(ii) For airplanes with 18,600 or more total flight cycles as of the effective date of this AD: Within 500 flight cycles after the effective date of this AD.

(2) For airplanes on which nose rib 7 has been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspection within 5,000 flight cycles after accomplishing the replacement, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

**No Crack Found: Repetitive Inspections**

(g) If no crack is found during the inspection required by paragraph (f) of this AD: Repeat the inspection at intervals not to exceed 1,000 flight cycles, until the terminating action in paragraph (i) of this AD is completed.

**Crack Found: Related Investigative/ Corrective Actions**

(h) If any crack is found during any inspection required by paragraph (f) or (g) of this AD: Before further flight, replace nose rib 7 with a new, improved rib and do all related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0245, Revision 01, or A300–57–6100, Revision 01, both dated March 9, 2006, as applicable, except as provided by paragraph (j) of this AD. This terminates the repetitive inspections required by paragraph (g) of this AD for the modified flaps only.

**Terminating Action**

(i) Within 5,000 flight cycles or 36 months after the effective date of this AD, whichever is first: Replace nose rib 7 with a new, improved rib and do all related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0245, Revision 01, or A300–57–6100, Revision 01, both dated March 9, 2006, as applicable, except as provided by paragraph (j) of this AD. This terminates the repetitive inspections required by paragraph (g) of this AD.

**Repairing Per the FAA or Direction Générale de l'Aviation Civile (DGAC)**

(j) If any crack or damage is found for which the applicable service bulletin specifies to contact Airbus: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

**No Reporting Required**

(k) Airbus Service Bulletins A300–57–0240 and A300–57–6095, both Revision 01, both dated December 2, 2004, specify to submit certain information to the manufacturer, but this AD does not include that requirement.

**Actions Accomplished in Accordance With Initial Issue of Service Bulletins**

(l) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A300–57–0245 or A300–57–6100, both dated August 31, 2005, are acceptable for compliance with the requirements of paragraphs (h) and (i) of this AD.

**Alternative Methods of Compliance (AMOCs)**

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

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

**Related Information**

(n) French airworthiness directive F–2005–198, dated December 7, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on March 14, 2006.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E6–4406 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 91 and 119

**[Docket No. FAA–2006–24260]**

## Exemptions for Passenger Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of draft policy statement.

**SUMMARY:** This document identifies and provides guidance on the current FAA policies regarding requests for an exemption from the rules governing the operation of aircraft for the purpose of carrying passengers on living history flights in return for compensation. Specifically, this document clarifies which aircraft are potentially eligible for an exemption and what type of information petitioners should submit to the FAA for proper consideration of relief from the applicable regulations. This policy does not apply to flight crew training or commercial space transportation issues.

**DATES:** Comments must be received on or before April 26, 2006.

**ADDRESSES:** You may send comments that do not include national security or sensitive security information identified by Docket Number FAA–2006–24260 using any of the following methods:

- 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 20590–001.
- Fax: 1–202–493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process or instructions on submitting comments that include national security or sensitive security information, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* Subject to review for national security or sensitive security information, we will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read background documents or comments received, go to *http://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.

**FOR FURTHER INFORMATION CONTACT:** General Aviation and Commercial Division, Certification and General Aviation Operations Branch (AFS–810), Flight Standards Service, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8212.

**SUPPLEMENTARY INFORMATION:**

### Background

In 1996, the FAA granted an exemption from various requirements of part 91 and part 119 to an aviation museum/foundation allowing the exemption holder to operate a large, crew-served, piston-powered, multiengine, World War II (WWII) bomber carrying passengers for the purpose of preserving U.S. military aviation history. In return for donations, the contributors would receive a local flight in the restored bomber.

The petitioner noted that WWII combat aircraft are unique in that only a limited number remain in flyable condition, and that number is declining with the passage of time. In addition,

the petitioner noted replacement parts and the specific gasoline used by these airplanes will eventually be in short supply, and may substantially reduce the aircraft performance capability or require the airplanes to be grounded.

The petitioner indicated that compensation would be collected to help cover expenses associated with maintaining and operating the WWII airplane. Without these contributions, the petitioner asserted that the cost of operating and maintaining the airplane would be prohibitive.

The FAA determined that these airplanes were operated under a limited category airworthiness certificate. Without type certification under Title 14 Code of Federal Regulations (14 CFR) § 21.27, they are not eligible for standard airworthiness certificates. The high cost of type certification under § 21.27 makes this avenue impractical for operators providing living history flights. Comparable airplanes manufactured under a standard airworthiness certificate did not exist. Thus, the FAA determined that an exemption was an appropriate way to preserve aviation history and keep the airplanes operational.

In granting the exemption, the FAA found that there was an overwhelming public interest in preserving U.S. aviation history, just as the preservation of historic buildings, historic landmarks, and historic neighborhoods have been determined to be in the public interest. While aviation history can be represented in static displays in museums, in the same way historic landmarks could be represented in a museum, the public has shown support for and a desire to have these historic aircraft maintained and operated to allow them to experience a flight.

As with all exemptions, the FAA also recognized it was paramount that such operations not adversely affect safety. Therefore, the FAA required flight crewmembers to meet certain qualification and training requirements (for example, requirements for an FAA-approved training program and stringent pilot qualifications, comprehensive maintenance and inspection procedures and records, and in-flight maintenance and airworthiness failure reporting procedures.).

The FAA granted the exemption and relieved the petitioner from the following regulations contained in Title 14, Code of Federal Regulations (14 CFR):

- Section 91.315, which states that no person may operate a limited category civil aircraft carrying persons or property for compensation or hire.
- Section 91.319(a), which states that no person may operate an aircraft with an experimental certificate for other than the purpose for which the certificate was issued, or for carrying persons or property for compensation or hire.
- Section 119.5(g), which states, in pertinent part, that no person may operate as a commercial operator without, or in violation of, an appropriate certificate and appropriate operations specifications.
- Section 119.21(a), which states, in pertinent part, that each person who conducts operations as a commercial operator engaged in intrastate common carriage of persons for compensation shall comply with the certification and operations specifications requirements in subpart C of part 119. Subpart C of part 119 describes certification, operations specifications, and other requirements for operations conducted under part 121 or part 135.

Since the issuance of that exemption, the FAA has received many exemption requests seeking the same or similar relief, even though the particular circumstances were different. These subsequent petitions raised significant concerns within the FAA and led it to reexamine and refine its criteria for issuing exemptions.

In one case, petitioner requested relief to operate certain helicopters manufactured for U.S. Army operations in the Republic of Vietnam. These helicopters are similar in construction and design to a type-certificated product with a standard airworthiness certificate. The FAA generally does not issue exemptions from aviation safety regulations if the proposed operation can be performed in full compliance with the rules. However, the FAA reconsidered its position in this instance because the aircraft provided a unique, historical perspective due to the nature of its operations. The aircraft served in Viet Nam in the actual manner that they were flown in exhibition. Additionally, the particular make and model of aircraft have been on active service duty in the U.S. military longer than any other military helicopter and have carried more personnel and equipment into war zones and areas of conflict than any other aircraft. Thus, the FAA granted an exemption because of the aircraft's unique operating history.

In another case, a petitioner requested an exemption to operate several single-seat, piston-powered WWII fighter aircraft that were certificated in the limited category. While the historical significance and combat history of the aircraft were appropriate to the original standard, those in civil use had been modified to a two-seat version. Single-seat aircraft converted to a two-seat configuration no longer met the same design criteria of the original aircraft, and would not generally be considered as representative of the actual aircraft used in combat operations.

Another petitioner requested an exemption to operate certain large turbojet-powered aircraft, which included a foreign-manufactured and operated,[1] surplus military turbojet aircraft. Some turbojet-powered aircraft (L–29, L–39, TS–11, Alfa Jet, etc.) remain in active military service or are readily available in the current international market. The availability of these aircraft is indicative of an increasing market and thus undermines any argument that this aircraft meets the public interest goal of preserving unique, historical aircraft. Additionally, the FAA was concerned that the petitioner could not demonstrate that these aircraft had been adequately maintained. Unlike foreign-manufactured military surplus aircraft, operators of U.S.-manufactured surplus military aircraft certificated in an airworthiness category (experimental, limited, and restricted category under § 21.25(a)(2)) for which no common standards exist, were required to avoid potential safety issues through (1) the continued operation and maintenance requirements imposed on them, and (2) a requirement to provide adequate documentation of previous operational maintenance history.

## FAA Policy

This document provides clarification on the FAA's policy on issuing exemptions to only non-profit organizations for the purpose of providing flight experiences to promote aviation history and preserve historic aircraft.

The FAA recognizes the need for and seeks to promote an exposure to and appreciation of aviation history. By enabling non-profit organizations, identified as such by the U.S. Department of the Treasury, to offer living history flights for compensation used to preserve and maintain these aircraft, the public will be assured access to this important part of history.

[1] Certification under § 21.19(d) does not require the aircraft be manufactured in the United States. Rather a foreign-manufactured aircraft operated by a branch of the U.S. Armed Forces would be treated the same as a U.S.-manufactured aircraft. However, foreign operations pose concerns over whether the aircraft, as designed, could have been certificated under § 21.19(d) and whether the aircraft has been maintained in a manner sufficient to ensure the safety of the flying public and bystanders.

The regulations in 14 CFR establish appropriate safety standards for aircraft operators and crewmembers. Therefore, an exemption from aviation safety regulations is not routinely granted if the proposed operation can be performed in full compliance with the rules. In addition, the FAA must be persuaded that operation of the affected aircraft will not pose an undue risk to the flying public or to bystanders. The use of turbine-engine powered aircraft, in particular, raises several concerns with respect to the type and quality of training available for the flight crews and maintenance and inspection personnel. Many of these aircraft are complex in nature and require special skills to operate safely. In addition, there is risk to passengers, ground personnel and spectators when ejection seat systems, utilizing armed, explosive pyrotechnic devices are installed and operational.

The FAA notes that in order to ensure that adequate consideration is given to petitioners intending to operate experimental exhibition, surplus foreign or domestic, turbojet or turbine-powered aircraft, the FAA will closely examine the proposed operation with respect to safety of flight, passenger safety considerations, and safety of the non-participating public during the operational period and within the operational area. Passenger/flight crew egress, emergency egress systems such as ejection seats, documentation or statistical make and model operational history, significance of the particular aircraft with respect to the operational history maintenance history, operational failure modes, and aging aircraft factors of individual aircraft will be taken into consideration in the analysis of an exemption request.

The FAA will not automatically exclude any aircraft from consideration unless the aircraft was acquired through an Act of Congress and Congress has specified that the aircraft may not be operated for compensation or hire.[2] Rather, the FAA will evaluate each exemption request on a case-by-case basis. Those requesting an exemption from a particular standard or set of standards must demonstrate the following: (1) That there is an overriding public interest in providing a financial means for non-profit organizations to continue to preserve and operate these historic aircraft, and (2) the measures that will be taken to ensure safety will not be adversely affected.

In order to allow the FAA to thoroughly evaluate and provide consideration to each request, petitioners should allow at least 120 days for processing and review of any exemption requests.

The FAA will use the following criteria in determining whether granting an exemption is in the public interest and does not compromise safety:

1. Aircraft holding any category of airworthiness certificate issued under 14 CFR part 21 may be considered for an exemption to provide living history flight experiences.

2. Exemptions will not be limited to a particular category of aircraft or to a particular type of engine; fixed wing or rotorcraft may apply as well as piston or turbine powered.

3. Non-U.S. aircraft may be considered for an exemption if the operational and maintenance history is adequately documented.

4. Aircraft with crew egress systems will be considered, provided that flight crew, ground personnel, and passengers have completed a training program approved by the FAA. Passenger training programs must be at least as thorough as what is provided by the manufacturer or military service user when preparing an indivídual for a "familiarization" flight. Aircraft of the same or similar make/model/series must not be in current production or in significant commercial use for the carriage of passengers. Exceptions may be considered where a particular airframe has documented historical significance (such as the aforementioned Vietnam-era helicopter).

5. All passenger seats and their installation must:

a. Take into consideration passenger egress in the event of an emergency; and be FAA-approved if installed on type-certificated aircraft; or

b. Meet the military seat and installation standards or equivalent standards in existence at the time the aircraft was manufactured as outlined in 14 CFR 21.27 if installed on experimental aircraft. The FSDO having oversight for that aircraft will then ensure the approved maintenance program is modified to incorporated the specific seat inspection procedures.

6. Exemptions will be issued for the sole purpose of providing living history flights to promote aviation and preserve historic aircraft. The operations authorized under these exemptions are specifically not air tour, sightseeing, or air carrier operations. The FAA may stipulate considerations and limitations to the operation to preserve commonality and standardization. The FAA, in determining the public interest derived in any grant of exemptions of this nature, will take into consideration the number of existing aircraft and petitioners available to provide the historic service to the public.

7. The FAA must be provided with proof that the petitioner is a non-profit museum or foundation, recognized as such by the U.S. Department of the Treasury, which uses the funds received from exhibitions to enable the continued display of the featured aircraft. The aircraft must be operated exclusively by the petitioner.

8. Flights must be non-stop and within 25 statute miles radius of the departure point. With concurrence of the local FSDO, special authorizations may be given to conduct flights up to a distance of 50 statute miles from the departure airport in order to meet ATC airspace restrictions or security needs.

9. Applicants may be required to submit an operational history of the make/model/type aircraft, or justification with respect to aviation history in order for the FAA to determine the public interest basis for granting an exemption.

10. If a petition for exemption is granted, the conditions and limitations may include revised operating limitations as part of the aircraft's airworthiness certificate. These operating limitations may be more restrictive than those originally issued to the aircraft.

11. Passengers must obtain a complete briefing prior to departure that adequately describes the differences between aircraft with a standard airworthiness certificate and aircraft holding either an experimental or limited airworthiness certificate (i.e., The FAA has not participated in or accepted the design standards, performance standards, handling qualities, or provided approval or operational acceptance of experimental aircraft, the adequacy of previous maintenance and inspection programs and accomplishment may be in doubt, that the aircraft may not comply with FAA passenger regulations and may be operated under separate maintenance standards). The briefing shall also advise that the FAA considers flights in these aircraft to be inherently dangerous activities and has approved this exemption on the condition that the passengers taking this flight be properly trained in emergency exiting, including proper use of the ejection seat and apprised of the risks involved in flying in such aircraft. Petitioners must prepare a "waiver" for signature by the potential passenger. While a waiver

[2] In the event an exemption is mistakenly granted for such an aircraft, the exemption shall be void and the FAA may take enforcement action against the operator at any time.

cannot absolve the operator of liability in the event of an accident, the document will provide proof that the passenger has been advised of the risks inherent in the type of operation to be conducted. In addition, the signature will acknowledge the fact that the FAA has NOT made a determination that the aircraft is considered safe to carry passengers for compensation or hire.

14. Crew Qualification and Training

a. Pilots must possess a minimum of a commercial pilot certificate with instrument rating appropriate to the category and class of aircraft to be flown. They must also hold a type rating is required by the type of aircraft flown along with a current second class medical certificate.

b. Initial and recurrent training must be performed to current ATP Practical Test Standards for aircraft requiring a special authorization or type rating to operate.

c. An initial ground and flight-training program must be developed by the organization and completed by all pilots.

d. Recurrent ground training must be developed and completed by all pilots or an annual cycle.

e. An annual proficiency check must be conducted and if necessary, recurrent flight training will be required. A minimum activity level and satisfactory flight proficiency check may allow the requirement for recurrent flight training to be waived.

f. The petitioner will state the minimum flight experience required for each pilot position.

g. Pilots will maintain takeoff and landing currency in each make and model.

h. A system for documenting and recording all crew qualifications, required training, checking and currency must be developed and maintained.

i. All training and checking programs must be approved by the FAA.

15. Maintenance/Inspection of Aircraft

a. The maintenance history of each individual aircraft must be provided.

b. The petitioner must provide an FAA approved maintenance/inspection program that may be a program based on military and/or original manufacturer's manuals and must be in accordance with the type certification data sheet and the aircraft's operating limitations.

c. All maintenance and inspections will be documented and recorded.

d. Applicants may be required to submit an operational history of the make/model/type in order for the FAA to verify that the submitted maintenance/inspection program is adequate.

16. All maintenance or operational incidents will be reported to the Flight Standards District Office in whose district the organization's principal base of operations is located.

17. Passenger Safety and Training

a. An FAA approved passenger briefing must be conducted appropriate to the scope of operations. Passengers must be fully informed of the risks associated with the proposed rides, and that occupying a seat in these aircraft may subject the rider to a high level of risk. Some operations may require passenger-briefing cards.

b. The passenger briefing must include normal and emergency egress procedures, passenger seating, and overview of safety restraint systems.

c. Passenger training equivalent to that provided for Department of Defense familiarization flights must be approved by the FAA and conducted for all flights involving any of the following:

i. Ejection seats, if the aircraft is so equipped;

ii. High altitude operations, if flight will be conducted above 10,000 feet MSL;

iii. Oxygen system, for flights above 10,000 feet MSL or if use of the system is required by type of operation.

Petitioners will be required to demonstrate their ability to safely perform the operations requested and to meet all operating and maintenance requirements. The extent of this demonstration will be dependent on the scope of the operation requested. Petitioners who have conducted this type of operation must provide a summary of their operating history.

Additionally, all petitioners will be required to submit documentation sufficient to allow the FAA to determine the number of passenger seats to be utilized during compensated operations and the FAA approval status of those seats. Petitioners will also be required to provide the U.S. registration number and make/model/serial number of the aircraft to be used.

Petitioners who have submitted requests should review this draft policy statement and consider supplementing their petitions if they have not previously provided the necessary information. The FAA will consider any information submitted and determine whether more information is necessary to make a decision on whether it is appropriate to grant an exemption for a particular aircraft. The FAA anticipates that some aircraft models that have been granted exemptions may no longer qualify for future exemptions.

Petitioners should be precise regarding the requirements from which they seek relief. In addition petitioners should provide copies of the airworthiness certificate, including a copy of the operating limitations issued for each aircraft that would be subject to the conditions and limitations of the proposed exemption. Those submitting petitions for exemption or additional information should submit the required information to the following: (1) for paper submissions, send the original signed copy of your submission to the U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC 20591–0001; or (2) for electronic submissions, submit your information to the FAA through the Internet using the Docket Management System Web site at this Internet address: *http://dms.dot.gov/*. If you already have received a docket number, you must reference that docket number in your request.

The FAA is soliciting comments from the public regarding this draft policy statement. We will not consider any new requests for exemption from the date this proposed policy is published to the time at which all comments are received and adjudicated.

Issued in Washington, DC on March 21, 2006.

**James J. Ballough,**

*Director, Flight Standards Service.*

[FR Doc. 06–2915 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 926

**[MT–026–FOR]**

### Montana 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 Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

This document gives the times and locations that the Montana regulatory 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.s.t., April 26, 2006. If requested, we will hold a public hearing on the amendment on April 21, 2006. We will accept requests to speak until 4 p.m., m.s.t., on April 11, 2006.

**ADDRESSES:** You may submit comments, identified by "MT–026–FOR," by any of the following methods:

- E-mail: *rpair@osmre.gov*. Include "MT–026–FOR" in the subject line of the message.
- Mail/Hand Delivery/Courier: Richard Buckley, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East B St., Rm. 1018, Casper, WY 82601–1018. (307) 261–6550. *rbuckley@osmre.gov*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and indicate docket number "MT–026–FOR." 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 Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) (hereinafter, the "Montana program"), this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, may be obtained 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 Office of Surface Mining Reclamation and Enforcement (OSM's) Casper Field Office. In addition, you may review a copy of the amendment during regular business hours at the following locations:

Richard Buckley, Acting Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East B St., Rm.1018, Casper, WY 82601–1018. (307) 261–6550. *rbuckley@osmre.gov*.

Neil Harrington, Chief, Industrial and Energy Minerals Bureau, Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620–0901. (406) 444–2544. *neharrington@mt.gov*.

**FOR FURTHER INFORMATION CONTACT:** Richard Buckley, Telephone: (307) 261–6550. E-mail: *rbuckley@osmre.gov*.

**SUPPLEMENTARY INFORMATION:**

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

## I. Background on the Montana 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 Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

## II. Description of the Proposed Amendment

By letter dated January 18, 2006, Montana sent us a proposed amendment to its program (MT–026–FOR, Administrative Record No. MT–023–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to an April 2, 2001, letter that we sent to Montana in accordance with 30 CFR 732.17(c) [pertaining to valid existing rights], and to include the changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of the Montana Code Annotated (MCA) that Montana proposes to revise or add are:

MCA 82–4–206, Procedure for contested case hearings; MCA 82–4–223, Permit fee and surety bond; MCA 82–4–225, Application for increase or reduction in permit area; MCA 82–4–226, Prospecting permit; MCA 82–4–227, Refusal of permit; MCA 82–4–231, Submission of and action on reclamation plan; MCA 82–4–232, Area mining required—bond—alternative plan; MCA 82–4–233, Planting of vegetation following grading of disturbed area; MCA 82–4–235, Determination of successful reclamation—final bond release; MCA 82–4–251, Noncompliance—suspension of permits; MCA 82–4–254, Violation—penalty—waiver; MCA 82–4–1001, Penalty factors; and MCA 82–4–1002, Collection of penalties, fees, late fees, and interest.

Specifically, Montana proposes to revise these sections as follows:

Revise 82–4–206, MCA, to provide that an applicant, permittee, or person with an interest that is or may be adversely affected may request a hearing before the board on decisions of the department pertaining to (a) approval or denial of an application for a permit pursuant to 82–4–231; (b) approval or denial of an application for a prospecting permit pursuant to 82–4–226; (c) approval or denial of an application to increase or reduce a permit area pursuant to 82–4–225; (d) approval or denial of an application to renew or revise a permit pursuant to 82–4–221; or (e) approval or denial of an application to transfer a permit pursuant to 82–4–238 or 82–4–250.

Revise 82–4–223, MCA, to delete "permit fee" from the title and delete the provision for a permit application fee, and for editorial changes.

Revise 82–4–225, MCA, to delete the requirement for an application fee for increased or reductions in permit area.

Revise 82–4–226, MCA, to delete the requirement for an application fee for prospecting permits.

Revise 82–4–227, MCA, to add "the national system of trails," Wild and Scenic Rivers Act study rivers and study river corridors, and Federal lands within National Forests, to areas where mining is prohibited (subject to valid existing rights).

Revise 82–4–231(9), MCA, to specify the Environmental Quality Board, or its hearing officer, as the authority to hold hearings on permit decisions, and to provide that hearings may be started (rather than held) within the 20-day timeframe.

Revise 82–4–232(6), MCA, concerning bond release applications to:

(1) Change bond release requests to bond release applications;

(2) Provide that a bond release application is administratively complete if it includes

(i) The location and acreage of the land for which bond release is sought;

(ii) The amount of bond release sought;

(iii) A description of the completed reclamation, including the date of performance;

(iv) A discussion of how the results of the completed reclamation satisfy the

requirements of the approved reclamation plan; and

(v) Information required by rules implementing this part.

(3) Provide that the Department (of Environmental Quality) notify the applicant in writing of its determination no later than 60 days after submittal of the application; if the department determines that the application is not administratively complete, it shall specify in the notice those items that the application must address; after an application for bond release has been determined to be administratively complete by the department, the permittee shall publish a public notice that has been approved as to form and content by the department at least once a week for 4 successive weeks in a newspaper of general circulation in the locality of the mining operation.

(4) Provide that

any person with a valid legal interest that might be adversely affected by the release of a bond or the responsible officer or head of any federal, state, or local governmental agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to the operation may file written objections to the proposed release of bond to the department within 30 days after the last publication of the notice. If written objections are filed and a hearing is requested, the department shall hold a public hearing in the locality of the operation proposed for bond release or in Helena, at the option of the objector, within 30 days of the request for hearing. The department shall inform the interested parties of the time and place of the hearing. The date, time, and location of the public hearing must be advertised by the department in a newspaper of general circulation in the locality for 2 consecutive weeks. Within 30 days after the hearing, the department shall notify the permittee and the objector of its final decision.

(5) Provide that without prejudice to the rights of the objector or the permittee or the responsibilities of the department pursuant to this section, the department may establish an informal conference to resolve written objections.

(6) Provide that

for the purpose of the hearing under subsection (6)(d), the department may administer oaths, subpoena witnesses or written or printed materials, compel the attendance of witnesses or the production of materials, and take evidence, including but not limited to conducting inspections of the land affected and other operations carried on by the permittee in the general vicinity. A verbatim record of each public hearing required by this section must be made, and a transcript must be made available on the motion of any party or by order of the department.

(7) Provide that

if the applicant significantly modifies the application after the application has been determined to be administratively complete, the department shall conduct a new review, including an administrative completeness determination. A significant modification includes, but is not limited to:

(i) The notification of an additional property owner, local governmental body, planning agency, or sewage and water treatment authority of the permittee's intention to seek a bond release;

(ii) A material increase in the acreage for which a bond release is sought or in the amount of bond release sought; or

(iii) A material change in the reclamation for which a bond release is sought or the information used to evaluate the results of that reclamation.

(8) Provide that the department conduct an inspection and evaluation of the reclamation work involved within 30 days of determining that the application is administratively complete or as soon as weather permits;

(9) Provide that

the department shall review each administratively complete application to determine the acceptability of the application. A complete application is acceptable if the application is in compliance with all of the applicable requirements of this part, the rules adopted under this part, and the permit

(10) Provide that

(i) The department shall notify the applicant in writing regarding the acceptability of the application no later than 60 days from the date of the inspection.

(ii) If the department determines that the application is not acceptable, it shall specify in the notice those items that the application must address.

(iii) If the applicant revises the application in response to a notice of unacceptability, the department shall review the revised application and notify the applicant in writing within 60 days of the date of receipt as to whether the revised application is acceptable.

(iv) If the revision constitutes a significant modification, the department shall conduct a new review, beginning with an administrative completeness determination.

(v) A significant modification includes, but is not limited to:

(A) The notification of an additional property owner, local governmental body, planning agency, or sewage and water treatment authority of the permittee's intention to seek a bond release;

(B) A material increase in the acreage for which a bond release is sought or the amount of bond release sought; or

(C) A material change in the reclamation for which a bond release is sought or the information used to evaluate the results of that reclamation.

(11) Delete existing detailed contents required for the public notification requirements for bond release requests; and

(12) Delete the provisions of existing 82–4–232(6)(f)–(h) concerning hearings and appeal rights.

Revise 82–4–233, MCA, by deleting existing paragraph (5) concerning special revegetation requirements for land that was mined, disturbed, or redisturbed after May 2, 1978, and that was seeded prior to January 1, 1984.

Revise 82–4–235(3)(a), MCA, to specify that special revegetation bond release criteria on certain lands are applicable only under a permit issued under this part.

Revise 82–4–251(3), MCA, to provide for a contested case hearing on a permit suspension or revocation by filing a request for hearing, specifying the grounds for the request, within 30 days of receipt of the order of suspension or revocation; the order would be effective upon expiration of the period for requesting a hearing or, if a hearing is requested, upon issuance of a final order by the board; the hearing would be conducted in accordance with the requirements of Title 2, chapter 4, part 6, MCA.

Revise 82–4–251(5), MCA, to provide that informal public hearings on notices or orders that require cessation of mining must be requested by the person to whom the notice or order was issued. Further, if the Department receives a request for an informal public hearing 21 days after service of the notice or order, the period for holding the informal public hearing will be extended by the number of days after the 21st day that the request was received.

Revise 82–4–251(6), MCA, to change the provision allowing an alleged violator to apply for a review by the department to allow him to "request a hearing before the board," and delete existing requirements for Departmental investigation.

Revise 82–4–254(1), MCA, to provide individual administrative penalties for persons who purposely or knowingly, rather than willfully, authorize, order, or carry out violations. Further, such penalties must be determined in accordance with 82–4–1001, MCA.

Revise 82–4–254(2), MCA, to add provision that the department may not waive a penalty assessed under this section if the person or operator fails to abate the violation as directed under MCA 82–4–251.

Add new requirements at 82–4–254(3)(a), MCA, providing that to assess an administrative penalty, the Department must issue a notice of violation and penalty order to the person or operator, unless the penalty is waived under paragraph (2); further, the notice and order must specify the

provision of this part, rule adopted or order issued under this part, or term or condition of a permit that is violated and must contain findings of fact, conclusions of law, and a statement of the proposed administrative penalty; the notice and order must be served personally or by certified mail [service by mail is complete 3 business days after the date of mailing]; the notice and order become final unless, within 30 days after the order is served, the person or operator to whom the order was issued requests a hearing before the Board. Further add to paragraph (3)(a) a requirement that on receiving a request, the Board must schedule a hearing. Revise language at newly designated paragraph (3)(b) to indicate that only a person or operator issued a final order may obtain judicial review. Revise language at newly designated paragraph (3)(c) and paragraph (4) to allow the department, rather than the Attorney General, to file actions for collection, allow filing in the first judicial district (if agreed by the parties), and allow the department, rather than the Attorney General, to bring actions for judicial relief.

Revise 82–4–254(6) and (8), MCA, to provide criminal sanctions against persons who purposely or knowingly, rather than willfully, commit certain acts.

Add new paragraph 82–4–254(10), MCA, providing that within 30 days after receipt of full payment of an administrative penalty assessed under this section, the department will issue a written release of civil liability for the violations for which the penalty was assessed.

Regarding the proposed revisions to MCA 82–4–254, Montana notes in a narrative explanation that the terms "purposely or knowingly" are used in the Montana Criminal Code, and "willfully" is not. Further, the changes in proposed MCA 82–4–254(3)(a) are for the purpose of converting the two-step process of assessing a penalty into a more streamlined one-step process. The Department would now issue a Notice of Violation and Administrative Penalty Order (NOV/APO) that would contain all of the relevant components from the existing two-step process. The NOV/APO would contain a notice of violation, findings of fact, conclusions of law, penalty assessment, and an order to pay a proposed penalty. The operator would have 30 days after issuance of the NOV/APO to submit an appeal. If an appeal is not submitted, the NOV/APO would become final, eliminating the need to issue separate findings and conclusions of law, and the penalty would be due in 30 days.

Add a new section 82–4–1001, MCA, as follows:

Penalty factors. (1) In determining the amount of an administrative or civil penalty assessed under the statutes listed in subsection (4), the department of environmental quality or the district court, as appropriate, shall take into account the following factors:

(a) The nature, extent, and gravity of the violation;

(b) The circumstances of the violation;

(c) The violator's prior history of any violation, which:

(i) Must be a violation of a requirement under the authority of the same chapter and part as the violation for which the penalty is being assessed;

(ii) Must be documented in an administrative order or a judicial order or judgment issued within 3 years prior to the date of the occurrence of the violation for which the penalty is being assessed; and

(iii) May not, at the time that the penalty is being assessed, be undergoing or subject to administrative appeal or judicial review;

(d) The economic benefit or savings resulting from the violator's action;

(e) The violator's good faith and cooperation;

(f) The amounts voluntarily expended by the violator, beyond what is required by law or order, to address or mitigate the violation or impacts of the violation; and

(g) Other matters that justice may require.

(2) Except for penalties assessed under 82–4–254, after the amount of a penalty is determined under (1), the department of environmental quality or the district court, as appropriate, may consider the violator's financial ability to pay the penalty and may institute a payment schedule or suspend all or a portion of the penalty.

(3) Except for penalties assessed under 82–4–254, the department of environmental quality may accept a supplemental environmental project as mitigation for a portion of the penalty. For purposes of this section, a "supplemental environmental project" is an environmentally beneficial project that a violator agrees to undertake in settlement of an enforcement action but which the violator is not otherwise legally required to perform.

(4) This section applies to penalties assessed by the department of environmental quality or the district court under 82–4–141, 82–4–254, 82–4–361, and 82–4–441.

(5) The board of environmental review and the department of environmental quality may, for the statutes listed in subsection (4) for which each has rulemaking authority, adopt rules to implement this section.

Add a new section 82–4–1002, MCA, as follows:

Collection of penalties, fees, late fees, and interest.

(1) If the department of environmental quality is unable to collect penalties, fees, late fees, or interest assessed pursuant to the provisions of this chapter, the department of environmental quality may assign the debt to a collection service or transfer the debt to the department of revenue pursuant to Title 17, chapter 4, part 1.

(2)(a) The reasonable collection costs of a collection service, if approved by the department of environmental quality, or assistance costs charged the department of environmental quality by the department of revenue pursuant to 17–4–103(3) may be added to the debt for which collection is being sought.

(b)(i) All money collected by the department of revenue is subject to the provisions of 17–4–106.

(ii) All money collected by a collection service must be paid to the department of environmental quality and deposited in the general fund or the accounts specified in the statute for the assessed penalties, fees, late fees, or interest, except that the collection service may retain those collection costs or, if the total debt is not collected, that portion of collection costs that are approved by the department.

In various provisions mentioned above, Montana also proposes changes to paragraph numbering where provisions are proposed to be added or deleted or for clarity. Montana also proposes editorial revisions not specified above.

## 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 Montana program. We cannot ensure that comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) will be considered or included in the Administrative Record.

*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.

*Electronic Comments*

Please submit Internet comments as an ASCII or MSWord file avoiding the use of special characters and any form of encryption. Please also include "Attn SATS No. MT–026–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 Casper Field Office at (307) 261–6550.

*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.s.t., on April 11, 2006. 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 any Tribe, 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 State of Montana, under a Memorandum of Understanding with the Secretary of the Interior (the validity of which was upheld by the U.S. District Court for the District of Columbia), does have the authority to apply the provisions of the Montana regulatory program to mining of some coal minerals held in trust for the Crow Tribe. This proposed program amendment does not alter or address the terms of the MOU.

*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. 4321 *et seq.*).

*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. 3501 *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) of 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.

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 926**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 6, 2006.

**Allen D. Klein,**

*Director, Western Region.*

[FR Doc. E6–4360 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–05–P

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[CGD05–06–020]**

**RIN 1625–AA08**

## Special Local Regulation for Marine Events; Nanticoke River, Sharptown, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes temporary special local regulations during the "Bo Bowman Memorial—Sharptown Regatta", a marine event to be held on the waters of the Nanticoke River near Sharptown, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Nanticoke River during the event.

**DATES:** Comments and related material must reach the Coast Guard on or before April 26, 2006.

**ADDRESSES:** You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Fifth Coast Guard District office between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–06–020), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

### Public Meeting

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

### Background and Purpose

On June 17 and 18, 2006, the Carolina Virginia Racing Association will sponsor the "Bo Bowman Memorial—Sharptown Regatta", on the waters of the Nanticoke River at Sharptown, Maryland. The event will consist of approximately 100 hydroplanes and runabouts conducting high-speed competitive races on the waters of the Nanticoke River between the Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN 24175). A fleet of spectator vessels normally gathers nearby to view the competition. Due to the need for vessel control before, during and after the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

### Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Nanticoke River near Sharptown, Maryland. The regulated area includes the waters of the Nanticoke River between the Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN 24175). The temporary special local regulations will be enforced from 9:30 a.m. to 6:30 p.m. on June 17 and 18, 2006, and will restrict general navigation in the regulated area during the power boat race. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement period. The Patrol Commander may allow non-participating vessels to transit the regulated area between races, when it is safe to do so. This regulated area is needed to control vessel traffic before, during and after the event to enhance the safety of participants, spectators and transiting vessels.

### Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this

regulation will prevent traffic from transiting a portion of the Nanticoke River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic may transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Nanticoke River during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Vessel traffic may transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

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

**Assistance for Small Entities**

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

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

**Energy Effects**

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

**Technical Standards**

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

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

**Environment**

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 100.35–T05–020 to read as follows:

**§ 100.35–T05–020 Nanticoke River, Sharptown, MD.**

(a) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Bo Bowman Memorial—Sharptown Regatta under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(b) *Regulated area* includes all waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN 24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32′46″ N., longitude 075°43′14″ W.; to latitude 38°32′42″ N., longitude 075°43′09″ W.; thence northeasterly to latitude 38°33′04″ N., longitude 075°42′39″ W.; thence northwesterly to latitude 38°33′09″ N., longitude 075°42′44″ W.; thence southwesterly to latitude 38°32′46'' N., longitude 075°43′14″ W. All coordinates reference Datum NAD 1983.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(c) *Effective period.* This section will be effective from 9:30 a.m. on June 17, to 6:30 p.m. on June 18, 2006.

(d) *Enforcement period.* It is expected that this section will be enforced from 9:30 a.m. to 6:30 p.m. on June 17 and 18, 2006.

Dated: March 14, 2006.

**Larry L. Hereth,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. E6–4377 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### 37 CFR Part 2

**[Docket No. PTO–T–2005–0014]**

**RIN 0651–AB56**

## Miscellaneous Changes to Trademark Trial and Appeal Board Rules

**AGENCY:** United States Patent and Trademark Office, Commerce.

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

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is reopening the comment period for proposed changes to certain rules affecting practice before the Trademark Trial and Appeal Board that were published in the **Federal Register** January 17, 2006. Interested members of the public are invited to submit written comments on these proposed changes by the new deadline for comments.

**DATES:** The comment period for the proposed rule published at 71 FR 2498, January 17, 2006, originally set to close on March 20, 2006, is reopened from March 27, 2006, until May 4, 2006 (45 days beyond the original deadline).

**ADDRESSES:** Written comments may be sent by e-mail to *AB56Comments@uspto.gov*, or by mail addressed to Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Virginia 22313–1451, marked to the attention of Gerard F. Rogers. Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See *http://www.regulations.gov* for additional instructions on using this option.

**FOR FURTHER INFORMATION CONTACT:** Gerard F. Rogers, Administrative Trademark Judge, Trademark Trial and Appeal Board, by telephone at (571) 272–4299, or by e-mail addressed to *Gerard.Rogers@uspto.gov*, or by facsimile transmission marked to his attention and sent to (571) 273–0059.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rule making to amend certain rules governing practice before the Trademark Trial and Appeal Board was published in the **Federal Register** on January 17, 2006 (71 FR 2498). A number of comments made in response to that notice suggested that an extension of the comment period would be helpful; and some of these recommended a public hearing. In addition, the Trademark Public Advisory Committee has recommended to the USPTO an extension and a hearing. The USPTO has decided to reopen the comment period (announcement of an extension not being possible before the scheduled close of the comment period on March 20, 2006). The USPTO has also decided, however, that written comments are preferred over oral comments and therefore will not schedule a public hearing. Any comments submitted after the close of the original comment period on March 20, 2006, but prior to the date of publication of this notice in the **Federal Register** will be considered. All comments submitted between January 17, 2006 and May 4, 2006, will be considered. All comments will be posted for public viewing on the Internet via the Federal eRulemaking Portal (*http://www.regulations.gov*).

Dated: March 20, 2006.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 06–2875 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–16–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 51

**[EPA–HQ–OAR–2005–0175; FRL–8049–7]**

## Extension of Public Comment Period for Proposed Rule on the Transition to New or Revised Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of public comment period.

**SUMMARY:** The EPA is announcing a 90-day extension of the public comment period for the proposed "Transition to New or Revised Particulate Matter (PM); National Ambient Air Quality Standards (NAAQS)." As initially published in the **Federal Register** on February 9, 2006 written comments on the advance proposal for rulemaking were to be submitted to EPA on or before April 10, 2006 (a 60-day public comment period). Since publication, EPA has received several requests for additional time to submit comments. Therefore, the public comment period is being extended for 90 days and will now end on July 10, 2006. This extension is based on the fact that the PM NAAQS will not be finalized until September 27, 2006.

**DATES:** The public comment period for this proposed rule is extended to July 10, 2006.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding PM implementation issues, contact Ms. Barbara Driscoll, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code C504–05, Research Triangle Park, NC 27711, phone number (919) 541–1051 or by e-mail at: *driscoll.barbara@epa.gov*. Questions regarding the new source review issues contact Raj Rao, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code C504–03, Research Triangle Park, NC 27711, phone number (919) 541–5344 or by e-mail at: *rao.raj@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Extension of Public Comment Period*

The proposed rule was signed by the Administrator on February 3, 2006 and published in the **Federal Register** on February 9, 2006 (71 FR 6718). The EPA has received several requests for additional time to comment on the proposal. Since the 60-day public comment period would have concluded on April 10, 2006, EPA has decided to extend the comment period until July 10, 2006 based on the fact that the PM NAAQS will not be promulgated until September 27, 2006.

*B. How Can I Get Copies of This Document and Other Related Information?*

1. *Docket.* The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2005–0175. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, located at 1301 Constitution Avenue, NW., Room B102, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket is (202) 566–1742. A reasonable fee may be charged for copying.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*. Also, the advance notice of proposed rulemaking was published in the **Federal Register** on February 9, 2006 and is available at *http://www.epa.gov/air/particlepollution/actions.html*.

Dated: March 14, 2006.

**Jeffrey S. Clark,**

*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. E6–4369 Filed 3–24–06; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 51

**[EPA–HQ–OAR–2003–0079; FRL–8049–4]**

**RIN 2060–AN26**

## Implementation of the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1: Reconsideration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; notice of public hearing; reopening comment period.

**SUMMARY:** The EPA is requesting comment on the overwhelming transport classification for 8-hour ozone nonattainment areas as requested in a petition for reconsideration of EPA's final rule to implement the 8-hour ozone national ambient air quality standard (NAAQS or standard). We are requesting comment on the draft guidance document entitled "Criteria For Assessing Whether an Ozone Nonattainment Area is Affected by Overwhelming Transport," and we are reopening the comment period on our proposed rule regarding how the Clean Air Act (CAA) section 172 requirements would apply to an area that might receive an overwhelming transport classification. In the Phase 1 Rule to Implement the 8-Hour Ozone NAAQS we stated that we were considering the comments we received on the issue of applicable requirements for these subpart 1 areas and would address them when we issued guidance on assessing overwhelming transport. Consequently, today's action takes comment on the overwhelming transport guidance and on the applicable requirements that would apply to areas receiving the overwhelming transport classification. In addition, EPA is holding a public hearing on April 12, 2006.

**DATES:** Comments must be received on or before May 12, 2006 on both the proposed rule and reopening on the June 2, 2003 proposal. A public hearing will be held in Research Triangle Park, North Carolina, on April 12, 2006, and will convene at 10 a.m. and will end when those preregistered to provide testimony have done so and when others in attendance at that time have had an opportunity to do so. Because of the need to resolve the issues in this document in a timely manner, EPA will not grant requests for extensions of the public comment period. For additional information on the public hearing, see the **ADDRESSEES** section of this preamble.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0079, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- E-mail: *A-and-R-Docket@epa.gov*. Attention Docket ID No. EPA–HQ–OAR–2003–0079.
- Fax: The fax number of the Air Docket is (202) 566–1741. Attention Docket ID No. EPA–HQ–OAR–2003–0079.

• Mail: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA–HQ–OAR–2003–0079, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

• Hand Delivery: EPA Docket Center (Air Docket), Attention Docket ID No. EPA–HQ–OAR–2003–0079, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B102, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0079. The EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov*, or e-mail. The Federal *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

*Docket:* All documents in the docket are listed in the *http://www.regulations.govindex*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center (Air Docket), EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the fax number is (202) 566–1749.

*Public Hearing.* A public hearing will be held on April 12, 2006, beginning at 10 a.m. and ending when those preregistered to provide testimony have done so and when others in attendance at that time have had an opportunity to do so. The public hearing will be held at the Environmental Protection Agency, Building C, Room C111A, 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27709. Persons wishing to speak at the public hearing need to contact: Ms. Pamela Long, at telephone number (919) 541–0641 or by e-mail at *long.pam@epa.gov*. Oral testimony may be limited to 3 to 5 minutes depending on the number of people who sign up to speak. Commenters may also supplement their oral testimony with written comments. The hearing will be limited to the subject matter of this document. The public hearing schedule, including the list of speakers, will be posted on EPA's Web site at: *http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr*. A verbatim transcript of the hearing and written statements will be made available for copying during normal working hours at the EPA Docket Center (Air Docket) at the address listed above for inspection of documents.

**FOR FURTHER INFORMATION CONTACT:** For general information: Mr. John Silvasi, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–02, Research Triangle Park, NC 27711, phone number (919) 541–5666, fax number (919) 541–0824 or by e-mail at *silvasi.john@epa.gov* or Ms. Denise Gerth, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–02, Research Triangle Park, NC 27711, phone number (919) 541–5550, fax number (919) 541–0824 or by e-mail at *gerth.denise@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

1. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

**Outline**



## II. Background

In the Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS or

standard)—Phase 1 Rule—(April 30, 2004; 69 FR 23951), we established an "overwhelming transport area" (OTA) classification for certain areas that were not subject to classification under subpart 2 of part D of the CAA and were thus subject only to subpart 1 (subpart 1 ozone areas). We established three criteria that subpart 1 ozone areas must meet to receive the overwhelming transport classification:

- The area meets the criteria as specified for rural transport areas under section 182(h) of the CAA;
- Transport of ozone and/or precursors into the area is so overwhelming that the contribution of local emissions to observed 8-hour ozone concentration above the level of the NAAQS is relatively minor; and
- The Administrator finds that sources of volatile organic compounds (VOC) and, where the Administrator determines relevant, nitrogen oxides ($NO_X$) emissions within the area do not make a significant contribution to the ozone concentrations measured in other areas.

In the preamble of the Phase 1 Rule, we explained that an area will be classified as an OTA upon full approval of an analysis that demonstrates that the nonattainment problem in the area is due to "overwhelming transport." We indicated that we would issue guidance more fully explaining how to assess whether an area was affected by overwhelming transport. We indicated that the existing guidance on overwhelming transport needed to be updated and that we were retracting that guidance.

On June 29, 2004, Earthjustice filed a Petition for Reconsideration (Petition) on behalf of several environmental organizations, seeking reconsideration of certain specified aspects of the Phase 1 Rule. We responded to the Petition in letters dated September 23, 2004 and January 10, 2005 granting some aspects of their Petition and denying others. In the January 10, 2005 letter, we granted reconsideration of the overwhelming transport classification because the overwhelming transport guidance was not publicly available during the comment period on the Phase 1 Rule. We also stated that we would request public comments on our draft revision of the overwhelming transport guidance and simultaneously reopen the comment period of the June 2, 2003 (68 FR 32802) proposed rule to implement the 8-hour ozone NAAQS. Specifically, we are reopening the comment period on section VI.4. of the June 2, 2003 proposed rule (68 FR 32813) that addresses the provisions that would apply to OTAs.

Today, we are providing additional information and soliciting comment on issues related to the overwhelming transport classification. We are soliciting comment on the following three issues, which are described in more detail in section III of this preamble: (1) Overwhelming transport classification; (2) the overwhelming transport guidance, which provides more detail on the analyses that can be used to show whether an area meets the second and third eligibility criteria; and (3) the control requirements that apply under subpart 1 to an area that receives the OTA classification.

## III. Today's Action

### *A. Invitation for Comment on Draft Guidance on Criteria for Assessing Whether an Ozone Nonattainment Area Is Affected by Overwhelming Transport*

Criteria for Determining Overwhelming Transport

a. *Background.* The Phase 1 Rule established § 51.904(a), in which we created an overwhelming transport classification that would be available to subpart 1 ozone areas that demonstrate: (1) They meet the definition of a rural transport area in section 182(h); (2) they are significantly affected by overwhelming transport from one or more upwind areas; and (3) their emissions do not significantly affect a downwind area.

Qualifying areas under the current rule are those that meet that part of the definition of a rural transport area in section 182(h) that requires that an area not be in or adjacent to a C/MSA.[1] We are aware of only seven subpart 1 ozone areas that could potentially qualify under the portion of § 51.904(a)(1) which requires that the area not be in or adjacent to a C/MSA:

1. Hancock, Knox, Lincoln and Waldo Counties, Maine;
2. Essex County, New York (Whiteface Mountain);
3. Murray County, Georgia (Chattahoochee National Forest);
4. Benzie County, Michigan;
5. Door County, Wisconsin;
6. Huron County, Michigan; and
7. Mason County, Michigan.

The EPA's June 2, 2003 proposal referenced an EPA guidance document that States should use when developing their demonstration that contribution of sources in one or more other areas are an overwhelming cause of air quality violations in the area relating to the overwhelming transport classification. However, at the time we issued the final Phase 1 Rule, we noted that the overwhelming transport guidance needed to be updated and that we would address the control requirements applicable to OTAs in the Phase 2 Rule. In the Phase 2 Rule that we issued on November 29, 2005 (70 FR 71612), we stated that we granted reconsideration of the overwhelming transport classification on January 10, 2005 and intended to publish a proposed rule on the overwhelming transport classification in the future. As a result, we did not take final action on the control requirements applicable to OTAs in the Phase 2 Rule but stated that we planned to address them in the proposed rule on the overwhelming transport classification. Today's action takes comment on both the overwhelming transport guidance and the control requirements applicable to areas that receive the overwhelming transport classification. As noted above, the Petition stated that the provision for an overwhelming transport classification in the Phase 1 Rule relies on guidance that was not publicly available during the comment period and that the guidance was still unavailable at the time the Petition was submitted.

b. *Request for Comment.* On January 10, 2005, we granted the Petition on this issue and are now soliciting comment on the overwhelming transport classification as well as the draft guidance document, "Criteria For Assessing Whether an Ozone Nonattainment Area is Affected by Overwhelming Transport," which is found at the following Internet Web site: *http://www.epa.gov/ttn/scram/*. This draft guidance outlines EPA's recommended approach for demonstrating that an area should receive the OTA classification.

As described in the draft guidance, the Phase 1 Rule established three criteria an area must meet for the area to be classified as an OTA [§ 51.904(a)]. Two of these criteria are the focus of the overwhelming transport guidance. The two criteria concern: (1) Whether an area is being affected by overwhelming transport; and (2) whether the area is significantly contributing to another nonattainment area. Analyses for both of these criteria will involve assembling emissions, air quality, meteorological, and/or photochemical grid modeling data; and making an informed decision regarding contribution based on the results of the composite set of analyses. This aggregation of data is generally referred to as "weight of evidence" and is discussed in detail in EPA modeling

[1] CSMA means either Consolidated Metropolitan Statistical Area or Metropolitan Statistical Area as defined by the Office of Management and Budget (OMB) in 1999 (June 30, 1999; 64 FR 35548).

guidance on 8-hour ozone attainment demonstrations.[2] The end-product of this weight of evidence determination is a document which describes analyses performed, data bases used, key assumptions and outcomes of each analysis, and why a State believes that the evidence, viewed as a whole, supports a conclusion that the area is overwhelmingly affected by transport and does not significantly contribute to downwind problems.

It is expected that an area petitioning for an OTA classification would complete a full analysis consisting of evidence from multiple forms of weight of evidence analyses as described within this guidance. For an area to be classified as an OTA, the large majority of the tests identified in the "Criteria for Assessing Whether an Ozone Nonattainment Area is Affected by Overwhelming Transport" would have to meet the criteria of § 51.904(a)(2) and (3).

*B. Proposed Requirements That Apply to Subpart 1 Ozone Areas That Receive the Overwhelming Transport Classification*

1. General Background

Subpart 1 ozone areas are subject to the requirements of section 172(c) of the CAA. The plan provisions required to be submitted under section 172(c) include reasonably available control technology (RACT) and reasonably available control measure (RACM) plans, attainment demonstrations, reasonable further progress (RFP) plans, emission inventories, new source review (NSR) plans, and contingency measures. In the June 2, 2003 proposal (68 FR 32814), we proposed that a subpart 1 ozone area classified as an OTA would be treated similar to an area classified as marginal under subpart 2 for purposes of emission control requirements. We are reopening the comment period on a number of these proposed requirements, as described below, and we are also providing additional detail regarding these requirements.

We are not proposing that areas classified as overwhelming transport be treated differently than other subpart 1 areas for purposes of NSR, conformity and emissions inventory requirements. Thus, this proposal does not address these requirements.

[2] Guidance on the Use of Models and Other Analyses in Attainment Demonstrations for the 8-Hour Ozone NAAQS (EPA–454–05–002, October 2005). *http://www.epa.gov/scram001/guidance/guide/8-haur-o3-guidance-final-versian[1]pdf.*

2. Requirements for RACT/RACM

a. *Background.* Section 172(c)(1) of the CAA requires implementation of all RACT/RACM as expeditiously as practicable. For subpart 1 ozone areas, we proposed on June 2, 2003 an option interpreting RACT for ozone nonattainment areas for the 8-hour NAAQS similar to the Agency's interpretation for pollutants other than ozone (68 FR 32838). Under this option, for the 8-hour ozone NAAQS, if the area is able to demonstrate attainment of the standard as expeditiously as practicable with emission control measures in the SIP, then RACT will be met, and additional measures would not be required as being reasonably available. However, we did not directly propose RACT requirements for OTA areas and only proposed that "* * * the area would be treated similar to areas classified marginal under subpart 2 for purposes of emission control requirements."

b. *Request for Comment.* We are reopening the comment period, with respect to OTAs only, on the proposed approach described above for the RACT/RACM requirements. Section 172(c)(1) establishes the requirements for subpart 1 and RACT is included as a subset of RACM. Our long-standing interpretation of the RACM provision is that areas need only submit such RACM as will contribute to timely attainment and meet RFP, and that measures which might be available but would not advance attainment or contribute to RFP need not be considered RACM. This interpretation has been upheld in several recent court cases. *See Sierra Club* v. *EPA,* 294 F.39 155, 162 (DC Cir., 2002) (concerning the Metropolitan Washington, DC, attainment demonstration) and *Sierra Club* v. *EPA,* No. 01–60537 (5th Cir., 2002) (concerning the Beaumont attainment demonstration). Since subpart 1 RACT is a subset of RACM, these cases also support a conclusion that, where we are dealing only with section 172 RACT, it is reasonable to require only such RACT as will meet RFP and advance attainment. Consistent with our interpretation of RACM, EPA believes RACT would be met by control measures in a SIP demonstrating attainment of the standard as expeditiously as practicable and meeting RFP. Additionally, this approach has the benefit of providing States with flexibility to determine which control strategies are the most effective in reaching attainment as expeditiously as practicable. Specifically, we are proposing that a State would be considered to meet the RACT/RACM requirements for an OTA by submitting an attainment demonstration SIP demonstrating that the area will attain as expeditiously as practicable.

3. Attainment Demonstration

a. *Background.* Section 172(c)(1) of the CAA requires subpart 1 ozone areas to submit plan provisions that provide for attainment of the NAAQS. General requirements for an attainment demonstration are contained in 40 CFR 51.112. The June 2, 2003 proposal did not propose requirements for the attainment demonstration for OTAs, but only proposed that "* * * the area would be treated similar to areas classified marginal under subpart 2 for purposes of emission control requirements" and marginal areas are not required to submit attainment demonstrations (see CAA section 182(a), last paragraph prior to paragraph (b)).

b. *Request for Comment.* The proposal noted that regional scale modeling for national rules, such as the $NO_X$ SIP Call and Tier II motor vehicle tailpipe standards, projects major ozone benefits for the 3-year period of 2004–2006. In addition, subsequent modeling used to support the Clean Air Interstate Rule (CAIR) indicates that regional control measures will be sufficient to bring many areas into attainment no later than 2010. As described in section VI.B.1, of the Air Quality Modeling Technical Support Document for the final CAIR, we project that all of the potential OTAs would be attainment for the 8-hour ozone standard under the assumptions in the 2010 base case. Thus, we anticipate all OTAs will be in attainment by 2010 without adopting additional local controls.

We believe that an OTA should not be required to perform the detailed photochemical grid modeling needed to develop an attainment demonstration where there is existing modeling that shows that the area will attain in the short term. It would not be reasonable to require these areas to expend the amount of resources needed to perform a complex modeling analysis. Since attainment in the OTA is dependent on control measures chosen and adopted by the upwind nonattainment areas, an attainment demonstration specific to an OTA would be redundant. We anticipate that OTAs will be included in State, regional or national modeling analyses conducted by other, upwind nonattainment areas or by EPA. Where such modeling exists, it could be used to demonstrate attainment of an OTA. The demonstration must include modeling results and analyses that the State is relying on to support its claim.

Such modeling should be consistent with EPA guidance and should be applicable and appropriate for the area.[3] Because it is impossible for an OTA to demonstrate attainment on its own due to their nature, the attainment demonstration for the area must rely, to a significant extent, on control of sources outside the OTA. Consequently, as noted in the Phase 2 ozone implementation rule, we intend to determine on a case-by-case basis whether the area submitting an attainment demonstration that is upwind of an OTA needs to commit to submit a mid-course review (MCR). Such a MCR would serve the purpose of determining whether the OTA area is on track to attain the 8-hour standard by its attainment date as well as whether the upwind area is on track.

We therefore propose that a State must submit a modeled demonstration of attainment that addresses the OTA and shows that the OTA will attain as expeditiously as practicable, but the State may rely on prior modeling. We propose that no additional modeled attainment demonstration would need to be developed for OTAs where (1) Upwind areas complete attainment demonstrations with modeling domains including the OTA or (2) regional or national modeling exists that is appropriate for use in the area shows that the OTA attains as expeditiously as practicable.

In the Phase 1 Rule, we provided that we would approve an attainment date consistent with the attainment date timing provision of section 172(a)(2)(A) at the time we approve an attainment demonstration for the area [§ 51.904(b)]. We believe the section 172(a)(2)(A) provisions that allow an area to have an attainment date up to 10 years following designation (based on the severity of the nonattainment and the availability and feasibility of controls) would allow consideration for OTAs of the attainment dates of upwind nonattainment areas that contribute to the downwind area's problem, and the implementation schedules for controls in upwind areas that contribute.

4. Reasonable Further Progress

a. *Background.* Section 172(c)(2) of the CAA requires subpart 1 ozone areas to submit plan provisions which require RFP. The June 2, 2003 proposal did not discuss the requirement for RFP specifically for OTAs. However, we did propose that, generally, OTAs would be treated similar to areas classified as marginal under subpart 2 for purposes of emission control requirements.[4]

b. *Request for Comment.* Similar to the approach followed in the final Phase 2 Rule for subpart 1 areas with attainment dates within 5 years after designation, we propose that an OTA with an approved attainment demonstration would be considered to have met the RFP obligation with the measures that will bring the area into attainment by the area's attainment date. That is, RFP is met by demonstrating the area could attain the standard as expeditiously as practicable. However, an OTA's attainment date will depend on when controls in upwind areas will be implemented. Thus, an OTA may have an attainment date that is later than 6 years after designation. Because an OTA will have little control over the emissions reductions needed for attainment, we are proposing that regardless of the OTA's attainment date, RFP will be met so long as the area demonstrates attainment as expeditiously as practicable. We request additional comment on this position.

5. Contingency Measures

a. *Background.* Under the CAA, subpart 1 ozone areas must include in their SIPs contingency measures consistent with section 172(c)(9). The general requirements for nonattainment plans under section 172(c)(9) specify that each plan must contain additional measures that will take effect without further action by the State or EPA if an area either fails to meet a RFP milestone or to attain the 8-hour ozone standard by the applicable date. Contingency measures must accompany the attainment demonstration SIP. All subpart 1 ozone areas and subpart 2 areas other than marginal areas need contingency measures. The June 2, 2003 proposal did not discuss the requirement for contingency measures specifically for OTAs. However, we did propose that "* * * the area would be treated similar to areas classified marginal under subpart 2 for purposes of emission control requirements" and marginal areas are not required to submit contingency measures (see CAA section 182(a), last paragraph prior to paragraph (b)).

b. *Request for Comment.* By definition [§ 51.904(a)(2)], the contribution of local emissions to observed ozone concentrations in the OTA is relatively minor. Thus, the effect of local control measures, including contingency measures from sources in the OTA, would also be minor. The EPA believes more effective contingency measures will be contained in the upwind areas' SIPs. Because upwind areas contribute overwhelmingly to nonattainment in the downwind OTA, we believe that OTAs may rely on contingency measures adopted by the upwind contributing areas; however, such contingency measures must be structured to be triggered by a failure in the OTA itself to make reasonable RFP or attain the standard by the applicable date.

## IV. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this proposed rule is a "significant regulatory action" because it raises novel legal or policy issues arising out of legal mandates. As such this action will be submitted to OMB for review.

### *B. Paperwork Reduction Act*

The information collection requirements in this rule will be addressed along with those covering the Phase 1 Rule (April 30, 2004; 69 FR 23951) and the Phase 2 Rule (November 29, 2005; 70 FR 71612) which will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them other than to the extent required by statute.

This rule provides an optional framework for the States to develop SIPs

[3] If an assessment indicates that a regional modeling analysis is not applicable to a particular nonattainment area, additional local modeling would be required.

[4] Areas classified marginal under subpart 2 are not subject to RFP requirements.

for certain areas (viz., those affected by overwhelming transport of ozone and its precursors) to achieve a new or revised NAAQS. This framework reflects the requirements prescribed in CAA sections 110 and part D, subpart 1 of title I. In that sense, the present final rule does not establish any new information collection burden on States. Had this rule not been developed, States would still have the legal obligation under law to submit nonattainment area SIPs under part D of title I of the CAA within specified periods after their nonattainment designation for the 8-hour ozone standard, and the SIPs would have to meet the requirements of part D; however, without this rule, a few States would have less flexibility in planning for the areas noted above.

This rule does not establish requirements that directly affect the general public and the public and private sectors, but, rather, interprets the statutory requirements that apply to States in preparing their SIPs. The SIPs themselves will likely establish requirements that directly affect the general public, and the public and private sectors.

The EPA has not yet projected cost and hour burden for the statutory SIP development obligation but has started that effort and will shortly prepare an Information Collection Request (ICR) request. However, EPA did estimate administrative costs at the time of promulgation of the 8-hour ozone standard in 1997. See Chapter 10 of U.S. EPA 1997, Regulatory Impact Analyses for the Particulate Matter and Ozone National Ambient Air Quality Standards, Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, N.C., July 16, 1997. Assessments of some of the administrative cost categories identified as a part of the SIP for an 8-hour standard are already conducted as a result of other provisions of the CAA and associated ICRs (*e.g.* emission inventory preparation, air quality monitoring program, conformity assessments, NSR, inspection and maintenance program).

The burden estimates in the ICR for this rule are incremental to what is required under other provisions of the CAA and what would be required under a 1-hour standard. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule. However, the failure to have an approved ICR for this rule does not affect the statutory obligation for the States to submit SIPs as required under part D of the CAA.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (See 13 CFR 12.201); (2) a governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

In promulgating the Phase 1 and Phase 2 Rules, we concluded that those actions did not have a significant economic impact on a substantial number of small entities. For those same reasons, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. We continue to be interested in the potential impacts of our proposed rules on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. In promulgating the Phase 1 and Phase 2 Rules, we concluded that it was not subject to the requirements of sections 202 and 205 of the UMRA. For those same reasons, our reconsideration and reopening of the comment period

on the proposed rule is not subject to the UMRA.

The EPA has determined that this proposed rule contains no regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments.

*E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed reconsideration requests comment on a broader applicability of the overwhelming transport classification and reopens the public comment period on the proposed rule on how the CAA section 172 requirements would apply. For the same reasons stated in the Phase 1 and Phase 2 Rules, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." This proposed rule does not have "Tribal implications" as specified in Executive Order 13175.

The purpose of this proposed rule is to reopen the comment period on the proposed rule on how the CAA section 172 requirements would apply to such areas. These issues concern the implementation of the 8-hour ozone standard in areas designated nonattainment for that standard. The CAA provides for States and Tribes to develop plans to regulate emissions of air pollutants within their jurisdictions. The Tribal Authority Rule (TAR) gives Tribes the opportunity to develop and implement CAA programs such as the 8-hour ozone NAAQS, but it leaves to the discretion of the Tribes whether to develop these programs and which programs, or appropriate elements of a program, they will adopt.

For the same reasons stated in the Phase 1 and Phase 2 Rules, this proposed rule does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time. Furthermore, this proposed rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this proposed rule does nothing to modify that relationship. Because this proposed rule does not have Tribal implications, Executive Order 13175 does not apply.

While the proposed rule would have Tribal implications upon a Tribe that is implementing such a plan, it would not impose substantial direct costs upon it nor would it preempt Tribal law.

Although Executive Order 13175 does not apply to this proposed rule, EPA contacted Tribal environmental professionals about the development of this proposed rule on the "Tribal Designations and Implementation Work Group" conference call; a subsequent meeting summary was sent to over 50 Tribes.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: "Protection of Children From Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule addresses one aspect of the Phase 1 Rule that the Agency was requested to reconsider and reopens the comment period on the proposed rule on how the CAA section 172 requirements would apply to such areas. The proposed rule is not subject to Executive Order 13045 because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health or safety effects of the 8-hour ozone NAAQS on children. The results of this evaluation are contained in 40 CFR part 50, National Ambient Air Quality Standards for Ozone, Final Rule (July 18, 1997; 62 FR 38855–38896, specifically, 62 FR 38860 and 62 FR 38865).

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This proposed rule is not a "significant energy action" as defined in Executive Order 13211, "Actions That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This proposed rule affects only a small number of relatively rural areas by its very nature. Recent EPA modeling projects that all of these areas will attain the 8-hour ozone by 2010 without any additional local emission controls.[5] It does not require States or sources to take any particular actions, but merely provides an alternate mechanism for States to plan for attainment of such areas.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary

[5] Technical Support Document for the Final Clean Air Interstate Rule Air Quality Modeling, U.S. Environmental Protection Agency; Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. March 2005. Appendix E. Average Ambient and Projected 2010 and 2015 Base and CAIR Control 8-hour Ozone Concentrations. Available at: *http://www.epa.gov/cair/pdfs/finaltech02.pdf.*

consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

The EPA will encourage the States and Tribes to consider the use of such standards, where appropriate, in the development of the implementation plans.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionate high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations.

The EPA concluded that the Phase 1 and Phase 2 Rules should not raise any environmental justice issues; for the same reasons, this proposal should not raise any environmental justice issues. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety. The proposed rule provides a framework for improving environmental quality and reducing health risks for areas that may be designated nonattainment.

**List of Subjects in 40 CFR Part 51**

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: March 21, 2006.

**William L. Wehrum,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons stated in the preamble, Title 40, Chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

## PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

**Authority:** 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

### Subpart X—Provisions for Implementation of the 8-Hour Ozone National Ambient Air Quality Standard

2. Section 51.919 is added to read as follows:

**§ 51.919 What requirements apply to overwhelming transport areas (OTAs) for modeling and attainment demonstration, reasonable further progress, and reasonably available control technology?**

(a) *Attainment demonstration.* (1) An area classified as an OTA under '§ 1.904 must submit an attainment demonstration meeting the requirements of § 51.112, which may be based on:

(i) photochemical grid modeling conducted for the OTA;

(ii) attainment demonstrations completed by areas upwind of the OTA, where the modeling domains include the OTA; or

(iii) regional or national modeling that demonstrates the area will attain the 8-hour standard.

(2) A mid-course review (MCR) is not required for an area classified as an OTA under § 51.904.

(b) *Reasonable further progress (RFP).* An area classified as an OTA under § 51.904 with an approved attainment demonstration is considered to have met the RFP obligation under section 172(c)(2) of the CAA with the measures that will bring the area into attainment by the attainment date.

(c) *Reasonably available control technology (RACT) and reasonably available control measures (RACM).* For an area classified as an OTA under § 51.904, the State shall meet the RACT and RACM requirements of section 172(c)(1) by submitting an attainment demonstration SIP showing that the area will attain as expeditiously as practicable, taking into consideration emissions reductions in upwind nonattainment areas that contribute to the OTAs air quality.

(d) *Contingency measures.* Contingency measures must accompany the attainment demonstration SIP. All subpart 1 ozone areas and subpart 2 areas other than marginal areas need contingency measures. Overwhelming transport areas may rely on contingency measures adopted by the upwind contributing areas; however such contingency measures must be structured to be triggered by a failure in the OTA itself to make RFP or attain the standard by the applicable date.

[FR Doc. 06–2909 Filed 3–24–06; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 142

[EPA–HQ–OW–2002–0061; FRL–8046–5]

### National Primary Drinking Water Regulations; Ground Water Rule; Notice of Data Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proprosed rule; notice of data availability.

**SUMMARY:** On May 10, 2000, EPA published the proposed Ground Water Rule (GWR), a national primary drinking water regulation, in the **Federal Register**. The purpose of the proposed rule is to provide for increased protection against microbial pathogens in public water systems that use ground water sources. In the proposed rule, EPA presented 16 occurrence studies. Since the rule was proposed, new data have become available that further delineate pathogen and fecal indicator occurrence in groundwater. The purpose of this notice of data availability is to present additional occurrence studies that the Agency may use in performing its economic analysis of the final GWR, and to solicit comment on those additional studies and on whether EPA should consider any additional ground water microbial occurrence data not mentioned in the proposed rule or in this notice.

**DATES:** Comments must be received on or before April 26, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OW–2002–0061, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *OW-Docket@epa.gov.*
- Mail: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: Deliver your comments to Water Docket, EPA Docket Center, Environmental Protection Agency, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OW–2002–0061. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OW–2002–0061. EPA's policy is that all comments received will be included in the public docket without change and may be

made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rodgers, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC 4607M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–5275; e-mail address: *Rodgers.Crystal@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does This Action Apply to Me?*

Today's action itself does not impose any requirements on anyone. Instead, it presents to interested parties pathogen and indicator occurrence data that the Agency has become aware of after publication of the proposed GWR. EPA is considering using this new information in this rulemaking.

### *B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*2. Tips for Preparing Your Comments.* When submitting comments, remember to:

- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

### Abbreviations Used in This Notice

AWWARF American Water Works Association Research Foundation
AWWSCo American Water Works Service Company
BGMK Buffalo Green Monkey Kidney
CWS community water system
DV data verification
EPA Environmental Protection Agency
FR Federal Register
GWR Ground Water Rule
GWUDI Ground Water Under the Direct Influence of Surface Water
mL milliliters
MPN most probable number
NCWS non-community water system
NTNCWS non-transient non-community water system
PCR polymerase chain reaction
PWS public water system
RIA Regulatory Impact Analysis
RT–PCR reverse-transcriptase, polymerase chain reaction
SAL single agar layer
SDWIS Safe Drinking Water Information System
TCR Total Coliform Rule
TNCWS transient non-community water system
USGS United States Geological Survey

## II. Purpose of This Document

The purpose of this document is to present pathogen and indicator occurrence data that the Agency has become aware of since publication of the proposed GWR. EPA is considering the incorporation of the new information in the economic analysis of the final GWR.

In the proposed GWR, EPA presented 16 occurrence studies. The Agency did not use data from all of those 16 studies in developing the proposed rule because certain studies had a different scope and were not nationally representative. Since the proposal, EPA has become aware of seven additional relevant studies. Based on public comments received on the proposed GWR, the Agency has re-evaluated the 16 occurrence studies described in the proposed rule and examined the data from the seven additional new studies. Some of these seven additional studies demonstrate actual pathogen and/or fecal indicator presence in ground water at detectable levels. The Agency believes that, when considered collectively, these studies inform EPA's understanding of the national occurrence of viruses and fecal indicators and confirm that certain public ground water systems may be at risk of fecal contamination, which may pose a threat to public health.

## III. Background

### *A. New Occurrence Data and Information*

The proposed Ground Water Rule provided summaries of 16 studies that

evaluated pathogen and/or fecal indicator occurrence in U.S. ground waters (65 FR 30194). The preamble to the proposed rule discussed how EPA planned to use those studies in assessing public health risk (65 FR 30207). Table III–1 lists these 16 studies and presents updated publication dates where available and applicable. Table III–1 also lists the seven additional studies that EPA is noticing for public comment today. This section also provides a summary of the additional studies.

TABLE III–1.—LIST OF MICROBIAL OCCURRENCE STUDIES/SURVEYS

| Studies cited in Proposed Rule | Updated publication dates |
|---|---|
| 1. AWWARF/AWWSCo (Abbaszadegan, 1999 a,b)[1] | 1999c, 2003 a,b. |
| 2. EPA/AWWARF: Phase II (Lieberman et al. 1994, 1999) | 2002, Fout et al, 2003. Dahling et al, 2002. |
| 3. Missouri Ozark Plateau #1 (Davis and Witt, 1998, 1999)[2] | 2000. |
| 4. Missouri Ozark Plateau #2 (Femmer, 1999)[3] | 2000. |
| 5. Missouri Alluvial Aquifer (Vaughn, 1996)[4] | N/A. |
| 6. Wisconsin Migrant Worker Camp (USEPA et al., 1998a) | N/A |
| 7. EPA Vulnerability (USEPA, 1998b) | N/A. |
| 8. U.S.-Mexico Border (TX and NM) (Pillai, 1997) | N/A. |
| 9. Whittier, CA (Yanko et al., 1999) | N/A. |
| 10. Honolulu Board of Water Supply (Fujioka and Yoneyama, 1997) | 2001. |
| 11. New England (Doherty et al., 1998)[5] | N/A. |
| 12. California Study. (Yates, 1999) | N/A. |
| 13–16. Three-State Study: (Battigelli, 1999) | (Maryland-Banks and Battigelli, 2002)[6]; (Maryland-Banks et al., 2001)[7]; (Minnesota DOH, 2000). |

Additional Occurrence Studies:
1. Pennsylvania Noncommunity Wells (Lindsey et al., 2002).
2. Microbial Indicators (Karim et al., 2003, 2004).
3. Southeast Michigan (Francy et al., 2004).
4. Validation of Methods (USEPA, 2006).
5. La Crosse, WI (Borchardt et al., 2004).
6. Mountain Water Company in Missoula, MT (DeBorde et al., 1995).
7. New Jersey (Atherholt et al, 2003).

Updated results:
[1] PCR: Rotavirus (62/448), Hepatitis A virus (31/448), Enterovirus (68/448).
[2] Cell culture: Enterovirus (1/109).
[3] Cell culture: Enterovirus (0/109).
[4] Cell culture: Enterovirus (12/81).
[5] Cell culture: Enterovirus (0/124); PCR: Enterovirus (11/119), HAV (37/119), Rotavirus (6/119).
[6] Cell culture: Enteric virus (0/91); RT–PCR: Enteric virus (11/91).
[7] Cell culture: Enteric virus (1/27); RT–PCR: Enteric virus (3/30).

1. Summary of Additional Occurrence Studies

EPA is now aware of seven additional studies that provide information on pathogen occurrence in U.S. ground waters. These studies were designed to collect occurrence data for varying reasons. This section includes a summary of each study.

a. Pennsylvania Noncommunity Wells (Lindsey et al., 2002)

The purpose of this study was to measure pathogen and indicator occurrence in a random stratified sample of non-community water system (NCWS) wells in primarily carbonate aquifers and crystalline aquifers, which are hydrogeologically sensitive settings. The United States Geological Survey (USGS) (Lindsey et al. 2002) analyzed 59 samples selected from 60 NCWS wells from September 2000 to January 2001 to assess the occurrence and distribution of pathogens in ground water used for non-community water supplies and indicator organisms (evaluated as surrogates for those pathogens).

b. Microbial Indicators (Karim et al., 2003, 2004)

The overall objective of this study was to evaluate Methods 1601 and 1602, analytical procedures that test for coliphage in water samples, and to develop a useful microbial indicator for assessing the vulnerability of groundwater for viral/fecal contamination (Karim et al., 2003, 2004). Researchers selected and sampled for one year 20 ground water wells from 11 states from a previous national study (Abbaszadegan et al., 2003).

c. Southeast Michigan (Francy et al., 2004)

The purpose of this study of small (serving fewer than 3,000 people) public ground water supply wells was to assess the presence of both viral contamination and microbiological indicators of fecal contamination, relate the co-existence of indicators and enteric viruses, and consider the factors that affect the presence of enteric viruses. From July 1999 through July 2001, researchers collected a total of 169 regular samples and 32 replicate pairs in southeastern Michigan from 38 wells in discontinuous sand and gravel aquifers.

d. Validation of Methods (USEPA, 2006)

The purpose of this two-phase study was to evaluate EPA Methods 1601 and 1602 in detecting coliphages in ground water. In phase I, the data was used to further establish and quantify the performance of the methods. In phase II, the methods were applied to samples from geographically representative groundwater samples from both PWSs and private wells that were potentially vulnerable to fecal contamination.

e. La Crosse, WI (Borchardt et al., 2004)

The objective of this study was to evaluate the vulnerability of six PWS wells in La Crosse, Wisconsin to enteric virus contamination (Borchardt et al. 2004). Researchers sampled monthly for

one year, analyzing for the presence of several viruses.

f. Mountain Water Company, MT (De Borde et al., 1995)

Two PWS production wells located in the Missoula aquifer were tested for the presence of enteroviruses and coliphage every month for one year. Both wells were located in unsewered residential areas.

g. New Jersey (Atherholt et al., 2003)

26 public water supply wells were sampled for a variety of fecal indicator organisms. Three wells were non-community water supplies. 69 samples were collected from the 14 ground water wells (128 samples from all wells) between June 1999 and February 2002.

## IV. Request for Comment

Through this notice of data availability, EPA solicits public comment on the seven additional studies listed and summarized in this notice. In addition to soliciting public comment on those seven studies, EPA also solicits public comment on whether EPA should consider any ground water microbial occurrence data not included in the seven studies listed and summarized in this notice or in the proposed Ground Water Rule. EPA is not soliciting public comment on any other issues at this time.

## V. References


Abbaszadegan, M., P.W. Stewart, M.W. LeChevallier, Rosen, Jeffery S. and C.P. Gerba. 1999a. Occurrence of viruses in ground water in the United States. American Water Works Association Research Foundation. Denver, CO, 162 p.

Abbaszadegan, M., P. Stewart, and M. LeChevallier. 1999b. "A Strategy for Detection of Viruses in Groundwater by PCR." Applied and Envir. Microbiology, 65(2):444–449.

Abbaszadegan, M., M. Denhart, M. Spinner, G. Di Giovanni, and M. LeChevallier. 1999c. "Identification of viruses present in ground water cell culture harvest by PCR." In Proceedings, Water Quality Technology Conference, Tampa, FL, October, 1999.

Abbaszadegan, M., M. LeChevallier and C. Gerba. 2003a. "Occurrence of viruses in U.S. Groundwaters." Journal Amer. Water Works Assoc. 95(9):107–120.

Abbaszadegan, M. 2003b. "Viruses in Drinking Water and Groundwater" in Encyclopedia of Environmental Microbiology, G. Bitton, editor in chief, John Wiley and Sons, New York, NY, p. 3288–3300.

Atherholt, T., E. Feerst, B. Hovendon, J. Kwak, J. and D. Rosen. 2003. "Evaluation of indicators of fecal contamination in groundwater." Journal Amer. Water Works Assoc. 95(10):119–131.

Banks, W.S.L., C.A. Klohe, D.A. Battigelli. 2001. "Occurrence and distribution of enteric viruses in shallow ground water and factors affecting well vulnerability to microbiological contamination in Worcester and Wicomico Counties, Maryland." USGS Water-Resources Investigations Report 01–4147.

Banks, W.S.L. and D.A. Battigelli. 2002. "Occurrence and distribution of microbiological contamination and enteric viruses in shallow ground water in Baltimore and Harford Counties, Maryland." USGS Water-Resources Investigations Report 01–4216, 32 p.

Battigelli, D.A. 1999. "Monitoring ground waters in Wisconsin, Minnesota, and Maryland for enteric viruses and candidate viral indicators." Unpublished report, February 23, 1999.

Borchardt, M.A., N. L. Haas, R.J. Hunt. 2004. "Vulnerability of drinking-water wells in La Crosse, Wisconsin, to enteric-virus contamination from surface water contributions." Applied Envir. Microbiology 70(10):5937–5946.

Dahling, D.R. 2002. "An improved filter elution and cell culture assay procedure for evaluating public groundwater systems for culturable enteroviruses." Water Envir. Research 74(6):564–568.

Davis, J.V. and E.C.Witt, III. 1999. "Microbiological and Chemical Quality of Ground Water Used as a Source of Public Supply in Southern Missouri." USGS Water-Resources Investigations Report 99–XXXX.

Davis, J.V. and E.C.Witt, III. 1998. "Microbiological Quality of Public Water Supplies in the Ozark Plateaus Aquifer System, Missouri." USGS Fact Sheet 028–98.

Davis, J.V. and E.C.Witt, III. 2000. "Microbiological and Chemical Quality of Ground Water Used as a Source of Public Supply in Southern Missouri—Phase I, May 1997–March 1998." USGS Water-Resources Investigations Report 00–4038, 77 pp.

DeBorde, D.C., R. Ward. 1995. Results of one year of virus testing at two high-yield water table wells in areas served by septic systems. Unpublished report to Mountain Water Co., Missoula, MT.

Doherty, K. 1998. "Status of the New England ground water viral study." Proceedings, American Water Works Association Annual Meeting, Dallas, Texas, June 23, 1998. American Water Works Association, Denver.

Femmer, S. 1999. "Microbiological Quality of Older Wells in Public Water Supplies in the Ozark Plateaus Aquifer System, Missouri." Unpublished report to Missouri Department of Natural Resources.

Femmer, S. 2000. "Microbiological and chemical quality of ground water used as a source of public supply in southern Missouri—Phase II, April–July, 1998." USGS Water-Resources Investigations Report 00–4260.

Fout, S., B.C. Martinson, M.W.N. Moyer, and D.R. Dahling. 2003. A multiplex reverse transcription—PCR method for detection of human enteric viruses in groundwater. Appl. Envir. Microbiology 69(6):3158–3164.

Francy, D.S., R.N. Bushon, J. Stopar, E.J. Luzano, and G.S. Fout. 2004. "Environmental factors and chemical and microbiological water-quality constituents related to the presence of enteric viruses in ground water from small public water supplies in Southeastern Michigan." USGS Scientific Investigations Report 2004–5219, 54 p.

Fujioka, R.S. and B.S. Yoneyama. 1997. "Vulnerability to pathogens: phase 1 water quality monitoring and assessment study." Unpublished report to the Honolulu Board of Water Supply by Hawaii Water Resources Center, University of Hawaii, WRRC 98–01, 54 p.

Fujioka, R.S. and B.S. Yoneyama. 2001. "Assessing the vulnerability of groundwater sources to fecal contamination." Journal Amer. Water Works Assoc. 93(8):62–71.

Karim, M.R., M. Abbaszadegan, A. Alum, and M. LeChevallier. 2003. "Virological quality of groundwater" in Proceedings, Water Quality Technology Conference, Philadelphia, PA, October, 1999.

Karim, M.R., M. LeChevallier, M. Abbaszadegan, A. Alum, J. Sobrinho, and J. Rosen. 2004. "Microbial indicators for assessing the vulnerability of groundwater to fecal contamination." American Water Co. report, 106 p.

Lieberman, R.J., L.C. Shadix, B.S. Newport, S.R. Crout, S.E. Buescher, R.S. Safferman, R.E. Stetler, D. Lye, G.S. Fout, and D. Dahling. 1994. "Source water microbial quality of some vulnerable public ground water supplies." Proceedings, Water Quality Technology Conference, San Francisco, CA, October, 1994.

Lieberman, R.J., L.C. Shadix, B.S. Newport, S.R. Crout, S.E. Buescher, R.S. Safferman, R.E. Stetler, D. Lye, G.S. Fout, and D. Dahling. 1999. "Source water microbial quality of some vulnerable public ground water supplies." Unpublished report in preparation.

Lieberman, R.J., L.C. Shadix, B.S. Newport, C.P. Frebis, M.W.N. Moyer, R.S. Safferman, R.E. Stetler, D. Lye, G.S. Fout, and D. Dahling. 2002. "Microbial monitoring of vulnerable public ground water supplies." American Water Works Association Research Foundation, Denver, CO, 162 p.

Lindsey, B.D., Raspberry, J.S. and Zimmerman, T.M. 2002. "Microbiological quality of water from noncommunity supply wells in carbonate and crystalline aquifers of Pennsylvania." U.S. Geological Survey Water—Resources Investigations Report 01–4268, 30 p.

Minnesota Department of Health. 2000. "Minnesota Department of Health viral occurrence study." Minnesota Department of Health, St. Paul, 7 p.

Pillai, S. 1997. "Virus sampling and microbial analysis at the U.S.-Mexico border for the U.S. Environmental Protection Agency." Unpublished report for The Cadmus Group, Inc.

USEPA. 2006. National Field Study for Coliphage Detection in Groundwater:

Method 1601 and 1602 evaluation in regional aquifers. EPA Office of Water. EPA/822/R/06/002.
USEPA et al. 1998a. "Wisconsin migrant worker camp drinking water quality study." Unpublished report prepared for U.S. EPA Region V, Safe Drinking Water Branch, July, 1998, 37 p.
USEPA. 1998b. "GWR vulnerability assessment study, April 3, 1998." Unpublished report prepared by International Consultants, Inc. for the Office of Ground Water and Drinking Water, 29 p.
Vaughn, J.M. 1996. "Sample Analyses." Attachment, unpublished letter on the analysis of alluvial wells in Missouri by J. Lane and K. Duzan, Missouri Department of Natural Resources, Rolla, MO, November 7, 1996.
Yanko, W.A., J.L. Jackson, F.P. Williams, A.S. Walker and M.S. Castillo. 1999. "An unexpected temporal pattern of coliphage isolation in ground waters sampled from wells at varied distance from reclaimed water recharge sites." Wat. Research, 33:53–64.
Yates, M.V. 1999. Viruses and indicators in ground water, Results of repeated monitoring. Unpublished report, February 23, 1999.

Dated: March 14, 2006.

**Benjamin H. Grumbles,**

*Assistant Administrator, Office of Water.*

[FR Doc. 06–2931 Filed 3–24–06; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 67

**[Docket No. FEMA–B–7456]**

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Federal Emergency Management Agency certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

### PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § *67.4.*

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| State | City/town/county | Source of flooding | Location | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | |
|---|---|---|---|---|---|
| | | | | Effective | Modified |
| Arizona | Pinal County (Unincorporated Areas), City of Casa Grande. | Arizola Drain | Shallow Flooding Area—Between I–10/SR–84 Interchange to confluence with North Santa Cruz Wash. | None | #1 |

**ADDRESSES**

**City of Casa Grande:**

| State | City/town/county | Source of flooding | Location | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | |
|---|---|---|---|---|---|
| | | | | Effective | Modified |
| Maps are available for inspection at: The City Hall 510 E. Florence Blvd., Casa Grande, AZ 85222. Send comments to: The Honorable Chuck Walton, 510 E. Florence Blvd., Casa Grande, AZ 85222. | | | | | |
| Arkansas | Columbia County (Uninc. Areas). | Nations Creek | Approximately 500 feet downstream from Nations Creek and Calhoun Road. | None | +269 |
| | | | Approximately 7,000 feet upstream from Nations Creek and Highway 82. | None | +285 |
| | | Barlow Branch | Approximately 2,500 feet downstream from Highway 82 and Barlow Branch. | None | +259 |
| | | | Approximately 1,200 feet downstream from Highway 371 and Barlow Branch. | None | +267 |
| | | Tributary to Barlow Branch | Confluence of Barlow Branch and Tributary to Barlow Branch. | None | +262 |
| | | | Intersection of the Louisiana and Northwest Railway and Tributary to Barlow Branch. | None | +277 |
| | | Tributary to Big Creek | Approximately 2,400 feet downstream from Height Street and Tributary to Big Creek. | None | +258 |
| | | | Approximately 2,900 feet upstream from the confluence of Big Creek and Tributary to Big Creek. | None | +252 |
| | | Tanyard Branch | Approximately 600 feet downstream from Tanyard Branch and the Louisiana and Northwest Railway. | None | +266 |
| | | | Approximately 1,800 feet downstream from Tanyard Branch and the Louisiana and Northwest Railway. | None | +264 |

+North American Vertical Datum 1988.

**ADDRESSES**

**Unincorporated Areas of Columbia County:**

Maps are available for inspection at the Columbia County Courthouse, Court #1 Square, Magnolia, AR 71753.
Send comments to The Honorable John C. Blair, Judge, Columbia County, Court #1 Square, Magnolia, AR 71753.

| | | | | | |
|---|---|---|---|---|---|
| Arkansas | Union County (Uninc. Areas). | F Creek | Approximately at Highway 7 and F Creek | None | +133 |
| | | | Confluence of F Creek and F Creek Tributary FC. | None | +171 |
| | | Ouachita River | Approximately 1,700 feet Northwest of New Lock 8 and Ouachita River. | None | +97 |
| | | | Approximately at Ouachita River and Highway 167. | None | +100 |
| | | Ouachita River | Approximately at New Lock Road 6 | None | +91 |
| | | | South end of Old Lock 6 Road | None | +91 |
| | | Boggy Creek | Approximately at Highway 82 and Boggy Creek. | None | +186 |
| | | | Approximately 1,200 feet downstream from E. Main Street and Boggy Creek. | None | +213 |
| | | Lapile Creek | Approximately at Lapile Creek and Highway 82. | None | +103 |
| | | | Approximately at Lapile Creek and Highway 275. | None | +107 |
| | | Loutre Creek | Confluence of Loutre Creek Tributary 2 and Loutre Creek Main Stem. | None | +192 |
| | | Tributary 2 | Approximately 1,000 feet downstream from Loutre Creek Tribuatry 2 and Robert E. Lee Street. | None | +203 |
| | | Loutre Creek Main Stem | Approximately at Loutre Creek Main Stem and Ouachita Railroad. | None | +186 |
| | | | Confluence of Loutre Creek Tributary 2 and Loutre Creek Main Stem. | None | +192 |

+National American Vertical Datum 1988.

**ADDRESSES**

**Union County:**

Maps are available for inspection at Union County Courthouse, 101 N. Washington St., Ste 101, El Dorado, Arkansas 71730.

| State | City/town/county | Source of flooding | Location | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | |
|---|---|---|---|---|---|
| | | | | Effective | Modified |
| Send comments to The Honorable Bobby Edmonds, County Judge, Union County Courthouse, 101 N. Washington St., Ste 101, El Dorado, Arkansas 71730. | | | | | |
| Colorado | Boulder County (Uninc. Areas). | Skunk Creek | Approximately 50 feet upstream of 30th Street Bridge. | +5,313 | +5,312 |
| | | | Approximately 520 feet upstream of 30th Street. | +5,323 | +5,322 |

+North American Vertical Datum 1988.

**ADDRESSES**

**City of Boulder:**
Maps are available for inspection at Central Records Department, 1777 Broadway, Boulder, Colorado 80302.
Send comments to The Honorable William Toor, Mayor, City of Boulder, 1777 Broadway, 2nd Floor, P.O. Box 791, Boulder, Colorado 80306.

| | | | | | |
|---|---|---|---|---|---|
| Colorado | Weld County (Uninc. Areas). | Cache la Poudre River | At confluence with South Platte River Just upstream of 115 Highway 85. | *4601 | *4601 |
| | | | Approximately 400 feet downstream of County Road 62. | *4638 | *4639 |
| | | | | *4729 | *4728 |

*National Geodetic Vertical Datum 1929.

**ADDRESSES**

**City of Greeley:**
Maps are available at City of Greeley, Public Work Building, 1001 9th Street, Greeley, CO 80631.
Send comments to The Honorable Tom Selders, Mayor, City of Greeley, 1000 10th Street, Greeley, CO 80631.

**Weld County (Unincorporated Areas):**
Maps are available at City of Greeley, Public Work Building, 1001 9th Street, Greeley, CO 80631.
Send comments to The Honorable William Jerke, Chairman, Weld County Board of Commissioners, P.O. Box 758, Greeley, Colorado 80632.

| | | | | | |
|---|---|---|---|---|---|
| Georgia | Paulding County (Uninc. Areas). | McClendon Creek | At the confluence with Tallapoosa River and Mud Creek. | *1,132 | +1,133 |
| | | | Approximately 300 feet upstream of confluence with Tallapoosa River and Mud Creek. | *1,132 | +1,133 |

*National Geodetic Vertical Datum.
+National American Vertical Datum.
[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum to the NAVD88 datum, please add 0.23 feet.

**ADDRESSES**

**Unincorporated Areas of Paulding County:**
Maps are available for inspection at the Paulding County Planning and Zoning Department, 25 Courthouse Square, Dallas, Georgia 30132.
Send Comments to The Honorable Jerry Shearin, Commissioner Chairman, 166 Confederate Avenue, Dallas, Georgia 30132.

| | | | | | |
|---|---|---|---|---|---|
| Kentucky | Pike County (Uninc. Areas). | Ferguson Creek | At the confluence Ferguson Creek with Pikeville Pond. | *671 | +676 |
| | City of Pikeville | | Approximately 100 feet upstream of confluence of Williams Branch. | *851 | +853 |
| | | Harolds Branch | At the confluence Harolds Branch with Pikeville Pond. | *672 | +678 |
| | | | Approximately 3,020 feet upstream of Pikeville Pond. | *704 | +705 |
| | Pike County (Uninc. Areas). | Lower Chloe Creek | At the confluence Lower Chloe Creek with Pikeville Pond. | *671 | +676 |
| | City of Pikeville | | Approximately 680 feet downstream of confluence of Peter Fork. | *750 | +747 |
| | | Pikeville Pond | Approximately 3,160 feet downstream of confluence of Harolds Branch. | *670 | +666 |
| | | | At the confluence Pikeville Pond with Levisa Fork. | *686 | +686 |

*National Geodetic Vertical Datum.
+National American Vertical Datum.
(Note: NGVD −.609' = NAVD).

**ADDRESSES**

**Pike County:**
Maps are available for inspection at 260 Hambley Boulevard, Pikeville, KY 41501.

| State | City/town/county | Source of flooding | Location | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | |
|---|---|---|---|---|---|
| | | | | Effective | Modified |
| Send comments to The Honorable Frank Justice, Mayor, City of Pikeville, 118 College Street, Pikeville, KY 41501. | | | | | |
| South Dakota | City of Mt. Vernon, Davison County. | Dry Run Creek | At 7th Street | None | +1400 |
| | | | Approximately 300 feet upstream of West Railroad Street. | None | +1412 |
| | | East Drainage | Approximately 400 feet upstream of Main Street. | None | +1411 |
| | | | At 397th Avenue | None | +1415 |
| | | Diversion | At intersection 397th Avenue and 253rd Street. | None | +1405 |
| | | | At Railroad Street | None | +1417 |

+North American Vertical Datum.

**ADDRESSES**

**City of Mt. Vernon:**

Maps are available for inspection at the Mount Vernon Community Center, 500 North Main Street, Mt. Vernon, South Dakota 57363.

Send comments to The Honorable Brad Seamer, Mayor, City of Mt. Vernon, 311 East Third Street, Mount Vernon, South Dakota 57363.

| | | | | | |
|---|---|---|---|---|---|
| Wyoming | Teton County (Uninc. Areas). | Flat Creek | Just upstream of High School Road | *6113 | *6113 |
| | | Town of Jackson | Just upstream of U.S. Highway 26 | *6214 | *6214 |
| | | Spring Creek | Approximately 1400 feet downstream of Tribal Trail Road. | *6126 | *6125 |
| | | | Approximately 400 feet upstream of U.S Highway 22. | *6158 | *6158 |

*National Geodetic Vertical Datum.

**Unincorporated Areas of Teton County:**

Maps are available for inspection at the Teton County Administration Building, 200 South Willow, Jackson, Wyoming 83001.

Send comments to The Honorable Larry Jorgenson, Chairman, Teton County Board of Commissioners, Teton County Administration Building, 200 South Willow, Jackson, Wyoming 83001.

**Town of Jackson:**

Maps are available for inspection at Town Hall, 150 East Pearl Avenue, Jackson, Wyoming 83001.

Send comments to The Honorable Mark Barron, Mayor, Town of Jackson, P.O. Box 1687, Jackson, Wyoming 83001.

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **Baldwin County, Alabama and Incorporated Areas** | | | | |
| D'Olive Creek | Just upstream of Lake Forest Dam | +22 | +25 | City of Daphne. |
| | Just downstream of U.S. Highway 90 | +31 | +35 | |
| Tiawasee Creek | Confluence with D'Olive Creek at Lake Forest | +22 | +25 | City of Daphne. |
| | Approximately 1,500 feet upstream of Ridgewood Drive. | +63 | +60 | |
| Styx River | Just downstream of Truck Route 17 (Brady Road) | +77 | +77 | Baldwin County (Uninc. Areas). |
| | Approximately 3,100 feet upstream of Pinegrove Road. | +169 | +168 | |

+North American Vertical Datum.

**ADDRESSES**

**Unincorporated Areas of Baldwin County:**

Maps are available for inspection at the Baldwin County Building Department, 201 East Section Street, Foley, Alabama 36535.

Send comments to David Bishop, Chairman, Baldwin County Commission, 312 Courthouse Square, Suite 12, Bay Minette, Alabama 36507.

**City of Daphne:**

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Maps are available for inspection at the Department of Community Development, 2651 Equity Drive, Daphne, Alabama 36526. Send comments to Mayor Fred Small, City of Daphne, P.O. Box 400, Daphne, Alabama 36526. | | | | |
| **Gila County, Arizona and Incorporated Areas** | | | | |
| Bar X Wash | Shallow Flooding—North side of Bar X Wash approximately 1059 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 634 feet above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | Gila County (Unin. Areas). |
| | Shallow Flooding—North side of Bar X Wash approximately 1059 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 634 feet above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | |
| | Shallow Flooding—Approximately 1.02 miles above confluence with Tonto Creek at Roosevelt Lake to approximately 1.01 miles above confluence with Roosevelt Lake. | None | #2 | |
| Butcher Hook | Shallow Flooding—North side of Butcher Hook approximately 1772 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 922 feet above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | Gila County (Uninc. Areas). |
| | Shallow Flooding—North side of Butcher Hook approximately 0.39 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 1772 feet above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | |
| | Shallow Flooding—North side of Butcher Hook approximately 0.45 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 0.39 feet above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | |
| | Shallow Flooding—North side of Butcher Hook approximately 1772 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 1247 feet above confluence with Tonto Creek at Roosevelt Lake. | None | #2 | |
| Chalk Springs Creek | Shallow Flooding—Approximately 1.25 miles above confluence with Tonto Creek at Roosevelt Lake to approximately 1.02 miles above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | Gila County (Uninc. Areas). |
| | Shallow Flooding—Approximately 1.01 miles above confluence with Tonto Creek at Roosevelt Lake to approximately 0.96 mile above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | |
| South Oak Creek | Shallow Flooding—Approximately 0.84 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 0.99 mile above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | Gila County (Uninc. Areas). |
| Walnut Creek | Shallow Flooding—Approximately 0.52 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 0.44 mile above confluence with Tonto Creek at Roosevelt Lake. | None | #1 | Gila County (Uninc. Areas). |
| Bar X Wash | Approximately 645 feet upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2237 | Gila County (Uninc. Areas). |
| | Approximately 182 feet west of State Route 188 | None | +2282 | |
| Butcher Hook | Approximately 920 feet upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2242 | Gila County (Uninc. Areas). |
| | Approximately 517 feet west of State Route 188 | None | +2294 | |
| Chalk Springs Creek | Approximately 0.50 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2277 | Gila County (Uninc. Areas). |
| | Approximately 894 feet west of Earl Road | None | +2389 | |
| Haystack Butte | Approximately 0.54 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2308 | Gila County (Uninc. Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 675 feet west of Rio Salada Lane | None | +2416 | |
| Lambing Creek | Approximately 0.44 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2322 | Gila County (Uninc. Areas). |
| | Approximately 0.89 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2377 | |
| Landing Creek | Approximately 222 feet east of Shereeve Lane | None | +2284 | Gila County (Uninc. Areas). |
| | Approximately 846 feet west of State Route 188 | None | +2362 | |
| Park Creek | Approximately 526 feet upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2312 | Gila County (Uninc. Areas). |
| | Approximately 289 feet west of State Route 188 | None | +2361 | |
| Reno Creek | Approximately 1455 feet upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2319 | Gila County (Uninc. Areas). |
| | Approximately 757 feet west of State Route 188 | None | +2356 | |
| South Oak Creek | Approximately 0.44 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2221 | Gila County (Uninc. Areas). |
| | Approximately 1.00 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2288 | |
| Sycamore Creek | Approximately 0.84 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2224 | Gila County (Uninc. Areas). |
| | Approximately 490 feet west of State Route 188 | None | +2286 | |
| Sycamore Creek Split Flow | Approximately 0.48 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2213 | Gila County (Uninc. Areas). |
| | Approximately 0.65 mile upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2222 | |
| Tonto Creek at Roosevelt Lake. | Approximately 11.12 miles above Roosevelt Dam | None | +2171 | Gila County (Uninc. Areas). |
| | Approximately 2.2 miles upstream of Reno Creek | None | +2373 | |
| Walnut Creek | Approximately 1364 feet upstream of confluence with Tonto Creek at Roosevelt Lake. | None | +2270 | Gila County (Uninc. Areas). |
| | Approximately 505 feet west of Walnut Springs Road | None | +2346 | |

#Depth in feet above ground.

+North American Vertical Datum.

**ADDRESSES**

**Gila County (Unincorporated Areas):**

Maps available for inspection at: 1400 E. Ash Street, Globe, AZ 85501 or 714 S. Beeline Highway, Suite 200, Payson, AZ 85541.
Send comments to The Honorable Jose Sanchez, Gila County Chairman of the Board of Supervisors, 1400 East Ash Street, Globe, AZ 85501, (928) 425–3231.

**La Paz County, Arizona and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Arroyo La Paz | Approximately 200 feet above confluence with North Levee Channel. | None | +288 | La Paz County (Uninc. Areas). |
| | Approximately 75 feet upstream of Parker-Poston Road. | None | +306 | |
| Cinnabar Wash | Approximately 100 feet above confluence with Colorado River. | None | +264 | La Paz County (Uninc. Areas). |
| | Approximately 1.00 miles above confluence with Colorado River. | None | +326 | |
| Colorado River | Approximately 13.5 miles upstream of Adobe Lake | None | +202 | La Paz County (Uninc. Areas). |
| | Approximately 0.38 mile downstream of Parker Dam | None | +379 | Parker, Town of Colorado River Indian Reservation. |
| Ehrenberg Wash | Approximately 300 feet downstream of Parker-Poston Road. | None | +282 | La Paz County (Uninc. Areas). |
| | Approximately 0.43 mile upstream of Parker-Poston Road. | None | +332 | |
| | Approximately 115 feet above confluence with North Levee Channel. | None | +280 | |
| Gonzales Wash | Approximately 50 feet upstream of Parker-Poston Road. | None | +288 | |
| | Approximately 125 feet above confluence with South Levee Channel. | None | +266 | La Paz County (Uninc. Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Unnamed Stream 1 | Approximately 1,560 feet upstream of Parker-Poston Road. | None | +302 | La Paz County (Uninc. Areas). |
| | Approximately 300 feet above confluence with South Levee Channel. | None | +280 | La Paz County (Uninc. Areas). |
| Unnamed Stream 2 | Approximately 0.73 mile above confluence with South Levee Channel. | None | +340 | |
| Unnamed Stream 3 | Approximately 225 feet above confluence with South Levee Channel. | None | +282 | La Paz County (Uninc. Areas). |
| | Approximately 0.44 mile upstream of Parker-Poston Road. | None | +334 | |
| Unnamed Stream 4 | Approximately 292 feet above confluence with North Levee Channel. | None | +288 | La Paz County (Uninc. Areas). |
| | Approximately 856 feet upstream of Parker-Poston Road. | None | +316 | |
| Shallow Flooding | West of Parker-Poston Road to South of Colorado River Indian Tribe. | None | #2 | La Paz County (Uninc. Areas). |

# Depth in feet above ground.
+ North American Vertical Datum.

**ADDRESSES**

**La Paz County (Unincorporated Areas):**
Maps available for inspection at: La Paz County Community Development, Dept. 1112, Joshua Avenue, Parker, Arizona 85344.
Send comments to The Honorable Eugene Fisher, 1108 Joshua Avenue, Parker, Arizona 85344.

**Town of Parker:**
Maps available for inspection at: Parker Town Hall, 1314 11th Street, Parker, AZ 85344.
Send comments to The Honorable Sam Heeringa, 1314 11th Street, Parker, AZ 85344.

**Colorado River Indian Reservation:**
Send comments to Mr. Grant Buma, Colorado River Indian Tribes, Water Resources, 2nd & Mohave Rd., Route 1, Box 23–B, Parker, AZ 85344.

**Imperial County, California and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Amerosa Wash | Approximately 152 feet above confluence with Anza Ditch. | None | +50 | Imperial County (Uninc. Areas). |
| | Approximately 2.75 miles above confluence with Anza Ditch. | None | +153 | |
| Anza Ditch | Approximately 1694 feet downstream of Marina Drive | None | +224 | Imperial County (Uninc. Areas). |
| | Approximately 3.4 miles upstream of State Route 86 | None | +136 | |
| Arroyo Salada | Approximately 630 feet above confluence with Salton Sea. | None | +223 | Imperial County (Uninc. Areas). |
| | Approximately 2.36 miles upstream of State Route 86 | None | +72 | |
| Colorado River | Approximately 10.6 miles downstream of Confluence with Gila River. | None | +121 | Imperial County (Uninc. Areas). |
| | Approximately 1.65 miles upstream of Neighbors Boulevard. | None | +243 | |
| Coolidge Springs Ditch | Approximately 447 feet upstream of confluence with Salton Sea. | None | +225 | Imperial County (Uninc. Areas). |
| | Approximately 0.69 mile upstream of confluence with Coolidge Tributary. | None | +14 | |
| Coolidge Tributary | Approximately 272 feet above confluence with Coolidge Springs Ditch. | None | +192 | Imperial County (Uninc. Areas). |
| | Approximately 0.81 mile above confluence with Coolidge Springs Ditch. | None | +97 | |
| Coral Wash | Approximately 314 feet above confluence with Palm Wash. | None | +187 | Imperial County (Uninc. Areas). |
| | Approximately 2.79 miles upstream of State Route 86 | None | +72 | |
| Iberia Wash | Approximately 296 feet above confluence with Salton Sea. | None | +222 | Imperial County (Uninc. Areas). |
| | Approximately 1.89 miles upstream of State Route 86 | None | +104 | |
| Incienso Ditch | Approximately 450 feet above confluence with Salton Sea. | None | +221 | Imperial County (Uninc. Areas). |
| | Approximately 1.86 miles upstream of State Route 86 | None | +64 | |
| Gravel Wash | Approximately 439 feet above confluence with Salton Sea. | None | +222 | Imperial County (Uninc. Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 2.32 miles upstream of State Route 86 | None | +51 | |
| Palm Wash | Approximately 46 feet above confluence with Salton Sea. | None | +224 | Imperial County (Uninc. Areas). |
| | Approximately 3.86 mile upstream of State Route 86 | None | +150 | |
| Romney Ditch | Approximately 1382 feet downstream of State Route 86. | None | +211 | Imperial County (Uninc. Areas). |
| | Approximately 1517 feet upstream of State Route 86 | None | +157 | |
| Shoreline Ditch | Approximately 250 feet downstream of Thomas Avenue. | None | +225 | Imperial County (Uninc. Areas). |
| | Approximately 0.50 mile upstream of Coolidge Springs Road. | None | +94 | |
| Surprise Wash | Approximately 656 feet above confluence with Tule Wash. | None | +187 | Imperial County (Uninc. Areas). |
| | Approximately 1.2 miles upstream of State Route 86 | None | +89 | |
| Surprise Wash Tributary | Approximately 500 feet above confluence with Surprise Wash. | None | +151 | Imperial County (Uninc. Areas). |
| | Approximately 0.83 mile upstream of State Route 86 | None | +110 | |
| Surprise Wash Diversion | Approximately 1610 feet above confluence with Arroyo Salada. | None | +102 | Imperial County (Uninc. Areas). |
| | Approximately 2.24 miles above confluence with Arroyo Salada. | None | +37 | |
| Tesla Wash | Approximately 386 feet above confluence with Salton Sea. | None | +222 | Imperial County (Uninc. Areas). |
| | Approximately 1.61 miles upstream of State Route 86 | None | +39 | |
| Tortif Ditch | Approximately 0.87 mile downstream of State Route 86. | None | +219 | Imperial County (Uninc. Areas). |
| | Approximately 1.92 miles upstream of State Route 86 | None | +78 | |
| Verbena Wash | Approximately 450 feet above confluence with Virgo Ditch. | None | +186 | Imperial County (Uninc. Areas). |
| | Approximately 1.17 miles upstream of State Route 86 | None | +2 | |
| Virgo Ditch | Approximately 641 feet above confluence with Salton Sea. | None | +222 | Imperial County (Uninc. Areas). |
| | Approximately 2.14 miles upstream of State Route 86 | None | +95 | |
| Zenas Wash | Approximately 637 feet above confluence with Arroyo Salada. | None | +179 | Imperial County (Uninc. Areas). |
| | Approximately 0.59 mile upstream of State Route 86 | None | +88 | |
| Arroyo Salada | Shallow Flooding—Approximately 1.38 miles above confluence with Salton Sea to Salton Sea. | None | #1 | Imperial County (Uninc. Areas). |
| Calyx Ditch | Shallow Flooding—State Route 86 to confluence with Salton Sea. | None | #1 | Imperial County (Uninc. Areas). |
| | Shallow Flooding—150 feet upstream of State Route 86 to State Route 86. | None | #2 | |
| Farmosa Ditch | Shallow Flooding—State Route 86 to confluence with Salton Sea. | None | #1 | Imperial County (Uninc. Areas). |
| Parosa Ditch | Shallow Flooding—State Route 86 to confluence with Salton Sea. | None | #1 | Imperial County (Uninc. Areas). |
| | Shallow Flooding—150 feet upstream of State Route 86 to State Route 86. | None | #2 | |
| Salton Sea | West shoreline of Salton Sea from approximately 0.78 miles southeast of confluence with Arroyo Salada to approximately 0.66 miles north of confluence with Shoreline Ditch. | None | +224 | Imperial County (Uninc. Areas). |
| Tonalee Ditch | Shallow Flooding—1,000 feet upstream of State Route 86 to confluence with Salton Sea. | None | #1 | Imperial County (Uninc. Areas). |

#Depth in feet above ground.
+North American Vertical Datum.

**ADDRESSES**

**Imperial County (Unincorporated Areas):**

Maps available for inspection at: Imperial County Planning & Development Services Department; 801 West Main Street, El Centro, California 92243.

Send comments to The Honorable Mr. Gary Wyatt, County of Imperial, 940 West Main Street, El Centro, California 92243.

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **San Diego County, California and Incorporated Areas** | | | | |
| Agua Hedionda Creek | Approximately 1,400 feet downstream of Melrose Drive. | None | *308 | City of Vista. |
| | Approximately 200 feet downstream of confluence with Buena Creek. | None | | *353. |

*National Geodetic Vertical Datum 1929.

**ADDRESSES**

**City of Vista:**

Maps are available for inspection at the City Hall, 600 Eucalyptus Avenue, Vista, CA 92084.
Send comments to The Honorable Morris Vance, Mayor, City of Vista, P.O. Box 1988, Vista, CA 92084.

| | | | | |
|---|---|---|---|---|
| **Cherokee County, Georgia and Incorporated Areas** | | | | |
| Tate Creek | Approximately 1,350 feet downstream of Yorkshire Drive. | *894 | +897 | Cherokee County (Uninc. Areas). |
| | Approximately 4,900 feet upstream of Flood Retarding Structure No. 17. | *941 | +944 | |

**ADDRESSES**

**Cherokee County (Unincorporated Areas):**

Maps are available for inspection at 130 East Main Street, Suite 106, Canton, Georgia.

**City of Woodstock:**

Maps are available for inspection at 103 Arnold Mill Road, Woodstock, Georgia.
Send comments to The Honorable Bill Dewrell, Mayor, City of Woodstock, 106 Rusk Street, Woodstock, Georgia 30188.

| | | | | |
|---|---|---|---|---|
| **Lexington/Fayette County, Kentucky and Incorporated Areas** | | | | |
| Bryant Tributary | Confluence with North Elkhorn Creek | None | +942.8 | Lexington/Fayette. |
| | At I–75 | None | +984.8 | |
| Bowman Mill Tributary | Confluence with South Elkhorn Creek | None | +890.0 | Lexington/Fayette. |
| | Approximately 880 feet upstream of Palomar Drive | None | +940.0 | |
| Cave Hill Tributary | Confluence with Bowman Mill Tributary | None | +901.9 | Lexington/Fayette. |
| | Approximately 370 feet upstream of the farm road culvert. | None | +940.0 | |
| Southpoint Tributary | Confluence with West Hickman Creek | None | +892.0 | Lexington/Fayette. |
| | Approximately 2,800 feet upstream of Southpoint Drive. | None | +947.1 | |
| Wolf Run Creek | Beacon Hill Road culvert | None | +921.8 | Lexington/Fayette. |
| | Approximately 300 feet upsteam of Nicholasville Road | None | +990.9 | |

+National American Vertical Datum 1988.

**ADDRESSES**

**Lexington Fayette Urban County Government:**

Maps are available for inspection at LFUCG—Division of Planning, 200 East Main Street, 10th Floor, Lexington, KY 40507 or LFUCG–Division of Engineering, 101 East Vine Street, 4th Floor, Lexington, KY 40507.
Send comments to The Honorable Teresa Ann Isaac, Mayor, Lexington Fayette Urban County Government, 200 East Main St., Lexington, KY 40507.

| | | | | |
|---|---|---|---|---|
| **Frederick County, Maryland and Incorporated Areas** | | | | |
| Ballenger Creek | Confluence with Monocacy River | None | +249 | Frederick County. |
| | Approximately 0.2 mile downstream of Mt. Phillip Road. | None | +422 | |
| Bush Creek | Confluence with Monocacy River | None | +255 | Frederick County. |
| | Approximately 0.2 mile upstream of Green Valley Road. | *403 | +413 | |
| Butterfly Branch (Tributary No. 116). | Confluence with Ballenger Creek | None | +307 | Frederick County. |
| | Approximately 0.3 mile upstream of Jefferson Pike | None | +388 | |
| Carroll Creek | Confluence with Monocacy River | ^271 | +266 | Frederick County. |
| | Approximately 2.0 miles upstream of the confluence of Silver Spring Branch (Tributary No. 95). | None | +702 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Claggett Run (Tributary No. 129). | Confluence with Rocky Fountain Run | *247 | +243 | Frederick County. |
| | Approximately 0.4 mile upstream of Fingerboard Road. | *297 | +297 | |
| Clifford Branch (Tributary No. 87). | Confluence with Tuscarora Creek | None | +367 | Frederick County. |
| | Approximately 0.3 mile upstream of Hamburg Road | None | +644 | |
| Clifford Branch (Tributary No. 98). | Confluence with Rock Creek | None | +354 | Frederick County. |
| | Approximately 0.4 mile upstream of Mt. Phillip Road | None | +433 | |
| Detrick Branch (Tributary No. 9). | Confluence with Monocacy River | ^273 | +268 | Frederick County. |
| | Approximately 0.1 mile upstream of N. Market Street | None | +286 | |
| Dublin Branch | Confluence with Glade Creek | *283 | +279 | Frederick County. |
| | Approximately 1.4 miles upstream of confluence with Glade Creek. | None | +331 | |
| Edison Branch | Confluence with Carroll Creek | None | +328 | Frederick County. |
| | Downstream side of Christophers Crossing | None | *375 | |
| Glade Creek | Approximately 0.2 mile downstream of Devilbliss Bridge Road. | *283 | +279 | Frederick County. |
| | Approximately 0.8 mile upstream of Glade Road | None | +359 | |
| Horsehead Run | Confluence with Rocky Fountain Run | *247 | +247 | Frederick County. |
| | Approximately 1.2 miles upstream of confluence with Rocky Fountain Run. | *265 | +265 | |
| Israel Creek | Confluence with Monocacy River | None | +273 | Frederick County. |
| | Just downstream of Water Street | None | +298 | |
| King Branch (Tributary No. 118). | Confluence with Ballenger Creek | None | +271 | Frederick County. |
| | Just downstream of Arbor Road | None | +291 | |
| Linganore Creek | Confluence with Monocacy River | None | +264 | Frederick County. |
| | Just downstream of Gashouse Pike | None | +327 | |
| Little Tuscarora Creek | Confluence with Tuscarora Creek | None | +296 | Frederick County. |
| | 0.1 mile upstream of Yellow Springs Road | None | +509 | |
| Monocacy River | Confluence with Potomac River | None | +210 | Frederick County. |
| | 0.6 mile upstream of Devilbliss Bridge Road | None | +288 | |
| Park Branch (Tributary No. 8/99). | Confluence with Monocacy River | *271 | +267 | Frederick County. |
| | Downstream side of East Street | ^283 | +286 | |
| Pike Branch (Tributary No. 117). | Confluence with Ballenger Creek | None | +277 | |
| | Just upstream of Ballenger Creek Road | None | +314 | |
| Rock Creek | Confluence with Carroll Creek | ^308 | +310 | Frederick County. |
| | Just Downstream of Baltimore National Parkway (US 40). | *434 | +432 | |
| Rocky Fountain Run | Confluence with Monocacy River | *247 | +243 | Frederick County. |
| | 0.2 mile downstream of New Design Road | None | +310 | |
| Shookstown Creek (Tributary No. 96). | Confluence of Carroll Creek | None | +316 | Frederick County. |
| | Approximately 0.4 mile upstream of Oakmont Drive | *757 | *774 | |
| Silver Spring Branch (Tributary No. 95). | Confluence with Carroll Creek | None | +347 | Frederick County. |
| | Approximately 400 feet downstream of Edgewood Church Road. | None | +716 | |
| Tributary No. 122 to Horsehead Run. | Confluence with Horsehead Run | None | +265 | Frederick County. |
| | Approximately 1.1 miles upstream of confluence with Horsehead Run. | None | +298 | |
| Tributary No. 123 to Horsehead Run. | Confluence with Horsehead Run | None | +265 | Frederick County. |
| | Approximately 1.0 mile upstream of confluence with Horsehead Run. | None | +310 | |
| Tributary No. 124 to Horsehead Run. | Confluence with Horsehead Run | *262 | +264 | Frederick County. |
| | Approximately 0.1 mile upstream of Manor Woods Road. | *279 | +284 | |
| Tributary No. 125 to Horsehead Run. | Confluence with Horsehead Run | *254 | +253 | Frederick County. |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 0.4 mile upstream of confluence with Horsehead Run. | *270 | +274 | |
| Tributary No. 126 to Tributary No. 125 to Horsehead Run. | 0.4 mile upstream of outlet to Horsehead Run | *270 | +274 | Frederick County. |
| | Just downstream of New Design Road | *287 | +287 | |
| Tributary No. 127 to Rocky Fountain Run. | Confluence with Rocky Fountain Run | *247 | +246 | Frederick County. |
| | Approximately 1.1 miles upstream of confluence with Rocky Fountain Run. | *279 | +291 | Frederick County. |
| Tributary No. 128 to Rocky Fountain Run. | Confluence with Rocky Fountain Run | *247 | +243 | |
| | Just downstream of Baltimore and Ohio Railroad | None | +279 | |
| Tributary No. 5 to Rock Creek. | Confluence with Rock Creek | ∧325 | +328 | Frederick County. |
| | Approximately 0.1 mile upstream of West Patrick Street. | None | +395 | |
| Tributary No. 6 to Carroll Creek. | Confluence with Carroll Creek | ∧294 | +293 | Frederick County. |
| | Just downstream of Butterfly Lane | None | +410 | |
| Tributary No. 89 to Little Tuscarora Creek. | Confluence with Little Tuscarora Creek | None | +314 | Frederick County. |
| | Just downstream of Springhill Drive | None | +359 | |
| Tributary to Glade Creek | Confluence with Glade Creek | None | +292 | Frederick County. |
| | Just downstream of Devilbliss Bridge Road | None | +334 | |
| Tributary to Tributary No. 89 to Little Tuscarora Creek. | Confluence with Tributary No. 89 to Little Tuscarora Creek. | None | +355 | Frederick County. |
| | Just upstream of Christophers Crossing | None | +402 | |
| Tuscarora Creek | Confluence with Monocacy River | *279 | +274 | Frederick County. |
| | Confluence of Clifford Branch | None | +367 | |
| Two Mile Run (Tributary No. 10/93). | Just downstream of Worman's Mill Court | None | +269 | Frederick County. |
| | Confluence with Monocacy River | ∧274 | +269 | Frederick County. |
| Worman's Run (Tributary No. 11). | Confluence with Monocacy River | ∧274 | +269 | Frederick County. |
| | Just Upstream of North Market Street | ∧274 | +269 | |

*National Geodetic Vertical Datum 1929.
– North American Vertical Datum 1988.
+Frederick City Datum.

**ADDRESSES**

**Unincorporated Areas of Frederick County:**

Maps are available for inspection at the Planning and Zoning Department, Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.
Send comments to The Honorable Douglas Browning, County Manager, Frederick County, Winchester Hall, 12 East Church Street, Frederick, Maryland 21701.

**City of Frederick:**

Maps are available for inspection at the Engineering Department, City Hall, 101 North Court Street, Frederick, Maryland 21701.
Send comments to The Honorable Jennifer P. Dougherty, Mayor, City of Frederick, City Hall, 101 North Court Street, Frederick, Maryland 21701.

**Town of Walkersville:**

Maps are available for inspection at the Town Hall, 21 West Frederick Street, Walkersville, Maryland 21793.
Send comments to The Honorable Ralph Whitmore, Burgess, Town of Walkersville, Town Hall/P.O. Box 249, 21 West Frederick Street, Walkersville, Maryland 21793.

**Washington County, Missouri and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Mine Breton Creek | Approximately 2,350 feet above confluence with Bates Creek. | None | *860 | City of Potosi. |
| | At Highway P, approximately 9,700 feet above confluence with Bates Creek. | None | *922 | |

*National Geodetic Vertical Datum 1929.

**ADDRESSES**

**City of Potosi:**

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |

Maps are available for inspection at the Community Map Repository, 121 E. High Street, Potosi, MO.
Send comments to The Honorable Wayne Maulgen, Mayor of the City of Potosi, 121 E. High Street, Potosi, MO 63664.

**Osage County, Oklahoma and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Bird Creek | Approximately 250 feet from confluence of Bird Creek and Mud Creek. | *823 | +818 | Osage County (Uninc. Areas), City of Pawhuska, City of Barnsdall, Town Avant |
| | Approximately 1,700 feet downstream from confluence w/ UT1 to Bird Creek. | *642 | +645 | |

*National Geodetic Vertical Datum.
+North American Vertical Datum, OK.

**ADDRESSES**

**Osage County:**

Maps are available for inspection at 628 Kihekah, Pawhuska 74056.
Send comments to The Honorable Scott Hill, County Commissioner, 628 Kihekah, Pawhuska, OK 74056.

**Town of Avant:**

Maps are available for inspection at City Hall: 230 W. McCoy Lane, Avant, OK 74001.
Send comments to The Honorable Curtis Bray, Major of the Town of Avant, 230 W. McCoy Lane, Avant, OK 74001.

**City of Barnsdall:**

Maps are available for inspection at 409 W. Main, Barnsdall, OK 74001.
Send comments to The Honorable Rick Parker, Mayor of the City of Barnsdall, 409 W. Main, Barnsdall, OK 74002.

**City of Pawhuska:**

Maps are available for inspection at 118 W. Main, Pawhuska, OK 74056.
Send comments to The Honorable Mark Buchanan, Mayor of the City of Pawhuska, 118 West Main, OK 74056.

**Chester County, Pennsylvania and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Beaver Creek | Approximately at the Beaver Creek Dam | +479 | +503 | Township of East Brandywine and Township of West Brandywine Township of East Goshen. |
| | Approximately 3,500 feet upstream from the Beaver Creek Dam. | None | +503 | |
| Boot Road Run | Approximately at Springton Lane Road | +418 | +418 | |
| | Approximately 100 feet upstream of Greenhill Road | None | +450 | |
| Valley Creek | Approximately 1,750 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek. | None | +444 | Township of West Sadsbury. |
| | Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek. | None | +444 | |
| East Branch Octoraro Creek | Approximately 1,550 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek. | None | +444 | Township of West Sadsbury. |
| | Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octoraro. | None | +444 | |
| Beaver Creek | Approximately at the Beaver Creek Dam | +479 | +503 | Township of East Brandywine and Township of West Brandywine. |
| | Approximately 3,500 feet upstream from the Beaver Creek Dam. | None | +503 | |
| Boot Road Run | Approximately at Springton Lane | +418 | +418 | Township of East Goshen. |
| | Approximately 100 feet upstream of Greenhill Road | None | +450 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ^Frederick City Datum | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| East Branch Octoraro Creek | Approximately 1,550 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek. | None | +444 | Township of West Sadsbury. |
| | Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octoraro. | None | +444 | |
| Hibernia Dam | Approximately at the Hibernia Dam | None | +588 | Township of West Caln. |
| | Approximately 75 feet upstream from Martins Corner Road. | None | +612 | |
| Valley Creek | Approximately 1,750 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek. | None | +444 | Township of West Sadsbury. |
| | Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek. | None | +444 | |

+North American Vertical Datum 1988.

**ADDRESSES**

**Township of East Brandywine:**
Maps are available for inspection at 110 Hopewell Road, Suite 2, Downingtown, Pennsylvania 19335.

**Township of West Brandywine:**
Maps are available for inspection at West Brandywine Township Building, 198 Lafayette Road, Coatesville, Pennsylvania 19320.
Send comments to The Honorable Carl S. Lindborg, Chairperson of Board of Supervisors, 198 Lafayette Road, Coatesville, Pennsylvania 19320.

**Township of East Goshen:**
Maps are available for inspection at East Goshen Town Hall, 1580 Paoli Pike, West Chester, Pennsylvania 19380.
Send comments to The Honorable Joseph McDonogh, Chairman of Board of Supervisors, 1580 Paoli Pike, West Chester, Pennsylvania 19380.

**Township of West Caln:**
Maps are available for inspection at West Caln Township Building, 721 W. Kings Highway, Wagontown, PA 19736.
Send comments to The Honorable Paul E. Pfitzenmeyer, Chairman of Board of Supervisors, 721 W. Kings Highway, Wagontown, PA 19736.

**Township of West Sadsbury:**
Maps are available for inspection at West Sadsbury Township Municipal Building, 6400 N. Moscow Road, Parkesburg, Pennsylvania 19365.
Send comments to The Honorable James Landis, Chairperson of Board of Supervisors, 6400 N. Moscow Road, Parkesburg, Pennsylvania 19365.

[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum to the NAVD88 datum, please add 0.10 feet.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 20, 2006.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E6–4358 Filed 3–24–06; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 67

**[Docket No. FEMA–B–7457]**

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Mitigation Division Director of the Federal Emergency Management Agency certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

*Regulatory Classification.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § 67.4.

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **Dixie County, Florida and Incorporated Areas** | | | | |
| Suwannee River | Approximately 14.4 miles downstream of U.S. Route 19. | +13 | +12 | Dixie County (Unincorporated Areas). |
| | Approximately 2.8 miles upstream of County Highway 340. | +29 | +28 | |

+North American Vertical Datum.

**ADDRESSES**

**Unincorporated Areas of Dixie County:**

Maps are available for inspection at the Dixie County Planning and Zoning Department, 405 Southeast 22nd Avenue, Cross City, Florida. Send comments to Mr. Marcus Hays, Chairman of the Dixie County Board of Commissioners, P.O. Box 2600, Cross City, Florida 32628.

| | | | | |
|---|---|---|---|---|
| **Escambia County, Florida and Incorporated Areas** | | | | |
| Tributary to Elevenmile Creek. | Approximately 750 feet upstream of the confluence with Elevenmile Creek. | None | +36 | Escambia County (Unincorporated Areas). |
| | Approximately 2.83 miles upstream of the confluence with Elevenmile Creek. | None | +74 | |
| Carpenters Creek | Approximately 1,120 feet upstream of 12th Avenue | None | +10 | Escambia County (Unincorporated Areas). |
| | Approximately 1,833 feet upstream of Interstate 10 | None | +84 | |
| Tributary to Carpenters Creek. | At the confluence with Carpenters Creek | None | +64 | Escambia County (Unincorporated Areas). |
| | Approximately 1,260 feet upstream of Dirt Road | None | +84 | |
| Tributary to Bridge Creek (West). | At the confluence with Bridge Creek | None | +16 | Escambia County (Unincorporated Areas). |
| | Approximately 2,650 feet upstream of the confluence with Bridge Creek. | None | +24 | |
| Tributary to Bridge Creek (East). | At the confluence with Bridge Creek | None | +16 | Escambia County (Unincorporated Areas). |
| | Approximately 2,500 feet upstream of confluence with Bridge Creek. | None | +20 | |
| Tributary 1 to Bayou Grande | At the confluence with Bayou Grande | None | +9 | Escambia County (Unincorporated Areas). |
| | Approximately 1,000 feet upstream of Blue Angel Parkway. | None | +20 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Tributary 2 to Bayou Grande | At the confluence with Bayou Grande | None | +7 | Escambia County (Unincorporated Areas). |
| | Approximately 2,200 feet upstream of Gulf Beach Boulevard. | None | +20 | |
| Tributary 3 to Bayou Grande | At the confluence with Bayou Grande | None | +7 | Escambia County (Unincorporated Areas). |
| | Approximately 0.8 mile upstream of Blue Angel Parkway. | None | +26 | |
| Tributary 4 to Bayou Grande | At the confluence with Bayou Grande | None | +7 | Escambia County (Unincorporated Areas). |
| | Approximately 2,750 feet upstream of the confluence with Bayou Grande. | None | +16 | |

+North American Vertical Datum.

**ADDRESSES**

**Pensacola, City of:**

Maps available for inspection at the City of Pensacola Inspection Services, 14 West Jordan Street, Pensacola, Florida 32501.
Send comments to Mr. Tom Bonfield, Pensacola City Manager, P.O. Box 12910, Pensacola, Florida 32521.

**Escambia County (Unincorporated Areas):**

Maps available for inspection at the Escambia County Building Inspections, 3300 North Pace Boulevard, Suite 300, Pensacola, Florida 32505.
Send comments to Mr. George Touart, Escambia County Administrator, P.O. Box 1591, Pensacola, Florida 32591.

**Gilchrist County, Florida and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Suwannee River | Approximately 1.7 miles downstream of U.S. Route 19. | +20 | +19 | Fanning Springs (City), Gilchrist County (Unincorporated Areas). |
| | Approximately 8.2 miles upstream of Highway 340 | +32 | +31 | |
| Santa Fe River | Approximately 2.8 miles upstream of State Route 47 | +38 | +37 | Gilchrist County (Unincorporated Areas). |
| | Approximately 5.9 miles upstream of State Route 47 | +41 | +40 | |

+North American Vertical Datum.

**ADDRESSES**

**Fanning Springs, City of:**

Maps available for inspection at the Fanning Springs City Hall, 17651 Northwest 90th Court, Fanning Springs, Florida 32693.
Send comments to The Honorable Carol J. McQueen, Mayor of the City of Fanning Springs, 17651 Northwest 90th Court, Fanning Springs, Florida 32693.

**Gilchrist County (Unincorporated Areas):**

Maps available for inspection at the Gilchrist County Building and Zoning Department, 209 Southeast First Street, Trenton, Florida 32690.
Send comments to Mr. Randy Durden, Chairman of the Gilchrist Board of Commissioners, P.O. Box 37, Trenton, Florida 32693.

**Lafayette County, Florida and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Suwannee River | Approximately 14.5 miles downstream of U.S. Highway 27. | +29 | +28 | Lafayette County (Unincorporated Areas). |
| | Approximately 10,000 feet upstream of County Road 250. | +60 | +59 | |

+North American Vertical Datum.

**Unincorporated Areas of Lafayette County:**

Maps available for inspection at the Lafayette County Building and Zoning Department, 120 West Main Street, Mayo, Florida 32066.
Send comments to Mr. Curtiss Hamlin, Chairman of the Lafayette County Board of Commissioners, P.O. Box 88, Mayo, Florida 32066.

**Santa Rosa County, Florida and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Pace Mill Creek | Approximately 1,300 feet downstream of U.S. Route 90. | +11 | +12 | Lafayette County (Unincorporated Areas). |
| | At downstream side of Chumuckla Highway | None | +127 | |

+North American Vertical Datum.

**ADDRESSES**

**Milton, City of:**

Maps available for inspection at City of Milton Planning and Development Department, 6738 Dixon Street, Milton, Florida.

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |

Send comments to The Honorable Guy Thompson, Mayor of the City of Milton, P.O. Box 909, Milton, Florida 32572.

**Santa Rosa County, Unincorporated Areas:**

Maps available for inspection at the Santa Rosa County Public Services Department, 6051 Old Bagdad Highway, Milton, Florida.
Send comments to Mr. Hunter Walker, Santa Rosa County Administrator, 6495 Caroline Street, Suite D, Milton, Florida 32570–4592.

**Floyd County, Georgia and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Booze Creek | Approximately 350 feet upstream of the confluence with Silver Creek. | +637 | +638 | Floyd County (Unincorporated Areas). |
| | Approximately 840 feet upstream of the confluence with Silver Creek. | +637 | +638 | |
| Big Dry Creek | Just upstream of Martha Berry Road | None | +597 | Floyd County (Unincorporated Areas). |
| | At the confluence of Tributary 1 to Big Dry Creek | None | +597 | City of Rome. |
| Big Dry Creek Tributary | At the confluence with Big Dry Creek | None | +597 | Floyd County (Unincorporated Areas). |
| | Approximately 2,500 feet upstream of CCC Road | None | +604 | City of Rome. |
| Big Dry Creek Tributary 2 | At confluence with Tributary 1 to Big Dry Creek | None | +597 | Floyd County (Unincorporated Areas). |
| | Approximately 200 feet upstream of Lindsey Road NW. | None | +603 | City of Rome. |
| Silver Creek | At the confluence with Etowah River | +597 | +596 | City of Rome. |
| | Approximately 2,000 feet upstream of the confluence with Etowah River. | +597 | +596 | |
| South Fork Horseleg | At the confluence with Horseleg Creek | +607 | +608 | Floyd County (Unincorporated Areas). |
| | Approximately 100 feet upstream of the confluence with Horseleg Creek. | +607 | +608 | City of Rome |

#Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.
[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum to the NAVD88 datum, please add 0.12 feet.

**ADDRESSES**

**Floyd County (Unincorporated Areas):**

Maps are available for inspection at Rome-Floyd County Building Inspection Department, 607 Road Street, Rome, Georgia.
Send comments to The Honorable Chuck Hufstetler, Chairman, Floyd County Board of Commissioners, Post Office Box 946, 12 East 4th Avenue, Rome, Georgia 30162.

**City of Rome, Floyd County, Georgia:**

Maps are available for inspection at Rome-Floyd County Building Inspection Department, 607 Broad Street, Rome, Georgia.
Send comments to The Honorable Ronald L. Wallace, Mayor, City of Rome, 601 Broad Street, Post Office Box 1433, Rome, Georgia.

**Gwinnett County, Georgia and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Alcovy River | At the county boundary | +780 | +784 | Gwinnett County (Unincorporated Areas). |
| | Approximately 4,420 feet upstream of Old Fountain Road. | None | +1074 | |
| Alcovy River Tributary A | At the confluence with Alcovy River | +789 | +795 | Gwinnett County (Unincorporated Areas). |
| | Approximately 3,615 feet upstream of Callie Still Road. | None | +844 | |
| Alcovy River Tributary B | At the confluence with Alcovy River | +991 | +989 | Gwinnett County (Unincorporated Areas). |
| | Approximately 2,055 feet upstream of Hood Road | None | +1,012 | |
| Apalachee River | At the county boundary | None | +823 | Gwinnett County (Unincorporated Areas). |
| | Approximately 12,240 feet upstream of Old Fountain Road. | None | +1,107 | |
| Apalachee River Tributary No. 1. | At the county boundary | None | +826 | Gwinnett County (Unincorporated Areas). |
| | Approximately 4,615 feet upstream of Bold Springs Road. | None | +992 | |
| Apalachee River Tributary No. 3. | At the confluence with Apalachee River | None | +887 | Gwinnett County (Unincorporated Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 2,325 feet upstream of Old Freemans Mill Road. | None | +942 | |
| Apalachee River Tributary No. 4. | At the confluence with Apalachee River | None | +908 | Gwinnett County (Unincorporated Areas). |
| | Approximately 5,900 feet upstream of Bailey Road | None | +966 | |
| Bay Creek | At the county boundary | None | +794 | Gwinnett County (Unincorporated Areas). |
| | Approximately 590 feet upstream of Briscoe Road | None | +960 | |
| Beaver Ruin Creek | At the confluence with Sweetwater Creek | +858 | +862 | City of Norcross Gwinnett County (Unincorporated Areas). |
| | Approximately 2,690 feet upstream of Everglades Trail. | None | +978 | |
| Beaver Ruin Creek Tributary No. 1. | At the confluence with Beaver Ruin Creek | +902 | +905 | Gwinnett County (Unincorporated Areas). |
| | Approximately 200 feet upstream of Live Oak Parkway. | None | +983 | |
| Beaver Ruin Creek Tributary No. 2. | At the confluence with Beaver Ruin Creek | +932 | +933 | City of Norcross Gwinnett County (Unincorporated Areas). |
| | Approximately 150 feet upstream of North Norcross Tucker Road. | None | +963 | |
| Bell Creek | At the confluence with Suwanee Creek | +924 | +926 | City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Approximately 1,280 feet upstream of Lake Louella Dam. | None | +974 | |
| Berkeley Lake (Mill Creek Tributary (Stream 6.1)). | Entire shoreline | None | +977 | City of Berkeley Lake. |
| | At the county boundary | +847 | +849 | |
| Big Haynes Creek | Approximately 100 feet upstream of Hillside Drive | None | +956 | City of Snellville Gwinnett County (Unincorporated Areas). |
| | At the confluence with Big Haynes Creek | +885 | +883 | |
| Big Haynes Creek Tributary A. | Approximately 1,490 feet upstream of Athens Highway/U.S. Highway 78/State Highway 10. | None | +945 | City of Snellville Gwinnett County (Unincorporated Areas). |
| | At the confluence with Beaver Ruin Creek | +864 | +866 | |
| Bromolow Creek | Approximately 5,450 feet upstream of Old Norcross Road. | None | +979 | City of Duluth Gwinnett County (Unincorporated Areas). |
| | At the confluence with Bromolow Creek | +890 | +889 | |
| Bromolow Creek Tributary No. 1. | Approximately 1,560 feet upstream of U.S. Highway 231/State Highway 13/Buford Highway. | +979 | +979 | Gwinnett County (Unincorporated Areas). |
| | At the confluence with Bromolow Creek Tributary No. 1. | +912 | +913 | |
| Bromolow Creek Tributary No. 1.1. | Approximately 200 feet upstream of Bailey Drive | None | +963 | Gwinnett County (Unincorporated Areas). |
| Brushy Creek | Approximately 3,080 feet upstream of the confluence with the Chattahoochee River. | +909 | +910 | City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Approximately 130 feet upstream of Suwanee Dam Road Northwest. | None | +1,014 | |
| Brushy Fork Creek | At the confluence with Big Haynes Creek | +848 | +850 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,890 feet upstream of Athens Highway/U.S. Highway 78/State Highway 10. | None | +980 | |
| Brushy Fork Creek Tributary A. | At the confluence with Brushy Creek | None | +915 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,650 feet upstream of SCS Dam 22 | None | +949 | |
| Camp Creek | Approximately 600 feet upstream of the confluence with Jackson Creek. | +868 | +869 | City of Lilburn Gwinnett County (Unincorporated Areas). |
| | At the county boundary | +949 | +947 | |
| Camp Creek Tributary No. 1 | At the confluence with Camp Creek | +908 | +909 | City of Lilburn Gwinnett County (Unincorporated Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 320 feet upstream of Harmony Grove Road. | None | +950 | |
| Cedar Creek Northwest | At the confluence with Alcovy River | +951 | +952 | Gwinnett County (Unincorporated Areas). |
| | Just upstream of Progress Center Avenue | +997 | +1,000 | |
| Cedar Creek Northwest Tributary. | At the confluence with Cedar Creek Northwest | None | +989 | City of Lawrenceville Gwinnett County (Unincorporated Areas). |
| | Approximately 4,950 feet above the confluence with Cedar Creek Northwest. | None | +1,012 | |
| Cedar Creek Southeast | At the county boundary | None | +793 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,555 feet upstream of New Hope Road. | None | +891 | |
| Centerville Creek | Approximately 560 feet upstream of the confluence with the Yellow River. | None | 748 | Gwinnett County (Unincorporated Areas). |
| | Approximately 770 feet upstream of Johnson Drive | None | +857 | |
| Crooked Creek | At the county boundary | +885 | +887 | Gwinnett County (Unincorporated Areas). |
| | Approximately 3,280 feet upstream of Peachtree Corners Circle. | None | +912 | |
| Crooked Creek Tributary A | At the confluence with Crooked Creek | +893 | +896 | Gwinnett County (Unincorporated Areas). |
| | Approximately 4,520 feet upstream of James Mill Road. | None | +941 | |
| Crooked Creek Tributary No. 1. | At the confluence with Crooked Creek | +904 | +902 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,900 feet upstream of the confluence with Crooked Creek. | +922 | +918 | |
| Crooked Creek Tributary No. 2. | Approximately 200 feet upstream of the confluence with Crooked Creek. | +907 | +906 | Gwinnett County (Unincorporated Areas). |
| | Approximately 600 feet upstream of Engineering Drive. | +962 | +958 | |
| Crooked Creek Tributary No. 2.1. | At the confluence with Crooked Creek Tributary No. 2 | +919 | +923 | City of Norcross Gwinnett County (Unincorporated Areas). |
| | Approximately 515 feet upstream of Sunset Drive (upstream crossing). | +974 | +971 | |
| Crooked Creek Tributary No. 2.1.1. | At confluence with Crooked Creek Tributary No. 2.1 | +942 | +944 | City of Norcross. |
| | Approximately 2,000 feet upstream of Olde Town Park Drive. | None | +986 | |
| Do Little Creek | At the confluence with No Business Creek | +759 | +760 | Gwinnett County (Unincorporated Areas). |
| | Approximately 655 feet upstream of Snow Trail | None | +854 | |
| Doc Moore Branch | At the confluence with No Business Creek | +742 | +746 | Gwinnett County (Unincorporated Areas). |
| | Approximately 450 feet upstream of Brittan Glade Trail. | None | +814 | |
| Drowning Creek (Apalachee River Tributary No. 2). | At the confluence with Apalachee River | None | +858 | City of Dacula Gwinnett County. |
| | Just upstream of State Highway 316 | None | +1,001 | (Unincorporated Areas). |
| Duncan Creek | Approximately 260 feet downstream of the Gwinnett/Barrow County boundary. | None | +816 | Town of Braselton Gwinnett County (Unincorporated Areas). |
| | Approximately 2,290 feet upstream of East Rock Quarry Road. | None | +1,080 | |
| Garner Creek | At the confluence with the Yellow River | +825 | +826 | Gwinnett County (Unincorporated Areas). |
| | Approximately 250 feet upstream of Lilburn Stone Mountain Road. | None | +988 | |
| Garner Creek Tributary No. 1 | At the confluence with Garner Creek | +940 | +939 | Gwinnett County (Unincorporated Areas). |
| | Approximately 940 feet upstream of Breathitt Drive | None | +981 | |
| Garner Creek Tributary No. 2 | Approximately 60 feet upstream of the confluence with Garner Creek. | +962 | +963 | Gwinnett County (Unincorporated Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 1,635 feet upstream of the confluence with Garner Creek. | None | +982 | |
| Hale Creek | At the confluence with Garner Creek | +861 | +864 | City of Lilbrun Gwinnett County (Unincorporated Areas). |
| | Approximately 440 feet upstream of Lilburn Stone Mountain Road. | None | +935 | |
| Hale Creek Tributary | At the confluence with Hale Creek | +867 | +870 | Gwinnett County (Unincorporated Areas). |
| | Approximately 980 feet upstream of Baltimore Avenue | None | +908 | |
| Hopkins Creek | At the confluence with Alcovy River | +868 | +871 | City of Dacula Gwinnett County (Unincorporated Areas). |
| | Approximately 1,320 feet upstream of Fence Road | +1,008 | +1,009 | |
| Ivy Creek | At the confluence with Suwanee Creek | +952 | +956 | City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Approximately 160 feet upstream of Thompson Mill Road. | None | +1,121 | |
| Ivy Creek Tributary | At the confluence with Ivy Creek | +1,040 | +1,044 | Gwinnett County (Unincorporated Areas). |
| | Approximately 160 feet upstream of Camp Branch Road. | None | +1,129 | |
| Jacks Creek | At the confluence with the Yellow River | +787 | +788 | Gwinnett County (Unincorporated Areas). |
| | Approximately 620 feet upstream of Parkwood Drive | None | +954 | |
| Garner Creek Tributary No. 2 | Approximately 60 feet upstream of the confluence with Garner Creek. | +962 | +963 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,635 feet upstream of the confluence with Garner Creek. | None | +982 | |
| Hale Creek | At the confluence with Garner Creek | +861 | +864 | City of Lilburn Gwinnett County (Unincorporated Areas). |
| | Approximately 440 feet upstream of Lilburn Stone Mountain Road. | None | +935 | |
| Hale Creek Tributary | At the confluence with Hale Creek | +867 | +870 | Gwinnett County (Unincorporated Areas). |
| | Approximately 980 feet upstream of Baltimore Avenue | None | +908 | |
| Hopkins Creek | At the confluence with Alcovy River | +868 | +871 | City of Dacula Gwinnett County (Unincorporated Areas). |
| | Approximately 1,320 feet upstream of Fence Road | +1,008 | +1,009 | |
| Ivy Creek | At the confluence with Suwanee Creek | +952 | +956 | City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Approximately 160 feet upstream of Thompson Mill Road. | None | +1,121 | |
| Ivy Creek Tributary | At the confluence with Ivy Creek | +1,040 | +1,044 | Gwinnett County (Unincorporated Areas). |
| | Approximately 160 feet upstream of Camp Branch Road. | None | +1,129 | |
| Jacks Creek | At the confluence with the Yellow River | +787 | +788 | Gwinnett County (Unincorporated Areas). |
| | Approximately 620 feet upstream of Parkwood Drive | None | +954 | |
| Jackson Creek | At the confluence with Sweetwater Creek | +853 | +858 | City of Lilburn Gwinnett County (Unincorporated Areas). |
| | Just upstream of Old Norcross Tucker Road | None | +960 | |
| Jackson Creek Tributary No. 1. | At the confluence with Jackson Creek | +894 | +893 | Gwinnett County (Unincorporated Areas). |
| | Approximately 275 feet upstream of Button Gwinnett Place. | None | +935 | |
| Jackson Creek Tributary No. 2. | At the confluence with Jackson Creek | +904 | +903 | Gwinnett County (Unincorporated Areas). |
| | Just upstream of Meadow Brook Drive | None | +957 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Knox Branch | At the confluence with Sweetwater Creek | None | +939 | City of Duluth Gwinnett County (Unincorporated Areas). |
| | Just downstream of Lake Norman Dam | None | +962 | |
| Lake Norman (Knox Branch) | Entire shoreline | None | +992 | City of Duluth. |
| Lake No. 1 (Little Suwanee Creek Tributary. | Entire shoreline | None | +989 | Gwinnett County (Unincorporated Areas). |
| Lake No. 2 (Sweetwater Creek). | Entire shoreline | None | +961 | Gwinnett County (Unincorporated Areas). |
| Lanier Creek | At the confluence with Bromolow Creek | +865 | +866 | Gwinnett County (Unincorporated Areas). |
| | Approximately 375 feet upstream of Interstate Highway 85. | None | +926 | |
| Lee Daniel Creek | At the confluence with Sweetwater Creek | +877 | +879 | Gwinnett County (Unincorporated Areas). |
| | Approximately 520 feet upstream of Sugarloaf Parkway. | None | +987 | |
| Lee Daniel Creek Tributary No. 1. | At the confluence with Lee Daniel Creek | +882 | +884 | Gwinnett County (Unincorporated Areas). |
| | Approximately 270 feet upstream of Duluth Highway/ State Highway 120. | None | +953 | |
| Lee Daniel Creek Tributary No. 1.1. | Approximately 30 feet upstream of the confluence with Lee Daniel Creek Tributary No. 1. | +913 | +914 | Gwinnett County (Unincorporated Areas). |
| | Approximately 870 feet upstream of Sugarloaf Parkway. | None | +949 | |
| Level Creek | Approximately 2,200 feet upstream of the Confluence with the Chattahoochee River. | +914 | +915 | City of Sugar Hill City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Just upstream of Peachtree Industrial Boulevard | None | +1,048 | |
| Level Creek Tributary No. 1 | At the confluence with Level Creek | +952 | +955 | City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Just upstream of Suwanee Dam Road | None | +1,007 | |
| Level Creek Tributary No. 2 | At the confluence with Level Creek | +972 | +973 | City of Sugar Hill Gwinnett County (Unincorporated Areas). |
| | Approximately 170 feet upstream of Sugar Ridge Drive. | None | +1,022 | |
| Little Ivy Creek | At the confluence with Ivy Creek | +1,018 | +1,023 | Gwinnett County (Unincorporated Areas). |
| | Approximately 160 feet of Ivy Lake Drive | None | +1,141 | |
| Little Mulberry River | Approximately 160 feet downstream of the county boundary. | None | +833 | Gwinnett County (Unincorporated Areas). |
| | Approximately 350 feet upstream of Millwater Crossing. | None | +988 | |
| Little Mulberry River Tributary A. | At the confluence with Little Mulberry River | None | +844 | Gwinnett County (Unincorporated Areas). |
| | Approximately 260 feet upstream of Mineral Springs Road. | None | +987 | |
| Little Mulberry River Tributary B. | At the confluence with the Little Mulberry River | None | +847 | Gwinnett County (Unincorporated Areas). |
| | Approximately 165 feet upstream of Hog Mountain Road. | None | +931 | |
| Little Mulberry River Tributary C. | At the confluence with Little Mulberry River | None | +857 | Gwinnett County (Unincorporated Areas). |
| | Approximately 545 feet upstream of Hog Mountain Road. | None | +885 | |
| Little Mulberry River Tributary D. | At the confluence with Little Mulberry River | None | +894 | Gwinnett County (Unincorporated Areas). |
| | Approximately 260 feet upstream of Hog Mountain Road. | None | +898 | |
| Little Mulberry River Tributary E. | At the confluence with Little Mulberry River | None | +894 | Gwinnett County (Unincorporated Areas). |
| | Approximately 560 feet upstream of Patrick Road | None | +932 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Little Suwanee Creek | At the confluence with Yellow River | +932 | +933 | City of Lawrenceville Gwinnett County (Unincorporated Areas). |
| | Approximately 590 feet upstream of Buford Drive/ State Highway 20. | None | +1,072 | |
| Little Suwanee Creek Tributary No. 1. | At the confluence with Little Suwanee Creek | +956 | +954 | Gwinnett County (Unincorporated Areas). |
| | Just downstream of SCS Dam Y–16 | None | +966 | |
| Lucky Shoals Creek | At the confluence with Jackson Creek | None | +930 | Gwinnett County (Unincorporated Areas). |
| | Just upstream of Old Norcross Tucker Road | None | +952 | |
| Mill Creek | At the confluence with Suwanee Creek | +927 | +929 | City of Suwanee Gwinnett County (Unincorporated Areas). |
| | Just upstream of Satellite Boulevard | None | +991 | |
| Mill Creek (Stream 6) | Approximately 930 feet upstream of the confluence with the Chattahoochee River. | None | +898 | Gwinnett County (Unincorporated Areas). |
| | Just upstream of Bush Road | None | +913 | |
| Mill Creek Tributary (Stream 6.1). | Approximately 140 feet upstream of the confluence with Mill Creek (Stream 6). | None | +898 | City of Berkeley Lake Gwinnett County (Unincorporated Areas). |
| | Approximately 260 feet upstream of Bayway Circle | None | +975 | |
| Mitchell Creek | At the county boundary | None | +1,014 | Gwinnett County (Unincorporated Areas). |
| | Approximately 910 feet upstream of South Puckett Lane. | None | +1,133 | |
| No Business Creek | Approximately 895 feet downstream of the county boundary. | +740 | +741 | City of Snellville Gwinnett County (Unincorporated Areas). |
| | Approximately 840 feet upstream of Scenic Highway/ State Highway 124. | +1,012 | +1,010 | |
| No Business Creek Tributary No. 1. | Approximately 900 feet upstream of the confluence with No Business Creek. | +899 | +900 | City of Snellville Gwinnett County (Unincorporated Areas). |
| | Approximately 280 feet upstream of Green Valley Road. | None | +930 | |
| North Fork Peachtree Creek | At the county boundary | +928 | +931 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,370 feet upstream of Greenwood Drive. | None | +980 | |
| Palm Creek | At the confluence with Alcovy River | +790 | +796 | Gwinnett County (Unincorporated Areas). |
| | Approximately 3,410 feet upstream of Brooks Road | None | +960 | |
| Palm Creek Tributary A | At the confluence with Palm Creek | None | +851 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,690 feet upstream of Brooks Road | None | +926 | |
| Pew Creek | Approximately 200 feet upstream of the confluence with Yellow River. | +873 | +874 | City of Lawrenceville Gwinnett County (Unincorporated Areas). |
| | Approximately 150 feet upstream of Stone Mountain Street. | None | +1,012 | |
| Pew Creek Tributary No. 1 | At the confluence with Pew Creek | +958 | +962 | City of Lawrenceville. |
| | Approximately 330 feet upstream of Scenic Highway/ State Highway 124. | None | +991 | |
| Pounds Creek | At the confluence with Yellow River | +814 | +815 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,290 feet upstream of Brownlee Road | None | +958 | |
| Redland Creek | At the confluence with Pew Creek | +886 | +889 | City of Lawrenceville Gwinnett County (Unincorporated Areas). |
| | Approximately 280 feet upstream of Northdale Road/ Redland Court. | None | +1,029 | |
| Richland Creek | Approximately 160 feet upstream of the confluence with the Chattahoochee River. | None | +918 | City of Buford City of Sugar Hill Gwinnett County (Unincorporated Areas). |
| | Just upstream of Cole Road | None | +1,095 | |

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| | | Effective | Modified | |
| Richland Creek Tributary No. 1. | At the confluence with Richland Creek | None | +952 | Gwinnett County (Unincorporated Areas). |
| | Just upstream of Stewart Road | None | +1,013 | |
| Richland Creek Tributary No. 2. | At the confluence with Richland Creek | None | +1,008 | City of Buford Gwinnett County (Unincorporated Areas). |
| | Just upstream of Pine Hollow Way | None | +1,036 | |
| Rock Creek | At the county boundary | None | +960 | Gwinnett County (Unincorporated Areas). |
| | Approximately 5,080 feet upstream of Bailey Road | None | +1,000 | |
| Rogers Creek | Approximately 1,940 feet upstream of the confluence with the Chattahoochee River. | +902 | +903 | City of Duluth Gwinnett County (Unincorporated Areas). |
| | Approximately 4,375 feet upstream of Bridlewood Drive. | None | +1,035 | |
| Salmon Branch | At the confluence with Pounds Creek | +826 | +827 | Gwinnett County (Unincorporated Areas). |
| | Approximately 610 feet upstream of Ridgeland Court | None | +870 | |
| Sherwood Creek | At the county boundary | None | +921 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,950 feet upstream of West Rock Quarry road. | None | +963 | |
| Shetley Creek | At the confluence with Bromolow Creek | +892 | +893 | Gwinnett County (Unincorporated Areas). |
| | Approximately 260 feet upstream of Castlerock Drive | None | +940 | |
| Shoal Creek | At the confluence with Alcovy River | +826 | +832 | City of Lawrenceville Gwinnett County (Unincorporated Areas). |
| | Approximately 1,980 feet upstream of Ezzard Street | +985 | +986 | |
| Singleton Creek | At the confluence with Sweetwater Creek | +886 | +885 | Gwinnett County (Unincorporated Areas). |
| | Approximately 4,970 feet upstream of Duluth Highway/State Highway 120. | +926 | +947 | |
| Stream 1 | Approximately 550 feet upstream of the confluence the with Chattahoochee River. | None | +887 | Gwinnett County (Unincorporated Areas). |
| | Approximately 500 feet upstream of Allenhurst Drive | None | +931 | |
| Stream 2 | Approximately 510 feet upstream of the confluence with the Chattahoochee River. | +888 | +889 | Gwinnett County (Unincorporated Areas). |
| | Approximately 2,500 feet upstream of Jones Bridge Circle. | None | +949 | |
| Stream 3 | Approximately 1,540 feet upstream of the confluence with the Chattahoochee River. | +891 | +892 | Gwinnett County (Unincorporated Areas). |
| | Approximately 3,115 feet upstream of Edgerton Drive | None | +942 | |
| Stream 4 | Approximately 900 feet upstream of the confluence with the Chattahoochee River. | +893 | +894 | Gwinnett County (Unincorporated Areas). |
| | Approximately 440 feet upstream of Avala Park Lane | None | +957 | |
| Stream 5 | Approximately 1,640 feet upstream of the confluence with the Chattahoochee River. | +897 | +898 | Gwinnett County (Unincorporated Areas). |
| | Approximately 265 feet upstream of Bush Road | None | +918 | |
| Stream 8 | Approximately 1,030 feet upstream of the confluence with the Chattahoochee River. | None | +900 | City of Duluth. |
| | Just upstream of Howell Springs Drive | None | +970 | |
| Stream 10 | Approximately 1,540 feet upstream of the confluence with the Chattahoochee River. | +907 | +908 | City of Duluth Gwinnett County (Unincorporated Areas). |
| | Approximately 2,310 feet upstream of Buford Highway/U.S. Highway 23/State Highway 13. | None | +1,025 | |
| Sugar Lake (Singleton Creek). | Entire shoreline | None | +949 | Gwinnett County (Unincorporated Areas). |
| Suwanee Creek | Approximately 3,300 feet upstream of the confluence with the Chattahoochee River. | +909 | +908 | City of Buford, City of Rest Haven, City of Suwanee, Gwinnett County (Unincorporated Areas). |
| | At the county boundary | None | +1,113 | |
| Suwanee Creek Tributary No. 1. | At the confluence with Suwanee Creek | +910 | +911 | City of Duluth Gwinnett County (Unincorporated Areas). |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
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| | | Effective | Modified | |
| | Approximately 590 feet upstream of Buford Highway/U.S. Highway 23/State Highway 13. | None | +942 | |
| Suwanee Creek Tributary No. 2. | Approximately 700 feet upstream of the confluence with the Suwanee Creek. | +998 | +997 | City of Buford. |
| | Just upstream of Buford Highway/State | None | +1,024 | |
| Suwanee Creek Tributary No. 3. | At the confluence with Suwanee Creek | +1,024 | +1,025 | City of Buford. |
| | Approximately 170 feet upstream of Roberts Street | None | +1,071 | |
| Suwanee Creek Tributary No. 4. | At the confluence with Suwanee Creek | +1,060 | +1,059 | City of Buford, City of Rest Haven |
| | At the county boundary | None | +1,081 | |
| Sweetwater Creek | At the confluence with the Yellow River | +851 | +855 | Gwinnett County (Unincorporated Areas). |
| | Just upstream of Bristol Lane | None | +961 | |
| Sweetwater Creek Tributary No. 1. | At the confluence with Sweetwater Creek | +862 | +864 | Gwinnett County (Unincorporated Areas). |
| | Approximately 355 feet upstream of Cruse Road | None | +891 | |
| Sweetwater Creek Tributary No. 2. | At the confluence with Sweetwater Creek | +869 | +874 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,300 feet upstream of Sweetwater Road. | None | +887 | |
| Swilling Creek | Approximately 1,600 feet upstream of the confluence with the Chattahoochee River. | +900 | +899 | City of Duluth. |
| | Approximately 1,620 feet upstream of Tree Summit Parkway. | None | +976 | |
| Swilling Creek Tributary | At the confluence with Swilling Creek | +928 | +927 | City of Duluth. |
| | Approximately 140 feet upstream of South Whippoorwill Drive. | None | +972 | |
| Tribble Creek | At the confluence with Alcovy River | +803 | +807 | Gwinnett County (Unincorporated Areas). |
| | Approximately 1,520 feet upstream of Leach Drive | None | +932 | |
| Tribble Creek Tributary A | At the confluence with Tribble Creek | None | +896 | Gwinnett County (Unincorporated Areas). |
| | Approximately 2,690 feet upstream of Chandler Road | None | +929 | |
| Tribble Creek Tributary B | At the confluence with Tribble Creek | None | +932 | Gwinnett County (Unincorporated Areas). |
| | Approximately 145 feet upstream of McConell Road | None | +957 | |
| Turkey Creek | At the confluence with the Yellow River | +832 | +836 | Gwinnett County (Unincorporated Areas). |
| | Approximately 530 feet upstream of Highpoint Road | None | +950 | |
| Unnamed Tributary to North Fork Peachtree Creek. | Approximately 1,525 feet downstream of Crescent Drive. | None | +934 | Gwinnett County (Unincorporated Areas). |
| | Approximately 2,375 feet upstream of Best Friend Road. | None | +965 | |
| Watson Creek | At the confluence with the Yellow River | +831 | +834 | City of Snellville Gwinnett County (Unincorporated Areas) |
| | Approximately 7,040 feet upstream of Bruckner Boulevard. | None | +999 | |
| Watson Creek Tributary | At the confluence with Watson Creek | +903 | +907 | Gwinnett County (Unincorporated Areas). |
| | Approximately 360 feet upstream of Highpoint Road | None | +945 | |
| Wheeler Creek | Approximately 320 feet downstream of the county boundary. | None | +837 | Gwinnett County (Unincorporated Areas). |
| | Approximately 420 feet upstream of Flowery Branch Road. | None | +930 | |
| Wildcat Creek | Approximately 980 feet downstream of Russell Road | +968 | +969 | Gwinnett County (Unincorporated Areas). |
| | Approximately 300 feet upstream of Russell Road | None | +980 | |
| Wolf Creek | At the confluence with Yellow River | +902 | +903 | Gwinnett County (Unincorporated Areas). |
| | Approximately 560 feet upstream of Tab Roberts Road. | None | +963 | |
| Yellow River | At the county boundary | +745 | +744 | City of Lawrenceville Gwinnett County |
| | Approximately 165 feet upstream of Azalea Drive | None | +1,087 | |
| Yellow River Tributary No. 1 | At the confluence with Yellow River | +852 | +856 | Gwinnett County (Unincorporated Areas). |

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| Yellow River Tributary No. 2 | Approximately 965 feet upstream of Shannon Way .... | None | +932 | Gwinnett County (Unincorporated Areas). |
| | At the confluence with Yellow River ..... | +853 | +857 | |
| Yellow River Tributary No. 3 | Approximately 225 feet upstream of Innsfail Drive ..... | None | +981 | Gwinnett County (Unincorporated Areas). |
| | At the confluence with Yellow River ..... | +866 | +870 | |
| Yellow River Tributary No. 3.1. | Approximately 210 feet upstream of Sugarloaf Parkway. | None | +978 | Gwinnett County (Unincorporated Areas). |
| | At the confluence with Yellow River Tributary No. 3 ... | +891 | +892 | |
| | Approximately 305 feet upstream of Rocky Road ..... | None | +938 | |

#Depth in feet above ground.
*National Geodetic Vertical Datum.
+National American Vertical Datum.
[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum To the NAVD88 datum please add 0.118 feet.

**ADDRESSES**

**City of Berkeley Lake, Gwinnett County, Georgia:**

Maps are available for inspection at City Hall, 4040 South Berkeley Lake Road, Berkeley Lake, Georgia.
Send comments to The Honorable Lois Salter, Mayor, City of Berkeley Lake, 4040 South Berkeley Lake Road, Berkeley Lake, Georgia 30096.

**Town of Braselton, Gwinnett County, Georgia:**

Maps are available for inspection at Braselton Town Hall, 4982 Highway 53, Braselton, Georgia.
Send comments to The Honorable Pat Graham, Mayor, Town of Braselton, Town Hall, 4982 Highway 53, Post Office Box 306, Braselton, Georgia 30517.

**City of Buford, Gwinnett County, Georgia:**

Maps are available for inspection at City Hall, 95 Scott Street, Buford, Georgia.
Send comments to The Honorable Phillip Beard, Mayor, City of Buford, City Hall, 95 Scott Street, Buford, Georgia 30518.

**City of Dacula, Gwinnett County, Georgia:**

Maps are available for inspection at Dacula City Hall, 442 Harbins Road, Dacula, Georgia.
Send comments to The Honorable Jimmy Wilbanks, Mayor, City of Dacula, 442 Harbins Road, Post Office Box 400, Dacula, Georgia 30019.

**City of Duluth, Gwinnett County, Georgia:**

Maps are available for inspection at the Planning Department, 3578 West Lawrenceville Street, Duluth, Georgia.
Send comments to The Honorable Shirley Fanning-Lasseter, Mayor, City of Duluth, 3578 West Lawrenceville Street, Duluth, Georgia 30096.

**Gwinnett County (Unincorporated Areas), Georgia:**

Maps are available for inspection at Gwinnett County, One Justice Square, 446 West Crogan Street, Suite 275, Lawrenceville, Georgia.
Send comments to The Honorable Charles E. Bannister, Chairman, Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, Georgia 30045.

**City of Lawrenceville, Gwinnett County, Georgia:**

Maps are available for inspection at 70 South Clayton Street, Lawrenceville, Georgia.
Send comments to The Honorable Bobby Sikes, Mayor, City of Lawrenceville, Post Office Box 2200, 70 South Clayton Street, Lawrenceville, Georgia 30046.

**City of Lilburn, Gwinnett County, Georgia:**

Maps are available for inspection at 76 Main Street, Lilburn, Georgia.
Send comments to The Honorable Jack Bolton, Mayor, City of Lilburn, 76 Main Street, Lilburn, Georgia 30047.

**City of Norcross, Gwinnett County, Georgia:**

Maps are available for inspection at City Hall-Community Development Department, 65 Lawrenceville Street, Norcross, Georgia.
Send comments to The Honorable Lillian Webb, Mayor, City of Norcross, 65 Lawrenceville Street, Norcross, Georgia 30071.

**City of Rest Haven, Gwinnett County, Georgia:**

Maps are available for inspection at the City of Rest Haven, 101 City Hall Street, Buford, Georgia.
Send comments to The Honorable Kenneth Waycaster, Mayor, City of Rest Haven, 428 Thunder Road, Buford, Georgia 30518.

**City of Snellville, Gwinnett County, Georgia:**

Maps are available for inspection at the Planning Office, 2460 Main Street East, Snellville, Georgia.
Send comments to The Honorable Jerry Oberholtzer, Mayor, City of Snellville, 2460 Main Street East, Post Office Box 844, Snellville, Georgia 30078.

**City of Sugar Hill, Gwinnett County, Georgia:**

Maps are available for inspection at Sugar Hill-Planning and Development, 4988 West Broad Street, Sugar Hill, Georgia.
Send comments to The Honorable Gary Pirkle, Mayor, City of Sugar Hill, 4988 West Broad Street, Sugar Hill, Georgia 30518.

**City of Suwanee, Gwinnett County, Georgia:**

Maps are available for inspection at the Planning and Community Development, 373 Highway 23, Suwanee, Georgia.
Send comments to The Honorable Nick Masino, Mayor, City of Suwanee, 373 Highway 23, Suwanee, Georgia 30024.

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| | | Effective | Modified | |
| **Hall County, Georgia and Incorporated Areas** | | | | |
| Balus Creek Tributary No. 1 | At confluence with Balus Creek | +1,100 | +1,101 | City of Gainesville, City of Oakwood. |
| | Approximately 380 feet upstream of the confluence with Balus Creek. | +1,100 | +1,101 | |
| Duncan Creek | At the county boundary | +878 | None | Hall County (Unincorporated Areas) Town of Braselton. |
| | Approximately 1,550 feet upstream of Spout Springs Road. | +960 | None | |
| Flat Creek Tributary No. 1 | At confluence with Flat Creek | +1,157 | +1,158 | Hall County (Unincorporated Areas) City of Gainesville. |
| | Approximately 340 feet upstream of the confluence with Flat Creek. | +1,157 | +1,158 | |
| Sherwood Creek | Approximately 950 feet upstream of its confluence with Mulberry Creek. | +842 | +843 | Hall County (Unincorporated Areas). |
| | At the county boundary | +920 | +922 | |
| | At the county boundary | None | +1,112 | Hall County (Unincorporated Areas). |
| Suwanee Creek. | | | | |
| | Approximately 105 feet upstream of the county boundary. | None | +1,119 | |
| | At the county boundary | None | +1,082 | Hall County (Unincorporated Areas). |
| Suwanee Creek Tributary No. 4. | Approximately 300 feet upstream of the county boundary. | None | +1,082 | Town of Rest Haven. |

# Depth in feet above ground.
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+ National American Vertical Datum.
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**ADDRESSES**

**Town of Braselton, Hall County, Georgia:**

Maps are available for inspection at Braselton Town Hall, 4982 Highway 53, Braselton, Georgia.
Send comments to The Honorable Pat Graham, Mayor, Town of Braselton, Town Hall, 4982 Highway 53, Braselton, Georgia 30517.

**City of Gainesville, Hall County, Georgia:**

Maps are available for inspection at the Department of Public Works, 300 Green Street, Suite 300, Gainesville, Georgia.
Send comments to The Honorable George Wangemann, Mayor, City of Gainesville, 300 Green Street, Suite 303, Gainesville, Georgia 30503.

**Hall County (Unincorporated Areas), Georgia:**

Maps are available for inspection at the Hall County Engineer Division, 300 Green Street, Room 309, Gainesville, Georgia.
Send comments to The Honorable Tom Oliver, Chairman, Hall County Board of Commission 116 Spring Street, Post Office Drawer 1435, Gainesville, Georgia 30501.

**City of Oakwood, Hall County, Georgia:**

Maps are available for inspection at City Hall, 4035 Walnut Circle, Oakwood, Georgia.
Send comments to The Honorable Lamar Scroggs, Mayor, City of Oakwood, 4035 Walnut Circle, Oakwood, Georgia 30566.

**City of Rest Haven, Hall County, Georgia:**

Maps are available for inspection at the City of Rest Haven, 101 City Hall, Buford, Georgia.
Send Comments to The Honorable Kenneth Waycaster, Mayor, City of Rest Haven, 428 Thunder Road, Buford, Georgia 30518.

| | | | | |
|---|---|---|---|---|
| **Bernalillo County, New Mexico and Incorporated Areas.** | | | | |
| Boca Negra Arroyo | Approximately 1,600 feet upstream of the confluence of Boca Negra Arroyo and Middle Tributary of Boca Negra Arroyo. | None | +5,215 | Bernalillo County (Unincorporated Areas). |
| | Approximately 2,600 feet upstream of the intersection of Faciel Rd. and Boca Negra Arroyo. | None | +5,436 | |
| Borrega Stream | Approximately 2,270 feet downstream from Perdiz Street. | #3 | +4,925 | Bernalillo County (Unincorporated Areas). |
| | Approximately 1,550 feet upstream of 118th Street | +5,218 | +5,210 | |
| Calabacillas Arroyo | Confluence with Rio Grande and Calabacillas Arroyo | +5,012 | +5,009 | Bernalillo County (Unincorporated Areas). |

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|---|---|---|---|---|
| | | Effective | Modified | |
| | Upstream 5400 feet of the intersection of Pratt St. NW and Navajo Dr. NW. | +5,403 | +5,402 | |
| Embudo Arroyo | Approximately 250 feet downstream of the intersection of Tramway Blvd and Embudo Arroyo. | None | +5,838 | Bernalillo County (Unincorporated Areas). |
| | Approximately 375 feet downstream of the intersection of Menaul Blvd. and Embudo Arroyo. | #1 | +6,004 | |
| Frost Arroyo | Approximately 125 feet northeast of intersection of Paa Ko Golf Dr. and North 14. | None | +6,421 | Bernalillo County (Unincorporated Areas). |
| | Confluence with San Pedro Creek | +6,579 | +6,583 | |
| Juniper Hill Arroyo | Approximately 500 feet downstream of the intersection of Eagle Nest Dr. and Juniper Hill Arroyo. | #2 | +6,260 | Bernalillo County (Unincorporated Areas). |
| | Approximately 875 feet upstream of the intersection of Eagle Nest Dr. and Juniper Hill Arroyo. | #2 | +6,242 | |
| Menual Detention Basin | Menual Detention Basin | #1 | +4,999 | Bernalillo County (Unincorporated Areas). |
| | Intersection of I25 and Menaul Detention Basin | #1 | +5,028 | |
| Mesa Del Sol Playa 1 | Approximately 1,800 feet from the City of Albuquerque and Kirtland Air Force Base on the Isleta Reservation Boundary. | None | +5,257 | Bernalillo County (Unincorporated Areas). |
| Mesa Del Sol Playa 2 | Approximately 2.2 miles north of the Isleta Reservation Boundary and 1.5 miles east of the City of Albuquerque and Kirtland Air Force Base Boundary. | None | +5,268 | Bernalillo County (Unincorporated Areas). |
| Mesa Del Sol Playa 3 | Approximately 1,400 feet from the City of Albuquerque and Kirtland Air Force Base to the east and coincident with the City of Albuquerque and Isleta Indian Reservation Boundary. | None | +5,283 | Bernalillo County (Unincorporated Areas). |
| Middle Tributary of Boca Negra Arroyo. | Approximately 250 feet downstream of the intersection of Rim Rock and Middle Tributary of Boca Negra Arroyo. | None | +5296 | Bernalillo County (Unincorporated Areas). |
| | Approximately 375 feet upstream of the intersection of Boulevard De Oest Ln. and Middle Tributary of Boca Negra Arroyo. | None | +5617 | |
| Pino Arroyo | Approximately 1,000 feet upstream of the intersection of Pino Arroyo and I25. | #3 | +5220 | Bernalillo County (Unincorporated Areas). |
| | Approximately 500 feet upstream of the intersection of Wyoming Blvd and Pino Arroyo. | #2 | +5405 | |
| San Antonio Arroyo North | Confluence of San Antonio Arroyo North and San Antonio Arroyo South. | None | +5119 | Bernalillo County (Unincorporated Areas). |
| | Approximately 2,000 feet upstream of the intersection of Carrick St. and San Antonio Arroyo North. | #2 | +5182 | |
| San Antonio Arroyo South | Approximately 125 feet downstream of the intersection of Coors Blvd. and San Antonio Arroyo South. | None | +5050 | Bernalillo County (Unincorporated Areas). |
| | Approximately 1,000 feet upstream of the intersection of Vulcan Rd. and San Antonio Arroyo South. | #1 | +5167 | |
| San Pedro Creek | Intersection of Bus Lane and San Pedro Creek | None | +6858 | Bernalillo County (Unincorporated Areas). |
| | Intersection of Old Crest Rd. and San Pedro Creek | None | +6955 | |

+North American Vertical Datum.
#Depth in feet above ground.

**ADDRESSES**

**Unincorporated areas of Bernalillo County:**

Maps are available for inspection at Bernalillo Public Works, 2400 Broadway SE., Albuquerque, NM 87102.
Send comments to Thaddeus Lucero, County Manager, Bernalillo County, 1 Civic Plaza NW., Albuquerque, NM 87102.

**City of Albuquerque:**

Maps are available for inspection at Plaza Del Sol, 600 2nd Street NW., Albuquerque, NM 87102.
Send comments to The Honorable Martin Chavez, Mayor, City of Albuquerque, 1 Civic Plaza, Albuquerque, NM 87102.

**Fayette County, Texas and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Buckner's Creek | Confluence with Colorado River | None | *257 | Fayette County. |
| | Approximately 250 feet upstream of the intersection of FM609 and Buckner's Creek. | None | *269 | |
| Colorado River | Approximately 1500 feet downstream from the confluence with Duty's Creek. | None | *223 | Fayette County. |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 2.74 miles upstream from the confluence with Benton's Creek. | None | *298 | |

*National Geodetic Vertical Datum.

**ADDRESSES**

**Unincorporated Areas of Fayette County:**

Maps are available for inspection at 151 No. Washington Street, La Grange, TX 78945.
Send comments to The Honorable Ed Janecka, County Judge, Fayette County, 151 No. Washington Street, La Grange, TX 78945.

**City of La Grange:**

Maps are available for inspection at 155 Colorado, La Grange, TX 78945.
Send comments to The Honorable Janet Moerbe, Mayor, City of La Grange, 155 E. Colorado, La Grange, TX 78945.

**Fayette Co. W.C. & I.D.—Monument Hill**

Maps are available for inspection at 151 No. Washington Street, La Grange, TX 78945.
Send comments to The Honorable Ed Janecka, Judge, Fayette Co. W.C. & I.D.—Monument Hill, 151 No. Washington Street, La Grange, TX 78945.

**Lubbock County, Texas and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Jones Warner Playa | Bordered by: Parklane Dr. to the west and south, Spur Ln. to the east and Lee Kitchens Dr. to the north. | None | +3111 | Lubbock County. |
| Playa 26 | Bordered by: Highway 289 to the south, 62nd St. to the north, Peoria Ave. to the east, and Quaker Ave. to the west. | *3234 | +3236 | Lubbock County. |
| Playa 44 | Bordered by: Brownfield Highway to the south, Raleigh Ave. to the west, Memphis Ave. to the east, and 13th St. to the north. | *3227 | +3229 | Lubbock County. |
| Playa 47 | Confluence of Playa System C3 and Playa System C1. | *3249 | +3247 | Lubbock County. |
| Roche's Lake Playa | Bordered by: 13th St. to the east, Highway 84 to the south and west, and Geneva St. to the north. | None | +3080 | Lubbock County. |
| Woodrow East Playa-Central | Approximately 1,750 feet southwest of the intersection of Highway 87 and Woodrow Rd. | None | +3182 | Lubbock County. |
| Woodrow East Playa-East | Approximately 5,000 feet southwest of the intersection of Highway 87 and Woodrow Rd. | None | +3194 | Lubbock County. |
| Woodrow East Playa-West | Intersection of Highway 87 and Woodrow Rd | None | +3180 | Lubbock County. |

*National Geodetic Vertical Datum.
+North American Vertical Datum.

**ADDRESSES**

**Unincorporated Areas of Lubbock County:**

Maps are available for inspection at 904 Broadway, Room 101, Lubbock, TX 79408.
Send comments to The Honorable Tom Head, Judge, Lubbock County, 904 Broadway, Room 101, Lubbock, TX 79408.

**City of Lubbock:**

Maps are available for inspection at City Hall, 1625 13th Street, Room 107, Lubbock, TX 79401.
Send comments to The Honorable Marc McDougal, Mayor, City of Lubbock, 1625 13th Street, Lubbock, TX 79457.

**City of Ransom Canyon:**

Maps are available for inspection at 24 Lee Kitchens Drive, Ransom Canyon, TX 79366.
Send comments to The Honorable Robert Englund, Mayor, Town of Ransom Canyon, 24 Lee Kitchens Drive, Ransom Canyon, TX 79366.

**City of Slaton:**

Send comments to The Honorable Laura Wilson, Mayor, City of Slaton, 130 South 9th Street, Slaton, TX 79364.

**Teton County, Wyoming and Unincorporated Areas**

| | | | | |
|---|---|---|---|---|
| Flat Creek | Just upstream of High School Road | *6113 | *6113 | Teton County (Unincorporated Areas). |
| | Just upstream of U.S. Highway 26 | *6214 | *6214 | |
| Spring Creek | Approximately 1,400 feet downstream of Tribal Trail Road. | *6126 | *6125 | Town of Jackson. |
| | Approximately 400 feet upstream of U.S. Highway 22 | *6158 | *6158 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |

*National Geodetic Vertical Datum.

**ADDRESSES**

**Unincorporated Areas of Teton County:**

Maps are available for inspection at the Teton County Administration Building, 200 South Willow, Jackson, Wyoming 83001.
Send comments to The Honorable Larry Jorgenson, Chairman, Teton County Board of Commissioners, Teton County Administration Building, 200 South Willow, Jackson, Wyoming 83001.

**Town of Jackson:**

Maps are available for inspection at Town Hall, 150 East Pearl Avenue, Jackson, Wyoming 83001.
Send comments to The Honorable Mark Barron, Mayor, Town of Jackson, P.O. Box 1687, Jackson, Wyoming 83001.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 20, 2006.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E6–4357 Filed 3–24–06; 8:45 am]

BILLING CODE 9110–12–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 67

**[Docket No. FEMA–B–7458]**

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

**National Environmental Policy Act**

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Mitigation Division Director of the Federal Emergency Management Agency certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

**Regulatory Classification**

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 13132, Federalism**

This rule involves no policies that have federalism implications under Executive Order 13132.

**Executive Order 12988, Civil Justice Reform**

This rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § 67.4.

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **Clear Creek County, Colorado and Incorporated Areas** | | | | |
| Chicago Creek | Confluence With Clear Creek | NA | 7,546+ | Clear Creek County (Unincorporated Areas) and City of Idaho Springs. |
| Clear Creek | 2.24 miles upstream of state Highway 103 | NA | 7,898+ | |
| | Upstream side of I–70 (Alvorado Road) | NA | 8,275+ | Town of Georgetown. |
| | The bottom spillway of the Georgetown Dam | NA | 8,430+ | |
| Clear Creek | 0.27 miles upstream of the confluence with Spring Gulch. | NA | 7,836+ | Clear Creek County (Unincorporated Areas). |
| | 3.77 miles upstream of the confluence with Spring Gulch. | NA | 8,180+ | |
| Fall River | Confluence with Clear Creek | NA | 7,716+ | Clear Creek County (Unincorporated Areas). |
| | Three miles upstream of confluence with Clear Creek | NA | 8,394+ | |

**ADDRESSES**

**Unincorporated Areas of Clear Creek County:**

Maps are available for inspection at The County Courthouse.
Send Comments to Mr. Harry Dale, Chairman, Clear Creek County Commissioners, 405 Argentine Street, Georgetown, Colorado 80444.

**Town of Georgetown:**

Maps are available for inspection at Town Hall.
Send comments to The Honorable Robert C. Smith, Mayor, Town of Georgetown, 404 6th Street, Georgetown, Colorado 80444.

**City of Idaho Springs:**

Maps are available for inspection at City Hall.
Send comments to The Honorable Dennis Lundery, Mayor, City of Idaho Springs, 1711 Miner Street, Idaho Springs, Colorado 80452.

| | | | | |
|---|---|---|---|---|
| **Larimer County, Colorado and Incorporated Areas** | | | | |
| Big Thompson River | Approximately 0.4 miles upstream of County Road 3 | None | +4,880 | Larimer County (Uninc. Areas), City of Loveland. |
| | Approximately 300 feet west of Lincoln Avenue and approximately 1,700 feet west of St. Louis Avenue. | None | #2 | |
| | Just downstream of St. Louis Avenue | +4,920 | +4,923 | |
| | Just upstream of St. Louis Avenue | +4,921 | +4,924 | |
| | Just east of Taft Avenue to 900 feet west of Taft Avenue Garfield Avenue. | None | #1 | |
| | South of Dry Creek and north of Rossum Drive | None | #3 | |
| | Approximately 1,400 feet upstream of confluence of Dry Creek. | None | +5,046 | |
| | Southwest of U.S. Highway 34 | None | #2 | |
| | Just downstream of confluence with Buckhorn Creek | +5,094 | +5,097 | |
| Big Thompson River—South Spill. | At confluence with Big Thompson River | None | +4,938 | Larimer County (Uninc. Areas) and City of Loveland. |
| | Just upstream of Taft Avenue | None | +4,970 | |
| Big Thompson River—Gravel Pit Split. | At confluence with Big Thompson River | None | +4,888 | Larimer County (Uninc. Areas). |
| | Approximately 1,900 feet upstream of confluence with Big Thompson River. | None | +4,899 | |
| Big Thompson River Overflow. | Just upstream of confluence with Big Thompson River | None | +5,047 | Larimer County (Uninc. Areas), City of Loveland. |
| | Approximately 0.4 miles upstream of confluence with Big Thompson River. | None | +5,078 | |
| Boxelder Creek | Approximately 200 feet upstream above confluence with Cache La Poudre River. | None | +4,868 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Approximately 1,000 feet east of Interstate Highway 25 | None | #2 | |
| | Just upstream of Vine Drive | +4,966 | +4,972 | |
| | Just north of Vine Drive | None | #2 | |
| | Just upstream of County Road 52 | +5,021 | +5,024 | |
| | Approximately 500 feet north of County Road 52 | None | #2 | |
| | Approximately 1,000 feet north of County Road 52 | None | #1 | |
| | Just downstream of County Road 54 | +5,051 | +5,054 | |
| Boxelder Creek Overflow—Downstream Reach. | Approximately 1,600 feet above confluence with Boxelder Creek. | None | +4,933 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Limit of Detailed Study (Approximately 2.1 miles above confluence with Boxelder Creek). | None | +4,975 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Boxelder Creek Overflow—Upstream Reach. | Above Larimer and Weld Canal | None | +4,982 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Limit of Detailed Study (Approximately 2.3 miles above Larimer and Weld Canal). | None | +5,038 | |
| Boxelder Creek I–25 Split .. | Approximately 500 feet upstream of Larimer County Road 5. | None | +4,875 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Limits of Detailed Study (Approx. 3.1 miles upstream of Larimer County Road 5). | None | +4,921 | |
| Boxelder Creek I–25 Split .. | Approximately 600 feet upstream of confluence with Boxelder Creek. | None | +4,890 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Approximately 1,500 feet upstream of confluence with Boxelder Creek. | None | +4,894 | |
| Cache La Poudre River ..... | Approximately 1,500 feet downstream from Shields Street. | +4,981 | +4982 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Just west of Shields Street to approximately 500 feet west of Shields Street. | None | +(5,000) | |
| | Approximately 500 feet west of Shields Street | None | #2 | |
| | Approximately 2,000 feet downstream of Overland Trail Road. | +5,045 | +5,048 | |
| | Approximately 1,000 feet upstream of Overland Trail Road. | +5,062 | +5,063 | |
| | Approximately 1,800 feet upstream of County Road 52E. | +5,118 | +5,119 | |
| Cache La Poudre River Split RPath. | At Gravel Pit Access Road | None | +4,884 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Approximately 0.7 miles above Gravel Pit Access Road. | None | +4,900 | |
| Cache La Poudre River Split LPath. | Approximately 0.5 miles above Gravel Pit Access Road. | None | +4,896 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Approximately 0.6 miles above Gravel Pit Access Road. | None | +4,898 | |
| Cooper Slough ..... | Approximately 800 feet upstream of State Highway 14 | None | +4,922 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Approximately 600 feet south of C and S Railroad | None | #2 | |
| | Approximately 1,200 feet north of Vine Drive to approximately 1,800 feet north of Vine Drive. | None | +(4964) | |
| | Approximately 0.6 miles upstream of Vine Drive | None | +4,972 | |
| Cooper Slough Overflow .... | Just south of confluence with Lake Canal and just north of Cache La Poudre Inlet Ditch. | None | #3 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | At confluence with Lake Canal | None | +4,917 | |
| | Approximately 0.9 miles upstream of confluence with Lake Canal. | None | +4,936 | |
| Dry Creek ..... | Just upstream of confluence with Big Thompson River | None | +5,043 | City of Loveland. |
| | Approximately 0.4 miles upstream of confluence with Big Thompson River. | None | +5,065 | |
| Glade Road Split ..... | Just upstream of confluence with Big Thompson River | None | +5,047 | Larimer County (Uninc. Areas), City of Loveland. |
| | Approximately 0.9 miles upstream of confluence with Big Thompson River. | None | +5,078 | |
| Sherry Drive Overflow ..... | Approximately 1,000 feet upstream of Cache La Poudre Reservoir Inlet Ditch. | None | +4,918 | City of Fort Collins. |
| | Approximately 1,800 feet upstream of Cache La Poudre Reservoir Inlet Ditch. | None | +4,920 | |
| Shield Street Divided Flow Path—Hill Pond Road. | Approximately 400 feet downstream of Shire Court ..... | None | +5,010 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | South of Gilgalad Way and north of Hill Pond Road ..... | None | #1 | |
| | Just west of convergence of Hill Pond Road and Windtrail Swale. | None | #1 | |
| | South of Hill Pond Road and north of Shire Court ..... | None | #1 | |
| | Approximately 100 feet downstream of Shields Street .. | None | +5,021 | |
| Shield Street Divided Flow Path—Shire Court. | Just downstream of Chetwood Court ..... | None | +5,012 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | North of Shire court and east of Shields Street ..... | None | #2 | |
| | Just downstream of Shields Street ..... | None | +5,024 | |
| Shield Street Divided Flow Path—Windswale Trail. | Approximately 3.8 miles upstream above confluence with Cache La Poudre River. | None | +5,003 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Approximately 4.2 miles upstream above confluence with Cache La Poudre River. | None | +5,017 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Spring Creek | Approximately 700 feet upstream above confluence with Cache La Poudre River. | +4,904 | +4,905 | City of Fort Collins, Larimer County (Uninc. Areas). |
| | Around intersection of Prospect Road and Sharp Point Drive. | None | #2 | |
| | North of Prospect Road and East of Timberline Road | None | +(4,905) | |
| | Just upstream of Lemay Avenue | +4,946 | +4,947 | |
| | Around intersection of Stuart Street and Stover Street | None | #3 | |
| | East of C and S Railroad and south of Prospect Court | None | #2 | |
| | Just upstream of Shields Street | +5,016 | +5,018 | |
| | West of Shields Street | None | #2 | |
| | Approximately 2,000 feet downstream from Shields Street. | None | #2 | |
| | Just upstream of Taft Hill Road | +5,086 | +5,087 | |
| | Approximately 2.1 miles upstream of Taft Hill Road | None | +5,173 | |
| | Approximately 2.1 miles upstream of Taft Hill Road | None | +5,173 | |

**Unincorporated Areas Larimer County:**

Maps are available for inspection at the Larimer County Courthouse, 200 West Oak Street, Fort Collins, Colorado 80521.
Send comments to The Honorable Kathay Rennels, Chair, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, Colorado 80522–1190.

**City of Loveland:**

Maps are available for inspection at City Hall, 500 East Third Street, Loveland, Colorado 80537.
Send comments to The Honorable Larry Walsh, Mayor, City of Loveland, 500 East Third Street, Loveland, Colorado 80537.

**City of Fort Collins:**

Maps are available for inspection at the Fort Collins Stormwater Utilities Department, 700 Wood Street, Fort Collins, Colorado 80521.
Send comments to The Honorable Doug Hutchinson, Mayor, City of Fort Collins, 300 LaPorte Avenue, P.O. Box 580, Colorado 80522–0580.

**Essex County, New Jersey and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Bear Brook | At Confluence with Canoe Brook | 223* | 223+ | Township of Livingston. |
| | Approximately 1800 feet upstream of East Cedar Street. | 369* | 367+ | |
| Canoe Brook | Approximately 1500 feet downstream of S. Orange Avenue. | 202* | 202+ | Township of Livingston. |
| | At Confluence of Bear Brook | 223* | 223+ | |
| Canoe Brook Tributary No. 1. | At Confluence with Canoe Brook | 202* | 204+ | Township of Livingston, Township of Milburn. |
| | Approximately 1100 feet upstream of White Oak Ridge Road. | 252* | 254+ | |
| Crystal Lake Branch | At Confluence with West Branch of Rahway River | 372* | 372+ | Township of West Orange. |
| | Approximately 200 feet upstream of Clarken Drive | 499* | 498+ | |
| Peckman River | Approximately 1300 feet upstream of Erie Railroad | 177* | 180+ | Township of Cedar Grove, Township of Verona, Township of West Orange. |
| | Approximately 250 feet downstream of Highway 577 | 472* | 474+ | |
| East Branch Rahway River | Approximately 200 feet upstream of Millburn Avenue | 100* | 99+ | City of Orange, Village of South Orange, Township of Maplewood. |
| | Just downstream of Forest Street | 160* | 167+ | |
| West Branch Rahway River | Approximately 400 feet downstream of Orange Reservoir Dam. | 300* | 298+ | Township of West Orange. |
| | At Garfield Avenue | 375* | 374+ | |
| Slough Brook | Just downstream of Parsonage Hill Road | 179* | 177+ | Township of Livingston. |
| | At Irving Avenue | 280* | 280+ | |

*National Geodetic Vertical Datum.
+North American Vertical Datum.

**ADDRESSES**

**Township of Cedar Grove:**

Maps are available for inspection at the following location: Municipal Building, 525 Pompton Avenue, Cedar Grove, NJ 07009.
Send comments to: The Honorable Thomas Tucci, Township Manager, Township of Cedar Grove, Township of Cedar Grove Municipal Building, 525 Pompton Avenue, Cedar Grove, NJ 07009.

**Township of Livingston:**

Maps are available for inspection at the following location: Town Hall, 357 South Livingston Avenue, Livingston, NJ 07039.
Send comments to: The Honorable Michele Meade, Township Manger, Township of Livingston, Town Hall, 357 South Livingston Avenue, Livingston, NJ 07039.

**Township of Maplewood:**

Maps are available for inspection at the following location: Town Hall, 570 Valley Street, Maplewood, NJ 07040.

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |

Send comments to: The Honorable Fred R. Profeta, Mayor, Township of Maplewood, or Mr. Joseph F. Manning, Administrator, Town Hall, 574 Valley Street, Maplewood, NJ 07040.

**Township of Millburn:**

Maps are available for inspection at the following location: Town Hall, 375 Millburn Avenue, Millburn, NJ 07041.
Send comments to: The Honorable Thomas Dermott, Mayor, Township of Millburn or Mr. Timothy Gordon, Administrator, Township of Millburn, Town Hall, 375 Millburn Avenue, Millburn, NJ 07041.

**City of Orange:**

Maps are available for inspection at the following location: City Hall, 29 North Day Street, Orange, NJ 07050.
Send comments to: The Honorable Mims Hackett, Mayor, City of Orange, City Hall, 29 North Day Street, Orange, NJ 07050.

**South Orange Village:**

Maps are available for inspection at the following location: South Orange Village Hall, 101 South Orange Avenue, South Orange, NJ 07079.
Send comments to: The Honorable William Calabrese, Village President, Village of South Orange, South Orange Village Hall, 101 South Orange Avenue, South Orange, NJ 07079.

**Township of Verona:**

Maps are available for inspection at the following location: Town Hall, 600 Bloomfield Avenue, Verona, NJ 07044.
Send comments to: The Honorable Jay Sniatkowski, Mayor, Township of Verona, Town Hall, 600 Bloomfield Avenue, Verona, NJ 07044.

**Township of West Orange:**

Maps are available for inspection at the following location: Town Hall, 66 Main Street, West Orange, NJ 07052.
Send comments to: The Honorable John F. McKeon, Mayor, Township of West Orange, Town Hall, 66 Main Street, West Orange, NJ 07052.

**Philadelphia County, Pennsylvania and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Byberry Creek | Approximately 500 feet downstream from Thornton Road. | None | *88 | City of Philadelphia. |
| | Approximately 900 feet upstream from Roosevelt Boulevard. | None | *136 | |
| Tributary to Poquessing Creek. | Approximately 1,280 feet downstream from Whitney Street. | None | *144 | City of Philadelphia. |
| | Approximately 1,400 feet upstream from SEPTA bridge | None | *180 | |

**ADDRESSES**

**City of Philadelphia:**

Maps are available for inspection at Philadelphia City Planning Commission, Philadelphia, PA 19102
Send comments to Mr. William Erickson, City Planner, City of Philadelphia, 1515 Arch Street, 13th Floor, Philadelphia, PA 19102.

**Maury County, Tennessee and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Duck River | Approximately 6,680 feet downstream of the confluence Roberts Bend Branch. | None | +562 | Maury County (Unincorporated Areas). |
| | Approximately 2,040 feet downstream of the confluence Little Bigby Creek. | *576 | +576 | |
| Duck River | Approximately 1,800 feet downstream of the confluence Bear Creek. | *588 | +588 | Maury County (Unincorporated Areas), City of Columbia. |
| | Approximately 3,680 feet upstream of the confluence Flat Creek. | None | +634 | |
| Fountain Creek | At the confluence of Fountain Creek with Duck River ... | None | +604 | Maury County (Unincorporated Areas). |
| | Approximately 3,000 feet upstream of Culleoka Highway. | None | +663 | |
| Silver Creek | At the confluence of Silver Creek with Fountain Creek | None | +604 | Maury County (Unincorporated Areas). |
| | Approximately 200 feet upstream of Kerr Road | None | +661 | |

**ADDRESSES**

**Unincorporated Areas of Maury County:**

Maps are available for inspection at the Community Map Repository, County Courthouse, 41 Public Square, Columbia, TN 38401.
Send all comments to The Honorable James Bailey, County Judge—Executive, 41 Public Square, Columbia, Tennessee 38401.

**City of Columbia:**

Maps are available for inspection at the Community Map Repository, 707 North Main Street, Columbia, TN 38401.
Send all comments to The Honorable Barbara McIntyre, Mayor, City of Columbia, 707 North Main Street, Columbia, Tennessee 38401.

**Rutherford County, Tennessee and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Andrews Creek | Confluence with East Fork Stones River | None | +608 | Rutherford County (Unincorporated Areas). |
| | Approximately 50 feet upstream of Hollingsworth Road | None | +657 | |
| Armstrong Branch | Confluence with Puckett Creek | None | +630 | Rutherford County (Unincorporated Areas), City of Murfreesboro. |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| | Approximately 2,070 feet upstream of Yeargan Road .. | None | +648 | |
| Bear Branch | Confluence with East Fork Stones River | *539 | +538 | Rutherford County (Unincorporated Areas), City of Murfreesboro. |
| | Approximately 1,720 feet downstream of Compton Road. | *539 | +538 | |
| Big Springs Creek | Confluence with Hurricane Creek | None | +723 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,010 upstream of Jimmy C Newman Road. | None | +775 | |
| Bradley Creek | Confluence with East Fork Stones River | *559 | +558 | Rutherford County (Unincorporated Areas). |
| | Approximately 5,280 feet upstream of King Road | None | +685 | |
| Bushman Creek | Confluence with East Fork Stones River | *546 | +545 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,400 feet upstream of New Lascassas Road. | None | +596 | |
| Cheatham Branch | Confluence with Harpeth River | None | +724 | Rutherford County (Unincorporated Areas), City of Eagleville. |
| | Approximately 3,420 feet upstream of South Main Street. | None | +788 | |
| Christmas Creek | Approximately 1,400 upstream of the confluence with West Fork Stones River. | None | +639 | Rutherford County (Unincorporated Areas). |
| | Approximately 930 feet upstream of Christiana Fosterville Road. | None | +698 | |
| Concord Branch | Confluence with Harpeth River | None | +739 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,200 feet upstream of Ditch Lane | None | +749 | |
| Cripple Creek | Confluence with East Fork Stones River | None | +579 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,890 feet upstream of Big Springs Road. | None | +874 | |
| Dry Branch | Confluence with Cripple Creek | None | +592 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,350 upstream of John Bragg Highway | None | +652 | |
| Dry Creek | Confluence with Hurricane Creek | None | +712 | Rutherford County (Unincorporated Areas). |
| | Approximately 760 feet upstream of Cobb Road | None | +746 | |
| Dry Fork | Confluence with Bradley Creek | None | +603 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.5 miles upstream of Givens | None | +695 | |
| Dry Form Creek | Confluence with East Fork Stones River | None | +685 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,640 feet upstream of Brothers Road .. | None | +854 | |
| East Fork Stones River | Approximately 2,900 feet downstream of State Route 840. | *507 | +506 | Rutherford County (Unincorporated Areas), City of Murfreesboro. |
| | Approximately 4,220 feet upstream of Goochie Ford Road. | None | +620 | |
| Fall Creek | Approximately 1.4 miles downstream of Powells Chapel Road. | None | +508 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.7 miles upstream of Fall Parkway | None | +556 | |
| Finch Branch | Approximately 990 feet downstream of Jefferson Pike | None | +580 | City of Lavergne. |
| | Approximately 1,428 feet upstream of Greenwood Drive. | None | +619 | |
| Harpeth River | Approximately 1,680 feet downstream of College Road | None | +706 | Rutherford County (Unincorporated Areas), City of Eagleville. |
| | Approximately 680 feet upstream of North Lane | None | +737 | |
| Henry Creek | Confluence with Short Creek | None | +681 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,980 feet upstream of Sims Road | None | +750 | |
| Hurricane Creek | Confluence with Middle Forks Stones River | None | +655 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.3 miles upstream of Cobb Road | None | +723 | |
| Kelly Creek | Confluence with Harpeth River | None | +726 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,150 feet upstream of Floyd Road | None | +797 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Long Creek | Approximately 4,910 feet upstream of confluence with Middle Fork Stones River. | *635 | +636 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.9 miles upstream of Jacobs Bend Road. | None | +672 | |
| Lytle Creek | Approximately 1.3 miles upstream of Diton-Mankin Road. | None | +657 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,000 feet upstream of Cedar Grove Road. | None | +722 | |
| McElroy Branch | Confluence with Cripple Creek | None | +629 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,020 feet upstream of Murray Kittrell Road. | None | +670 | |
| McKnight Branch | Confluence with East Fork Stones River | None | +606 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.6 miles upstream of E. Trimble Road | None | +658 | |
| Middle Fork Stones River | Approximately 1.5 miles downstream of Epps Mill Road. | None | +651 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,730 feet upstream of Interstate 24 | None | +774 | |
| Murray Branch | Confluence with McElroy Branch | None | +653 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.4 miles upstream of Floration Road | None | +710 | |
| Olive Branch | Approximately 2,950 feet upstream of Rocky Ford Road. | None | +584 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.6 miles upstream of Rocky Ford Road | None | +684 | |
| Overall Creek | Approximately 530 feet downstream of South Windrow Road. | None | +634 | Rutherford County (Unincorporated Areas). |
| | Approximately 9,910 feet upstream of South Windrow Road. | None | +703 | |
| Panther Creek | Approximately 1,400 feet upstream of the confluence with West Fork Stones River. | *646 | +647 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.9 miles upstream of Midland Road | None | +702 | |
| Puckett Creek | Just upstream of Old Salem Road | None | +627 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,300 feet upstream of Old Salem Road | None | +636 | |
| Reed Creek | Confluence with Cripple Creek | None | +715 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.8 miles upstream of Bradyville Pike | None | +892 | |
| Rocky Fork Creek | Approximately 2,400 feet upstream of Almaville Road | None | +559 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,250 feet upstream of Laddie Lane | None | +649 | |
| Short Creek | Confluence with Long Creek | None | +672 | Rutherford County (Unincorporated Areas). |
| | Approximately 3,310 feet upstream of Millersburg Road | None | +840 | |
| Stewart Creek | Approximately 60 feet upstream of Almaville Road | None | +603 | Rutherford County (Unincorporated Areas). |
| | Approximately 940 feet upstream of Almaville Road | None | +605 | |
| Stinking Creek | Approximately 410 feet upstream of Hollandale Road | None | +506 | City of Lavergne. |
| | Approximately 1,220 feet upstream of Bill Stewart Blvd | None | +584 | |
| Unnamed Tributary 007 | Confluence with McKnight Branch | None | +624 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.1 miles upstream of the confluence with McKnight Branch. | None | +650 | |
| Unnamed Tributary 009 | Confluence with Wades Branch | None | +574 | Rutherford County (Unincorporated Areas). |
| | Approximately 570 feet upstream of Dunaway Chapel Road. | None | +616 | |
| Unnamed Tributary 011 | Confluence with Unnamed Tributary 009 | None | +574 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,720 upstream of Dunaway Chapel Road. | None | +605 | |
| Unnamed Tributary 014 | Approximately 300 feet upstream of the confluence with Stewart Creek. | None | +572 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,210 feet upstream of State Route 96 | None | +658 | |
| Unnamed Tributary 018 | Confluence with Cripple Creek | None | +598 | Rutherford County (Unincorporated Areas). |
| | Approximately 3,540 feet upstream of Cranor Road | None | +605 | |
| Unnamed Tributary 026 | Approximately 700 feet upstream of the confluence with Stewart Creek. | None | +560 | Rutherford County (Unincorporated Areas). |
| | Approximately 3,100 feet upstream of Almaville Road | None | +632 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Unnamed Tributary 028 ..... | Approximately 1,150 downstream of Almaville Road .... | None | +566 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,850 feet upstream of Woodland Trail | None | +630 | |
| Unnamed Tributary 046 ..... | Confluence with Harpeth River ..... | None | +714 | Rutherford County (Unincorporated Areas). |
| | Approximately 970 feet upstream of N Highway 41A .... | None | +731 | |
| Unnamed Tributary 047 ..... | Confluence with Harpeth River ..... | None | +719 | Rutherford County (Unincorporated Areas). |
| | Approximately 5,510 feet upstream of Rocky Glade Road. | None | +759 | |
| Unnamed Tributary 049 ..... | Approximately 3,670 feet downstream of N Highway 41A. | None | +706 | Rutherford County (Unincorporated Areas). |
| | Approximately 373 feet upstream of of N Highway 41A | None | +724 | |
| Unnamed Tributary 051 ..... | Confluence with Unnamed Tributary 052 ..... | None | +689 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,620 feet upstream of Manus Road ..... | None | +703 | |
| Unnamed Tributary 052 ..... | Confluence with Murray Branch ..... | None | +686 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,980 feet upstream of Manus Road ..... | None | +723 | |
| Unnamed Tributary 055 ..... | Confluence with Middle Fork Stones River ..... | None | +670 | Rutherford County (Unincorporated Areas). |
| | Approximately 250 feet upstream of Broyles Road ..... | None | +730 | |
| Unnamed Tributary 056 ..... | Confluence with Unnamed Tributary 055 ..... | None | +693 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,500 upstream of Christiana Hoovers Gap Road. | None | +716 | |
| Unnamed Tributary 057 ..... | Confluence with Unnamed Tributary 055 ..... | None | +702 | Rutherford County (Unincorporated Areas). |
| | Approximately 680 feet upstream of the confluence with Unnamed Tributary 057. | None | +704 | |
| Unnamed Tributary 058 ..... | Confluence with Middle Fork Stones River ..... | None | +691 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,500 feet upstream of confluence with Middle Fork Stones River. | None | +706 | |
| Unnamed Tributary 069 ..... | Confluence with Harpeth River ..... | None | +726 | Rutherford County (Unincorporated Areas). |
| | Approximately 5,400 feet upstream of Swamp Road .... | None | +734 | |
| Unnamed Tributary 081 ..... | Confluence with Long Creek ..... | None | +672 | Rutherford County (Unincorporated Areas). |
| | Approximately 930 feet upstream of Johnson Road ..... | None | +678 | |
| Unnamed Tributary 092 ..... | Confluence with Panther Creek ..... | None | +680 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,420 feet upstream of Panther Creek Road. | None | +689 | |
| Unnamed Tributary 116 ..... | Confluence with Hurricane Creek ..... | None | +673 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,310 feet upstream of Jacobs Road ..... | None | +743 | |
| Unnamed Tributary 118 ..... | Confluence with Hurricane Creek ..... | None | +711 | Rutherford County (Unincorporated Areas). |
| | Approximately 3,350 feet upstream of confluence with Hurricane Creek. | None | +730 | |
| Unnamed Tributary 119 ..... | Confluence with Hurricane Creek ..... | None | +722 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,240 feet upstream of confluence with Hurricane Creek. | None | +732 | |
| Unnamed Tributary 124 ..... | Confluence with Murray Branch ..... | None | +676 | Rutherford County (Unincorporated Areas). |
| | Approximately 4,000 feet upstream of confluence with Murray Branch. | None | +708 | |
| Unnamed Tributary 126 ..... | Confluence with Murray Branch ..... | None | +709 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,670 feet upstream of Gum Puckett Road. | None | +751 | |
| Unnamed Tributary 133 ..... | At the Rutherford/Cannon County Boundary ..... | None | +614 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,960 feet upstream of the Rutherford/Cannon County Boundary. | None | +625 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Unnamed Tributary 141 ..... | Approximately 1,750 feet upstream of the confluence with Stewart Creek. | None | +567 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,130 feet upstream of E. North Creek Road. | None | +594 | |
| Unnamed Tributary 143 ..... | Approximately 800 feet downstream of Almaville Road | None | +571 | Rutherford County (Unincorporated Areas). |
| | Approximately 1 mile upstream of Almaville Road ..... | None | +640 | |
| Unnamed Tributary 144 ..... | Approximately 750 feet upstream of the confluence with Stewart Creek. | None | +578 | Rutherford County (Unincorporated Areas). |
| | Approximately 2.4 miles upstream of Almaville Road ... | None | +713 | |
| Unnamed Tributary 150 ..... | Confluence with Christmas Creek ..... | None | +698 | Rutherford County (Unincorporated Areas). |
| | Approximately 610 feet upstream of confluence with Christmas Creek. | None | +698 | |
| Unnamed Tributary 177 ..... | Confluence with Harpeth River ..... | None | +721 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,970 feet upstream of confluence with Harpeth River. | None | +733 | |
| Unnamed Tributary 179 ..... | Confluence with Harpeth River ..... | None | +722 | Rutherford County (Unincorporated Areas). |
| | Approximately 2,710 feet upstream of confluence with Harpeth River. | None | +729 | |
| Unnamed Tributary 182 ..... | Confluence with Finch Branch ..... | None | +585 | City of Lavergne. |
| | Approximately 400 feet upstream of Akin Street ..... | None | +610 | |
| Unnamed Tributary 183 ..... | Approximately 490 feet upstream of confluence with Finch Branch. | None | +544 | City of Lavergne. |
| | Approximately 1,790 feet upstream of Louisville and Nashville Railroad. | None | +585 | |
| Unnamed Tributary 184 ..... | Approximately 1,000 feet upstream of E Sam Ridley Parkway. | None | +513 | Town of Smyrna. |
| | Approximately 3,700 feet upstream of E Sam Ridley Parkway. | None | +524 | |
| Unnamed Tributary 185 ..... | Confluence with Cheatham Branch ..... | None | +778 | City of Eagleville. |
| | Approximately 450 feet upstream of Spring Street ..... | None | +812 | |
| Unnamed Tributary to West Fork Stones River. | Approximately 1,010 feet downstream of Kimbro Road | None | +626 | Rutherford County (Unincorporated Areas). |
| | Approximately 1,460 feet upstream of Kimbro Road ..... | None | +632 | |
| Wades Branch ..... | Confluence with East Fork Stones River ..... | *531 | +527 | Rutherford County (Unincorporated Areas). |
| | Approximately 3.1 miles upstream of State Route 102 | None | +593 | |
| West Fork Stones River ..... | Approximately 360 feet downstream of Walnut Grove Road. | None | +675 | Rutherford County (Unincorporated Areas). |
| | Approximately 1.8 miles upstream of Midland Fosterville Road. | None | +765 | |

**ADDRESSES**

**City of Eagleville:**

Maps are available for inspection at P.O. Box 68, Eagleville, TN 37060.
Send comments to The Honorable Nolan Barham Sr., Mayor, City of Eagleville, P.O. Box 68, Eagleville, TN 37060.

**City of Lavergne:**

Maps are available for inspection at 5093 Murfreesboro Road, La Vergne, TN 37068
Send comments to The Honorable Sherry Green, Mayor, City of La Vergne, 5093 Murfreesboro Road, La Vergne, TN, 37086.

**City of Murfreesboro:**

Maps are available for inspection at P.O. Box 1139, Murfreesboro, TN 37133
Send comments to The Honorable Tommy Bragg, Mayor, City of Murfreesboro, P.O. Box 1139, Murfreesboro, TN 37133.

**Town of Smyrna:**

Maps are available for inspection at 315 South Lowery Street, Smyrna, TN 37167
Send comments to The Honorable Bobby Spivey, Mayor, Town of Smyrna, 315 South Lowery Street, Smyrna, TN 37167.

**Unincorporated Areas of Rutherford County:**

Maps are available for inspection at 1 Public Square South, Murfreesboro, TN 37130.
Send comments to The Honorable Nancy Allen, Mayor, Rutherford County, 1 Public Square, Room 101, Murfreesboro, TN 37130.

**Shelby County, Tennessee and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Harrington Lateral C Creek | At Bartlett Road ..... | *257 | +257 | City of Bartlett, Shelby County (Uninc. Areas). |
| | At Hawethorn Road ..... | *280 | +280 | |

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Harrington Creek Lateral D | At the confluence of Harrington Creek | *263 | +259 | City of Bartlett, Shelby County (Uninc. Areas). |
| | At Elmore Park Road | *273 | +275 | |
| Wolf Creek Lateral J | At Shelton Road | *292 | +296 | City of Collierville, Shelby County (Uninc. Areas). |
| | At Peterson Lake Road | *297 | +298 | |

**ADDRESSES**

**Unincorporated Areas of Shelby County:**

Maps are available for inspection at the Department of Engineering, 160 North Main Street, Memphis, TN 38103.

**City of Arlington:**

Maps are available for inspection at Arlington City Hall, 5854 Airline Road, Arlington, TN 38002.
Send comments to The Honorable Russell Wiseman, Mayor, City of Arlington, P.O. Box 507, Arlington, TN 38002.

**City of Bartlett:**

Maps are available for inspection at Bartlett City Hall, 3585, Altrutial Road, Bartlett, TN 38134.
Send comments to The Honorable Keith McDonald, Mayor, City of Bartlett, 6400 Stage Road, Bartlett TN 38134.

**City of Collierville:**

Maps are available for inspection at Department of Public Services, 500 Keough Road, Collierville, TN 38017.
Send comments to The Honorable Linda Kerley, Mayor, City of Collierville, 101 Walnut Street, Collierville, TN 38017.

**City of Germantown:**

Maps are available for inspection at Department of Engineering, 1920 South Germantown Road, Germantown, TN 38138.
Send comments to The Honorable Sharon Goldsworthy, Mayor, City of Germantown, 1930 South Germantown Road, Germantown, TN 38138.

**City of Lakeland:**

Maps are available for inspection at Lakeland City Hall, 10001 Highway 70, Lakeland, TN 38002.
Send comments to The Honorable Scoot Carmichael, Mayor, City of Lakeland, 10001 Highway 70, Lakeland, TN 38002.

**City of Memphis:**

Maps are available for inspection at Department of Engineering, 125 North Mid American Mall, Memphis, TN 38103.
Send comments to The Honorable Willie Herenton, Mayor, City of Memphis, 125 North Main Street, Suite 700, Memphis, TN 38103.

**City of Millington:**

Maps are available for inspection at Millington City Hall, 7930 Nelson Street, Millington, TN 38053.
Send comments to The Honorable Terry Jones, Mayor, City of Millington, TN 38083.)

# Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.
+( ) Pond Elevation in North American Vertical Datum.
(Note: NGVD + .069 = NAVD).

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: March 20, 2006.

**David I. Maurstad,**

*Acting Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E6–4363 Filed 3–24–06; 8:45 am]

BILLING CODE 9110–12–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 73 and 76

**[MM Docket No 00–167; FCC 06–33]**

## Children's Television Obligations of Digital Television Broadcasters

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed Rule.

**SUMMARY:** This document seeks public comment on a joint proposal filed by several broadcast and programming entities and children's television advocates proposing revisions to previously adopted requirements of television licensees to provide educational programming for children.

**DATES:** The Commission must receive comments on or before April 24, 2006, and reply comments on or before May 8, 2006.

**ADDRESSES:** You may submit comments, identified by MM Docket No 00–167, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail: ecfs@fcc.gov.* Include the following words in the body of the message, get form. A sample form and directions will be sent in response.
- *Mail:* 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, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Kim Matthews, Policy Division, Media

Bureau, Federal Communications Commission, (202) 418–2154 or Holly Saurer, Media Bureau, Federal Communications Commission (202) 418–7283.

**SUPPLEMENTARY INFORMATION:** On September 9, 2004, the Commission adopted a Report and Order and Further Notice of Proposed Rule Making, 70 FR 25 (January 3, 2005) ("Order") in the above-captioned proceeding. The Order addresses matters related to two areas: the obligation of television licensees to provide educational programming for children and the requirement that television licensees protect children from excessive and inappropriate commercial messages. Some of the rules and policies adopted in the Order apply only to digital broadcasters while others apply to both analog and digital broadcasters as well as cable operators. A number of parties have petitioned for Commission reconsideration of the Order. In addition, petitions for judicial review of the Order and other requests for relief are pending before the U.S. Court of Appeals for the Sixth Circuit.

On December 16, 2005, the Commission adopted an Order Extending Effective Date, FCC 05–211, MM Docket No. 00–167 (rel. December 16, 2005) extending the effective date of most of the rules adopted in the Order until 60 days after publication in the **Federal Register** of an order on reconsideration in this proceeding; see 71 FR 5176 (February 1, 2006). The Commission noted that representatives of the broadcast and cable industries and public interest groups interested in children's television issues had been meeting in an attempt to resolve their differences regarding the new rules that are the subject of the litigation. The Commission further noted that those parties had informed the Commission that they had reached an agreement on a recommendation to the Commission that, if adopted, would resolve their concerns with the Commission's rules. In light of that agreement and the issues raised in the pending petitions for reconsideration, the Commission found that the public interest would be served by delaying the effective date of the new rules to permit the Commission to act on the petitions for reconsideration and to afford broadcasters and cable operators additional time to come into compliance with the revised children's television requirements, as such requirements may be modified on reconsideration. The Commission noted that it would seek comment on the parties' recommendation separately.

On February 9, 2006, the broadcast and cable industry representatives and children's television public interest groups involved in negotiations regarding the Order filed with the Commission a "Joint Proposal of Industry and Advocates on Reconsideration of Children's Television Rules' ("Joint Proposal"). The Joint Proposal contains a somewhat more detailed discussion of the parties' recommendations regarding modifications of the rules adopted in the Order. A copy of the Joint Proposal is attached to the Second Further Notice of Proposed Rulemaking. The Joint Proposal can also be found in MM Docket 00–167 using the Commission's Electronic Comment Filing System ("ECFS") available at *http://www.fcc.gov/cgb/ecfs/*.

We hereby invite the public to comment on the rules and policies adopted in the Order in light of the recommendations reflected in the Joint Proposal. In particular, we seek comment on whether, and to what extent, the Commission should adopt these recommendations for modification of the rules adopted in the Order or any alternative modifications. The Commission will consider the Joint Proposal and the comments filed in response to this Second Further Notice of Proposed Rule Making together with the petitions for reconsideration previously filed in response to the Order in determining what action to take on reconsideration in this proceeding.

*Ex Parte Rules.* This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

*Comment Information.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

*Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. 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, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

*Paper Filers:* 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, filers 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). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor 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, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

**Initial Paperwork Reduction Act Analysis**

This Second Further Notice of Proposed Rulemaking ("Second Further

Notice") contains proposed information collection requirements subject to the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork burdens, we invite OMB, the general public, and other Federal agencies to take this opportunity to comment on the information collections contained in this Second Further Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due May 26, 2006. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce information collection burden on small business concerns with fewer than 25 employees." In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 Twelfth Street, SW., Room 1–C823, Washington, DC 20554, or via the Internet to *Cathy.Williams@fcc.gov* and to Kristy L. LaLonde, OMB Desk Officer, 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Kristy_L. LaLonde@omb.eop.gov,* or via fax at 202–395–5167.

*OMB Control Number:* 3063–0754.

*Title:* Children's Television Programming Report.

*Form No:* FCC Form 398.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 1,962.

*Estimated Time Per Response:* 12 hours per quarter.

*Frequency of Response:* Recordkeeping requirement; Quarterly reporting requirement.

*Total Annual Burden:* 94,176 hours.

*Total Annual Costs:* $3,139,200.

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* This *Second Further Notice of Proposed Rule Making* seeks comment on a Joint Proposal of Industry and Advocates on Reconsideration of Children's Television Rules proposing changes to the children's television rules adopted by the Commission in its 2004 *Report and Order and Further Notice of Proposed Rule Making* in MM Docket 00–167, FCC 04–221, In the Matter of Children's Television Obligations of Digital Television Broadcasters.

The *Report and Order,* MM Docket 00–167, FCC 04–221, adopted several new requirements that added additional recordkeeping and reporting requirements for licensees, including changes to FCC Form 398. In addition, the Joint Proposal recommends changes to some of the reporting and recordkeeping requirements, which would require additional changes to FCC Form 398, if the Joint Proposal is adopted by the Commission.

FCC Form 398 is required to be filed by commercial television broadcast stations each calendar quarter. The form is used to provide information of the efforts of commercial television stations to provide children's educational and informational programs aired to meet their obligation under the Children's Television Act of 1990 (CTA). The FCC Form 398 assists in efforts by the public and the Commission to monitor station compliance with the CTA.

*Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act, 5 U.S.C. 603 the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this Second Further Notice of Proposed Rulemaking. The IRFA is set forth in the Appendix of the Second Further Notice. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the Second Further Notice, and they should have a separate and distinct heading designating them as responses to the IRFA.

*Additional Information.* For additional information on this proceeding, please contact Kim Matthews, Policy Division, Media Bureau at (202) 418–2154, or Holly Saurer, Policy Division, Media Bureau at (202) 418–7283.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov.*

Accordingly, *It is ordered* that, pursuant to the authority contained in sections 4(i) & (j), 303, 307, 309 and 336 of the Communications Act of 1934 as amended, 47 U.S.C. 154(i) & (j), 303, 307, 309 and 336, this Second Further Notice of Proposed Rule Making *is adopted.*

*It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Second Further Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 06–2921 Filed 3–24–06; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 060317073–6073–01; I.D. 031406A]**

**RIN 0648–AT28**

## Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2006

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes recreational management measures for the 2006 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

**DATES:** Comments must be received by 5 p.m. local time, on April 11, 2006.

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

- E-mail: *FSBREC2006@noaa.gov.* Include in the subject line the following identifier: "Comments on 2006 Summer Flounder, Scup, and Black Sea Bass Recreational Measures."
- Federal e-rulemaking portal: *http://www.regulations.gov*

• Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2006 Summer Flounder, Scup, and Black Sea Bass Recreational Measures."

• Fax: (978) 281–9135.

Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279.

**SUPPLEMENTARY INFORMATION:**

## Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils.

The management units specified in the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°15.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (General Provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The FMP established Monitoring Committees (Committees) for the three fisheries, consisting of representatives from the Commission; the Mid-Atlantic, New England, and South Atlantic Councils; and NMFS. The FMP and its implementing regulations require the Committees to review scientific and other relevant information annually and to recommend management measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits these measures to minimum fish size, possession limit, and fishing season.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP.

Final quota specifications for the 2006 summer flounder, scup, and black sea bass fisheries were published on December 29, 2005 (70 FR 77060). These specifications were determined to be consistent with the 2006 target fishing mortality rate (F) for summer flounder, and with the target exploitation rates for scup and black sea bass. The 2006 coastwide recreational harvest limits are 9,293,695 lb (4,216 mt) for summer flounder, 4,153,168 lb (1,884 mt) for scup, and 3,988,732 lb (1,809 mt) for black sea bass. The specifications did not establish recreational measures, since final recreational catch data for 2005 were not available when the Council made its recreational harvest limit recommendation to NMFS.

All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendril. All possession limits discussed below are per person.

## Summer Flounder

Overall, recreational landings for 2005 were estimated to have been 10.04 million lb (4,554 mt), approximately 16 percent below the 2005 recreational harvest limit (by weight). However, the following states are projected to have exceeded their 2005 state harvest limits when their allocations are converted to number of fish using the average weight of summer flounder harvested during 2004 and 2005: CT (18 percent over) and NY (23 percent over). The 2006 coastwide harvest limit is approximately 9.29 million lb (4,216 mt), a 22–percent decrease from the 2005 harvest limit, and 7 percent below the estimated 2005 landings. Assuming the same level of fishing effort in 2006, a 7–percent reduction in landings coastwide would be required for summer flounder. However, as described below, under conservation equivalency, as recommended by the Council, MA, CT, and NY would be required to reduce summer flounder landings (in number of fish) in 2006 by 15 percent, 35 percent, and 38 percent, respectively.

NMFS implemented Framework Adjustment 2 to the FMP (Framework Adjustment 2) on July 29, 2001 (66 FR 36208), which established a process that makes conservation equivalency an option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the overall recreational harvest limit, if implemented by all of the states. Conservation equivalency was approved for the 2005 summer flounder recreational fishery.

The Council and Board recommend annually that either state-specific recreational measures be developed (conservation equivalency) or coastwide management measures be implemented by all states to ensure that the recreational harvest limit will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of coastwide measures that would apply if conservation equivalency is not approved.

If conservation equivalency is recommended, and following confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ.

Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures. In addition, the Council and the Board must recommend precautionary default measures. The Commission would require adoption of the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee, or that submits measures that are determined not to achieve the required reduction. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

In December 2005, the Council and Board voted to recommend conservation equivalency to achieve the 2006 recreational harvest limit. The Commission's conservation equivalency guidelines require the states to determine and implement appropriate state-specific management measures (i.e., possession limits, fish size limits, and fishing seasons) to achieve state-specific harvest limits. Under this approach, each state may implement unique management measures appropriate to that state, so long as these measures are determined by the Commission to provide equivalent conservation as would Federal coastwide measures developed to achieve the overall recreational harvest limit. According to the conservation equivalency procedures, established in Framework Adjustment 2, MA, CT, and NY would need to reduce their 2006 landings (in number of fish) by 15 percent, 35 percent, and 38 percent, respectively, relative to 2005 landings, to achieve their 2006 state harvest limits. The other states (from ME to NC) would not require any reductions in recreational summer flounder landings to achieve their 2006 state harvest limits.

The Board required that each state submit its conservation equivalency proposal to the Commission by January 15, 2006. The Commission's Summer Flounder Technical Committee then evaluated the proposals and advised the Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. The Commission invited public participation in its review process by allowing public comment on the state proposals at the Technical Committee meeting and Board meeting. The Board met on February 22, 2006, and approved several of the state management proposals. For some states, the Board approved multiple management options. As discussed below, MA, CT, and NY were allowed to revise their original 2006 management measure proposals submitted to the Commission based on approval of Addendum XVIII to the Interstate FMP (Addendum XVIII). Once the states select and submit their final summer flounder management measures to the Commission, the Commission officially will notify NMFS as to which state proposals have been approved or disapproved. NMFS retains the final authority to either approve or disapprove using conservation equivalency in place of the coastwide measures and will publish its determination in the final rule establishing the 2006 recreational measures for these fisheries.

In anticipation of the potentially drastic landings reductions necessary for some of the northern states, the Commission developed Addendum XVIII to introduce a new summer flounder recreational fishery management strategy for 2006. Addendum XVIII effectively lowers the reductions (in number of fish) that MA, CT, and NY would otherwise need to achieve under the existing conservation equivalency procedures. These three states will capitalize on harvest opportunities that are foregone by states that choose to maintain (rather than liberalize) their 2005 recreational fishing management measures in 2006. The Board approved Addendum XVIII on February 22, 2006. The states were required to submit their final recreational management measures for 2006 to the Commission by early March 2006, based on Commission guidance regarding necessary landings reductions, if applicable.

States that do not submit conservation equivalency proposals, or for which proposals were disapproved by the Commission, will be required by the Commission to adopt the precautionary default measures. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of revised state measures, NMFS will publish a notice in the **Federal Register** announcing a waiver of the permit condition at § 648.4(b).

As described above, for each fishing year, NMFS implements either coastwide measures or conservation equivalent measures at the final rule stage. The coastwide measures recommended by the Council and Board for 2006 are the same as those recommended for 2005 and consist of a 17–inch (43.2–cm) minimum fish size, a possession limit of four fish, and no closed season. In this action, NMFS proposes to maintain these coastwide measures in the EEZ, as they are expected to constrain landings to the overall recreational harvest limit, i.e., achieve approximately 94 percent of the 2006 target if applied coastwide. These measures would be waived if conservation equivalency is approved.

The precautionary default measures specified by the Council and Board are the same as specified for 2005 and consist of an 18–inch (45.7–cm) minimum fish size, a possession limit of one fish, and no closed season. These measures are estimated to achieve approximately 44 percent of the 2006 target if applied coastwide.

**Scup**

The 2006 scup recreational harvest limit is approximately 4.15 million lb (1,884 mt), a 5–percent increase from the 2005 recreational harvest limit of 3.96 million lb (1,796 mt). Because recreational landings in 2005 were estimated to have been 2.49 million lb (1,129 mt), 37 percent below the 2005 harvest limit, no reduction in landings is necessary to achieve the 2006 target.

The 2006 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply to party/charter vessels with Federal permits and other vessels subject to the possession limit that fish in the EEZ. In Federal waters, to achieve the 2006 target, NMFS proposes to maintain the status quo coastwide management measures of a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30, as recommended by the Council.

As in the past 4 years, the scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission. Addendum XI to the Interstate FMP (Addendum XI), approved by the Board at the January 2004 Council/Commission meeting, requires that the states of MA through NY each develop state-specific management measures to constrain their landings to an annual harvest level (for this region) in number of fish (approximately 3.7 million fish for 2006), through a combination of minimum fish size, possession limits, and seasonal closures. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum XI, the Federal and state recreational scup

management measures will differ for 2006.

At the February 22, 2006, meeting, the Board approved a regional management proposal for MA through NY that would allow a season of at least 150 days, 30 days longer than in 2005. The Board retained a minimum fish size of 10.5 inches (26.7 cm) and a common possession limit (25 fish for private vessels and shore-based anglers; and 60 fish for party/charter vessels, dropping to 25 fish after a 2–month period) for the states of MA through NY. These northern states are expected to submit their final management measures to the Commission by April 1, 2006. NJ will maintain status quo scup recreational management measures of a 9–inch (22.9–cm) minimum size, a 50–fish possession limit, and open seasons of January 1 through February 28, and July 1 through December 31. Due to low scup landings in DE through NC, the Board approved the retention of status quo management measures for those states as well, i.e., an 8–inch (20.3–cm) minimum fish size, a 50–fish possession limit, and no closed season.

**Black Sea Bass**

Recreational landings in 2005 were estimated to have been 1.77 million lb (803 mt), 57 percent below the 2005 target of 4.13 million lb (1,873 mt). The 2006 recreational harvest limit is approximately 3.99 million lb (1,809 mt), a 3–percent decrease from the 2005 target. Based on 2005 landings, no reduction in landings is necessary to achieve the 2006 target.

For Federal waters, the Council and Board have approved measures that would maintain the 25–fish possession limit, the 12–inch (30.5–cm) minimum size, and open season of January 1 through December 31. NMFS proposes to maintain these measures, which are expected to constrain recreational black sea bass landings to the 2006 target.

**Classification**

NMFS has determined that the proposed rule is consistent with the FMP and preliminarily determined that the rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of the complete IRFA is available from the Council (see **ADDRESSES**).

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

The proposed action could affect any recreational angler who fishes for summer flounder, scup, or black sea bass in the EEZ or on a party/charter vessel issued a Federal permit for summer flounder, scup, and/or black sea bass. However, the IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels are considered small business entities for the purposes of the RFA, i.e., businesses with receipts (gross revenues) of up to $3.5 million. These small entities can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although individual recreational anglers are likely to be impacted, they are not considered small entities under the RFA. Also, there is no permit requirement to participate in these fisheries; thus, it would be difficult to quantify any impacts on recreational anglers in general.

The Council estimated that the proposed measures could affect any of the 803 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2004, the most recent year for which complete permit data are available. However, only 327 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2004.

In the EA/IRFA, the no-action alternative (i.e., maintenance of the regulations as codified) is defined as implementation of the following: (1) For summer flounder, coastwide measures of a 17–inch (43.2–cm) minimum fish size, a 4–fish possession limit, and no closed season, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule; (2) for scup, a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30; and (3) for black sea bass, a 12–inch (30.5–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through December 31.

The implications of the no-action alternative are not substantial for scup and black sea bass. Landings of these species in 2005 were less than their respective targets, and the status quo measures are expected to constrain landings to the 2006 targets. For summer flounder, state-specific implications of the no-action (coastwide) alternative would be varied, resulting in regulations that are more restrictive than current conservation equivalent regulations for five states (MA, DE, MD, VA, and NC), and less restrictive for the remaining four states (RI, CT, NY, and NJ) . In consideration of the recreational harvest limits established for the 2006 fishing year, taking no action in the summer flounder, scup, and black sea bass fisheries would be consistent with the goals and objectives of the FMP and its implementing regulations because it could prevent the 2006 recreational harvest limits from being exceeded.

Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost data are not available for these fisheries. Without reliable cost data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process.

Assessments of potential changes in gross revenues for all 18 combinations of alternatives proposed in this action were conducted for federally permitted party/charter vessels in each state in the Northeast Region (NE). Management measures proposed under the summer flounder conservation equivalency alternative have yet to be adopted; therefore, potential losses under this alternative could not be analyzed in conjunction with alternatives proposed for scup and black sea bass. Since conservation equivalency allows each state to tailor specific recreational fishing measures to the needs of that state, while still achieving conservation goals, it is likely that the measures developed under this alternative, when considered in combination with the

measures proposed for scup and black sea bass, would have fewer overall adverse effects than any of the other combinations that were analyzed.

Impacts were examined by first estimating the number of angler trips aboard party/charter vessels in each state in 2005 that would have been affected by the proposed 2006 management measures. All 2005 party/charter fishing trips that would have been constrained by the proposed 2006 measures in each state were considered to be affected trips.

There is very little information available to estimate empirically how sensitive the affected party/charter vessel anglers might be to the proposed fishing regulations. If the proposed measures discourage trip-taking behavior among some of the affected anglers, economic losses may accrue to the party/charter vessel industry in the form of reduced access fees. On the other hand, if the proposed measures do not have a negative impact on the value or satisfaction the affected anglers derive from their fishing trips, party/charter revenues would remain unaffected by this action. In an attempt to estimate the potential changes in gross revenues to the party/charter vessel industry in each state, two hypothetical scenarios were considered: A 25–percent reduction, and a 50–percent reduction, in the number of fishing trips that are predicted to be affected by implementation of the management measures in the NE (ME through NC) in 2006.

Total economic losses to party/charter vessels were then estimated by multiplying the number of potentially affected trips in each state in 2006, under the two hypothetical scenarios, by the estimated average access fee paid by party/charter anglers in the NE in 2005. Finally, total economic losses were divided by the number of federally permitted party/charter vessels that participated in the summer flounder, scup, and/or, black sea bass fisheries in 2004 in each state (according to homeport state in the NE database) to obtain an estimate of the average projected gross revenue loss per party/charter vessel in 2006.

The Marine Recreational Fisheries Statistics Survey (MRFSS) data indicate that anglers fished 37.06 million days in 2005 in the NE, and that party/charter anglers accounted for 5.5 percent of the angler fishing days. The number of trips in each state ranged from approximately 32,000 in ME to approximately 619,000 in NJ. The number of trips that targeted summer flounder, scup, and/or black sea bass was identified, as appropriate, for each measure, and the number of trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the NE in 2005 ($40.27 per angler), and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2006 will be similar to 2005.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First, the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some anglers may engage in catch and release fishing and/or target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the analyses. Considering the large proportion of landings from state waters (more than 91 percent of summer flounder and scup landings in 2005), it is probable that some party/charter vessels fish only in state waters and, thus, do not hold Federal permits for these fisheries. Third, vessels that hold only state permits likely will be fishing under different, potentially less restrictive, recreational measures for summer flounder in state waters, if such program is implemented in the final rule, and for scup in state waters under the Commission's scup conservation equivalency program.

### Impacts of Summer Flounder Alternatives

The proposed action for the summer flounder recreational fishery would limit coastwide catch to approximately 9.29 million lb (4,216 mt) by imposing coastwide Federal measures throughout the EEZ. As described earlier, upon confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures.

The impact of the proposed summer flounder conservation equivalency alternative (in Summer Flounder Alternative 1) among states is likely to be similar to the level of landings reductions that are required of each state. As indicated above, only MA, CT, and NY would be required to reduce summer flounder landings in 2006, relative to their 2005 landings (by 15 percent, 35 percent, and 38 percent, respectively (to be modified via implementation of Addendum XVIII). If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes adverse economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is more rational (and is expected) that the states would adopt conservation equivalent measures that result in fewer adverse economic impacts than the much more restrictive precautionary default measures (i.e., only one fish measuring at least 18 inches (45.7 cm)). Under the precautionary default measures, impacted trips are defined as trips taken in 2005 that landed at least one summer flounder smaller than 18 inches (45.7 cm) or landed more than one summer flounder. The analysis concluded that implementation of precautionary default measures could affect 4.8 percent of the party/charter vessel trips in the NE.

The impacts of the proposed, no-action summer flounder coastwide alternative (Summer Flounder Alternative 2), i.e., a 17–inch (43.2–cm) minimum fish size, a four-fish possession limit, and no closed season, were evaluated using the quantitative method described above. Impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least one summer flounder smaller than 17 inches (43.2 cm), or that landed more than four summer flounder. The analysis concluded that the measures would affect 0.9 percent of the party/charter vessel trips in the NE.

### Impacts of Scup Alternatives

The proposed action for scup would limit coastwide landings to approximately 4.15 million lb (1,884 mt). For Scup Alternative 1 (a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and

September 18 through November 30), the preferred and no-action scup alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the proposed closed seasons of March 1 through September 17, and December 1 through December 31. The analysis concluded that the measures would affect 1.2 percent of party/charter vessel trips in the NE.

For the non-preferred Scup Alternative 2 (a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 18 through September 30), impacted trips are defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the periods of March 1 through September 17, and October 1 through December 31. The analysis concluded that the measures would affect 2 percent of party/charter vessel trips in the NE.

For the non-preferred Scup Alternative 3 (a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 3 through November 30), impacted trips are defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the period March 1 through September 2, and December 1 through December 31. The analysis concluded that the measures in this alternative would affect 0.9 percent of party/charter vessel trips in the NE.

**Impacts of Black Sea Bass Alternatives**

The proposed action for black sea bass would limit coastwide landings to 3.99 million lb (1,810 mt). For the Black Sea Bass Alternative 1 (a 12–inch (30.5–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through December 31), the preferred and no-action alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.1 percent of party/charter vessel trips in the NE.

For the non-preferred Black Sea Bass Alternative 2 (an 11.5–inch (29.2–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 11.5 inches (29.2 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect less than 0.1 percent of party/charter vessel trips in the NE.

For the non-preferred Black Sea Bass Alternative 3 (a 12.5–inch (31.8–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2005 that landed at least 1 black sea bass smaller than 12.5 inches (31.8 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.2 percent of party/charter trips in the NE.

**Combined Impacts of Summer Flounder, Scup, and Black Sea Bass Alternatives**

Since the management measures under Summer Flounder Alternative 1 (i.e., conservation equivalency) have yet to be adopted, the effort effects of this alternative could not be analyzed in conjunction with the alternatives proposed for scup and black sea bass. The percent of total party/charter vessel trips in the NE that were estimated to be affected by the other alternatives ranged from a low of 1.9 percent for the combination of measures proposed under Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2; to a high of 7 percent for the precautionary default measures for summer flounder (considered in Summer Flounder Alternative 1) combined with the measures proposed under Scup Alternative 2 and Black Sea Bass Alternative 3.

Potential revenue losses in 2006 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. All 18 potential combinations of management alternatives for summer flounder, scup, and black sea bass are predicted to affect party/charter vessel revenues to some extent in all of the NE coastal states. Although potential losses were estimated for party/charter vessels operating out of ME and NH, these results are suppressed for confidentiality purposes. Average party/charter losses for federally permitted vessels operating in the remaining states are estimated to vary considerably across the 18 combinations of alternatives. For instance, in NY, average losses are predicted to range from $1,582 per vessel under the combined effects of Summer Flounder Alternative 2, Scup Alternative 3, and Black Sea Bass Alternative 2, to $6,924 per vessel under the combined effects of the summer flounder precautionary default (considered in Summer Flounder Alternative 1), Scup Alternative 2, and Black Sea Bass Alternative 3, assuming a 25–percent reduction in effort, as described above).

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

Dated: March 22, 2006.

**James W. Balsiger,**

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

[FR Doc. E6–4403 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 060307059–6059–01; I.D. 030106B]**

**RIN 0648–AU15**

## Fisheries of the Exclusive Economic Zone Off Alaska; Seasonal Closure of Chiniak Gully in the Gulf of Alaska to Trawl Fishing

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to close the Chiniak Gully region on the east side of Kodiak Island in the Gulf of Alaska (GOA) to all commercial trawl fishing and testing of trawl gear from August 1 to a date no later than September 20 from 2006 through 2010. NMFS plans to conduct controlled experiments on the effects of commercial fishing on pollock distribution and abundance, as part of a comprehensive investigation of Steller sea lion (SSL) and commercial fishery interactions. This action is needed to support the proposed experimental design by prohibiting commercial trawl fishing in the control site of Chiniak Gully. The proposed research could improve information on pollock movements and on the potential impacts of commercial pollock harvests

on prey availability to SSLs. This action is intended to improve information used to evaluate fishery management actions to protect SSLs and their designated critical habitat.

**DATES:** Comments on this proposed rule must be received by April 26, 2006.

**ADDRESSES:** Send written comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Records Officer. Comments may be submitted by:

- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK,
- E-mail: *0648–au15–Chiniak-Gully@noaa.gov*. Include in the subject line the following document identifier: Chiniak Gully RIN 0648-AU15. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.
- Fax: 907–586–7557.
- Mail: P.O. Box 21668, Juneau, AK 99802–1668.

Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for this action are available from NMFS at the above address or from the NMFS Alaska Region website at *www.fakr.noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Becky Carls, 907–586–7228 or *becky.carls@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS under the Fishery Management Plan (FMP) for Groundfish of the GOA. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq*. Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

## Background and Need for Action

NMFS proposes to conduct a controlled experiment to improve the information available to evaluate management actions to protect SSLs and their designated critical habitat. The proposed action would close the control site of Chiniak Gully to commercial trawling, including the testing of trawl gear, between August 1 and a date no later than September 20 from 2006 through 2010. To minimize impacts on the fishing industry, the area would be open to trawl fishing when the Regional Administrator determines that the experiment would not be conducted that year or that the experiment has been concluded prior to September 20. The experiment is likely to be conducted only in three of the years from 2006 through 2010.

Pollock is an important prey species for SSLs. Pollock also is one of the most abundant groundfish species in the GOA and supports the largest fishery in waters off the coast of Alaska. This action is needed to facilitate research conducted by NMFS to determine whether commercial trawl fishing results in localized depletion or disturbance of walleye pollock. The research is part of a comprehensive investigation of sea lion and commercial fishery interactions. The goal of the experiment is to identify and quantify the effects of commercial trawl fishing on the availability of pollock to SSLs within a finite area. Information obtained from the experiment may result in a better understanding of fisheries impacts on pollock as SSL prey and may assist in the evaluation of current fishery management measures to protect SSLs and their critical habitat.

The experiment would be conducted on the east side of Kodiak Island in the Chiniak and Barnabus gullies. These gullies were chosen because they are adjacent, they have similar topographical features, and commercial pollock fisheries occur in both gullies. Barnabas Gully would serve as a treatment site where trawl fishing would be allowed, and Chiniak Gully would serve as a control site where trawl fishing would be prohibited.

The fishery interaction experiment would occur from August to mid-September. This period was chosen because post-weaning SSL juveniles (one-year-olds) are considered vulnerable to nutritional stress in late summer due to their high caloric needs and their inexperience at capturing prey. Also, fishery management regulations specify an August opening for the area(s commercial pollock fishery, which would coincide with the experiment.

This experimental design allows analysts to differentiate responses due to fishing from responses due to natural variability because Chiniak Gully and Barnabus Gully are reasonably similar and geographically proximate. Without a control provided by a Chiniak Gully closure, changes in pollock abundance, depth, or school characteristics from fishing or natural causes could not be determined. Thus, the proposed closure is essential to the success of the experiment.

NMFS conducted pollock fishery interaction experiments in Chiniak Gully in 2001, 2002, and 2004. These experiments were accompanied by regulatory closures. The closures were established by emergency interim rules in 2001 (66 FR 37167, July 17, 2001) and in 2002 (67 FR 956, January 8, 2002); and in a final rule published in 2003 (68 FR 204, January 2, 2003). The closure established by the final rule expired on December 31, 2004.

Results from 2002 were not used because commercial removals from Barnabus Gully were negligible (about 300 mt). Sufficient commercial removals (2,000 to 3,000 mt) occurred in 2001 and 2004, but the results are equivocal. Results from 2001 do not suggest a significant link between fishing activities and changes in pollock distribution and biomass. Results from 2004, however, do suggest a link between fishing activities and pollock biomass.

More field work is needed to reach a conclusion about the effects of commercial trawl fishing on pollock distribution and abundance. Multiple years of study are necessary to determine why similar commercial removals resulted in an effect in some years but not in others.

The portion of the Kodiak Trawl Gear Test Area that lies within the proposed Chiniak Gully Research Area also would be closed during the experimental period. This closure is necessary to eliminate as many anthropogenic effects on pollock as possible at the control site. Fishermen may test their trawl gear in other nearby locations during the closure period.

### *Proposed Changes to Regulations*

In § 679.22, NMFS proposes to revise paragraph (b)(6) to describe the area of the proposed closure, to identify the vessels subject to the proposed closure, to identify the activities that would be prohibited, and to specify the dates of the proposed closure. The procedure for rescinding the proposed closure when the relevant research activities have been completed for a particular year or will not be conducted that year also would be included in § 679.22(b)(6). A map showing the Chiniak Gully Research Area in relation to the Kodiak Trawl Gear Test Area also would be added as Figure 22 to part 679.

## Classification

NMFS has determined that the proposed rule is consistent with the FMP and determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, the reasons why it is being considered, a statement of the objectives of, and the legal basis for, this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**). The experiment itself is not expected to have effects on small entities or the fishery beyond those caused by the closure.

The regulated entities are the commercial fishing entities that operate vessels with the capability or potential capability to trawl that may participate in the GOA trawl groundfish fisheries. Any of these vessels may trawl for groundfish in the Chiniak Gully area. In a more precise sense, however, the regulated entities are the fishing entities that are likely to fish in Chiniak Gully in the absence of the proposed action. This group may be approximated by the number of vessels that reported fishing in this area during August and September in recent years.

In 2005, 93 vessels trawled for groundfish in the GOA. Of these, 77 were catcher vessels, and 16 were catcher/processors. All of the catcher vessels are estimated to be small, as defined by the Small Business Administration (total annual gross receipts under $4.0 million), while three of the catcher/processors are assumed to be small. Fewer vessels reported fishing within Chiniak Gully than in the entire GOA. From 1999 through 2005, 49 unique vessels fished at least once in at least one of the three Alaska Department of Fish and Game groundfish/shellfish statistical areas (stat areas) that include the proposed Chiniak Gully closure, during August 1 through September 20. In 2005, 16 vessels fished in at least one of the three stat areas during this time period. The count of 49 vessels may serve as an alternative estimate of the number of small entities that may be directly regulated by this action.

This action is expected to have a small adverse impact on the cash flow or profitability of these 49 trawl vessels. From 1999 through 2005, during the proposed closure period of August 1 through September 20, average revenues from fishing in the three stat areas that include Chiniak Gully were about 2.7 percent of the average annual fishing revenues of about $14.8 million for these 49 vessels. The percent of revenues from the Chiniak Gully area overstates the impact of the proposed action because fishing operations in Chiniak Gully have the ability to fish in other areas around Kodiak Island during this period. Also, because the three stat areas encompass an area larger than the Chiniak Gully closure area, basing the impact on revenues from the three stat areas overestimates the potential loss of revenue caused by the proposed closure. Opening the experimental area after research is concluded for a year would further reduce the potential loss.

Anecdotal information from industry representatives suggests that fishermen displaced from the Chiniak Gully area would likely fish in other areas and be able to make up significant portions of any lost revenues. Although displacement to other areas would involve increased operating costs, particularly for fuel, costs of the action to fishermen would still remain below 2.7 percent of gross revenues. Fishermen displaced from the Chiniak Gully area may move to other fishing areas and potentially create crowding externalities in those areas. However, because the Chiniak Gully fishery is a modest part of the overall regional trawl fisheries (accounting for an average of 15.8 percent of gross GOA revenues in August and September from 1999 to 2005), the impact caused by displacement is not expected to be large. Moreover, data from previous years when Chiniak Gully was closed suggest that some effort will continue in areas near the closure.

This proposed regulation does not impose new recordkeeping or reporting requirements on the directly regulated small entities.

This proposed action does not duplicate, overlap, or conflict with other Federal rules.

The IRFA analyzed the "no action" alternative and the proposed action. An additional alternative that would exempt small entities from the proposed time and area closures was considered by NMFS, but rejected. The entities fishing in this area during August and September are all small. Exempting small entities from the closure would result in trawl fishing in the control area of Chiniak Gully. For the experiment to yield usable results, there should be no trawl fishing activity in Chiniak Gully to enable comparison with Barnabus Gully, where trawl fishing will occur. A small entity exemption would undermine the intent of the action to allow a controlled experiment to assess the effects of trawl fishing on the availability of prey for SSLs, and would, thus, not meet the objectives of this action.

Alternative 1, no regulatory change, would have no direct impact on small entities. However, it would make it impossible for NMFS to conduct a controlled experiment off Kodiak Island. Therefore, NMFS would be prevented from obtaining information that may be used to further evaluate management actions to protect SSLs and their designated critical habitat. Because of this, Alternative 1 would not meet the objectives of this action.

As part of the IRFA analysis, consultation with two fishing industry groups representing about 80% of the small entity vessels that trawled for groundfish in Chiniak Gully during the proposed closure period, indicated that impacts on small entities would be minimized by including a provision to relieve the trawl restrictions when the experiment is concluded for a particular year rather than continuing the closure automatically until September 20. This provision was included in Alternative 2, the proposed action.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 21, 2006.

**James W. Balsiger,**

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.22, revise paragraph (b)(6) to read as follows:

**§ 679.22 Closures.**

* * * * *

(b) * * *

(6) *Chiniak Gully Research Area* (applicable through December 31, 2010).

(i) *Description of Chiniak Gully Research Area.* The Chiniak Gully Research Area, as shown in Figure 22 to this part, is defined as the waters bounded by straight lines connecting the coordinates in the order listed:

57° 48.60 N lat., 152° 22.20 W long.;

57° 48.60 N lat., 151° 51.00 W long.;

57° 13.20 N lat., 150° 38.40 W long.;

56° 58.80 N lat., 151° 16.20 W long.;

57° 37.20 N lat., 152° 09.60 W long.; and hence counterclockwise along the

shoreline of Kodiak Island to 57° 48.60 N lat., 152° 22.20 W long.

(ii) *Closure.* (A) No vessel named on a Federal fisheries permit issued pursuant to (679.4(b) shall deploy trawl gear for purposes of either fishing, or of testing gear under (679.24(d)(2), within the Chiniak Gully Research Area at any time from August 1 through September 20.

(B) If the Regional Administrator makes a determination that the relevant research activities have been completed for a particular year or will not be conducted that year, the Regional Administrator shall publish notification in the **Federal Register** rescinding the Chiniak Gully Research Area trawl closure, described in paragraph (b)(6)(i) of this section, for that year.

3. In part 679, add Figure 22 to Part 679—Chiniak Gully Research Area (applicable through December 31, 2010) to read as follows:

BILLING CODE 3510–22–S

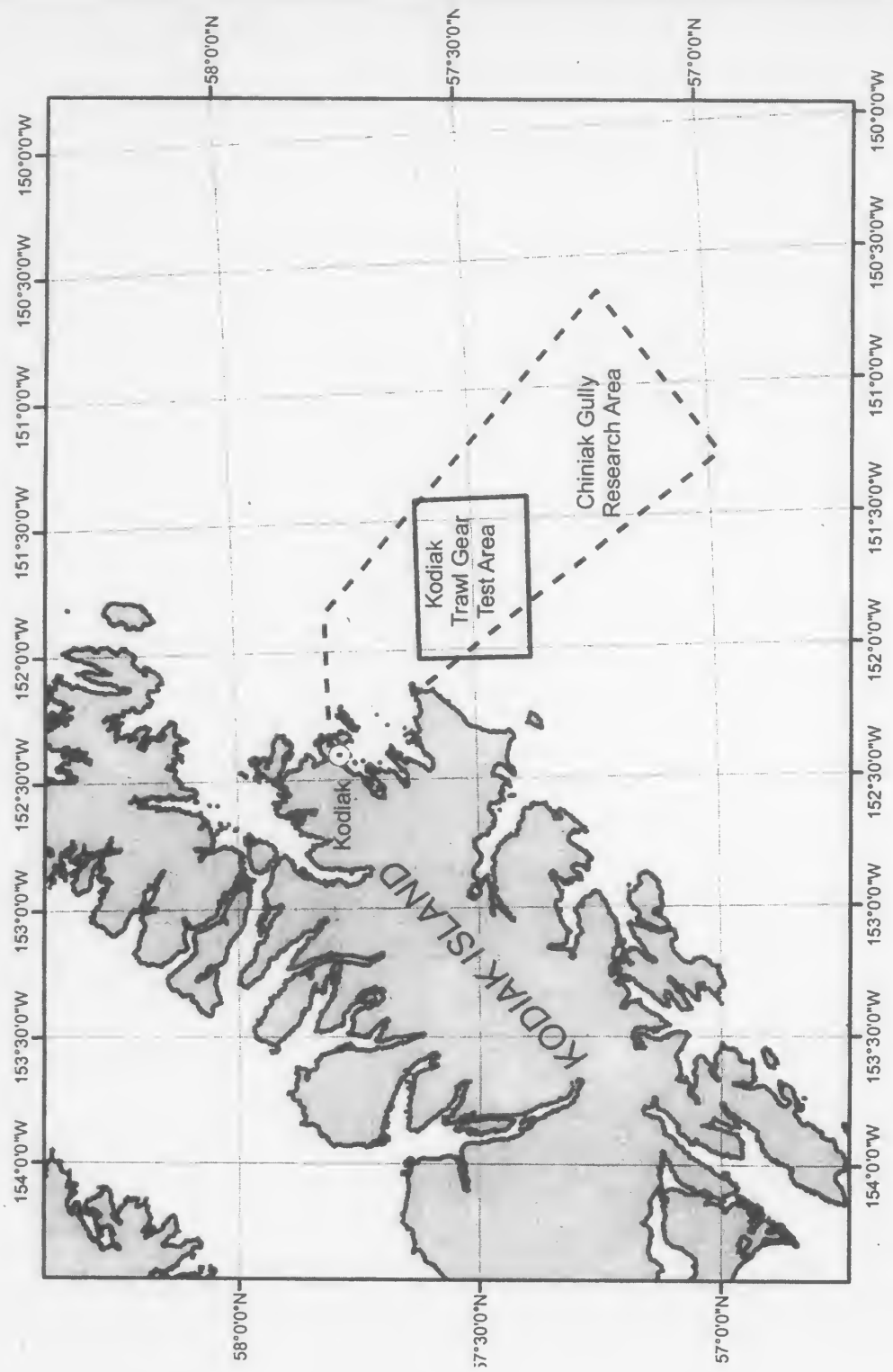


Figure 22 to Part 679 -- Chiniak Gully Research Area (applicable through December 31, 2010)

[FR Doc. 06–2928 Filed 3–24–06; 8:45 am]
BILLING CODE 3510–22–C

# Notices

Federal Register
Vol. 71, No. 58
Monday, March 27, 2006

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

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

March 23, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Farm Service Agency**

*Title:* Bioenergy Program.

*OMB Control Number:* 0560–0207.

*Summary of Collection:* To encourage bioenergy producers to expand agricultural markets by promoting increased bioenergy production, the Commodity Credit Corporation (CCC), in accordance with the 2002 Act, has made incentive cash payments for FY 2003 through FY 2006 to bioenergy producers who increase their production of bioenergy (fuel grade ethanol and biodiesel) from eligible commodities over previous fiscal year bioenergy production. Bioenergy producers will enter into an agreement with CCC establishing their eligibility to receive program payments. The information will be collect by either mail or fax.

*Need and Use of the Information:* CCC will collect information from bioenergy producers that request payments under the Bioenergy Program to ensure the benefits are paid only to eligible bioenergy producers for eligible commodities. Failure to collect this information as outlined would make it difficult to ensure that payments to producers are made in accordance with the provisions of the regulations.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 100.

*Frequency of Responses:* Recordkeeping; Reporting: Annually; Quarterly; Other (850 multi-year).

*Total Burden Hours:* 1,100.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. E6–4401 Filed 3–24–06; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

March 22, 2006.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Animal and Plant Health Inspection Service**

*Title:* Veterinary Accreditation Program

*OMB Control Number:* 0579–0032.

*Summary of Collection:* The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is responsible for, among other things protecting the health of our Nation's livestock and poultry populations by preventing the introduction and spread of serious diseases and pest of livestock and poultry and for eradicating such diseases and pest from the United States when feasible. To help accomplish this mission, APHIS' Veterinary Services administers the National Veterinary Accreditation Program. This program

certifies private veterinary practitioners to work cooperatively with Federal veterinarians, as well as with State animal health officials, to conduct certain activities for APHIS. Regulations governing the Veterinary Accreditation Program are found in Title 9 of the Code of Federal Regulations, parts 160, 161, and 162. Operating this important program requires APHIS to engage in a number of information collection activities in the form of applications for veterinary accreditation, veterinary accreditation orientation and training, paperwork associated with tasks performed by our accredited veterinarians (such as completing certificates, applying and removing official seals, and completing test reports); reviewing applications for veterinary accreditation and re-accreditation, recordkeeping, and updating information on accredited veterinarians. APHIS will collect information using several forms.

*Need and Use of the Information:* APHIS will collect information to determine that a veterinarian has met the requirements for being accredited, or for obtaining re-accreditation. APHIS will also collect information to ensure that accredited veterinarians are knowledgeable of current Federal and State animal health regulations, objectives and programs and are competent in their application. If information is not collected it would significantly destroy APHIS' ability to operate the Veterinary Accreditation Program.

*Description of Respondents:* Business or other for-profit; State, Local or Tribal Government.

*Number of Respondents:* 88,244.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 63,031.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. E6–4422 Filed 3–24–06; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Information Collection: Highly Erodible Land Conservation and Wetland Conservation

**AGENCIES:** Farm Service Agency, USDA.

**ACTION:** Notice; request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency's (FSA) is seeking comments from all interested individuals and organizations on the extension with revision of a currently approved information collection associated with Highly Erodible Land Conservation and Wetland Conservation certification requirements. This information is collected in support of the conservation provisions of Title XII of the Food Security Act of 1985, as amended by the Food, Agriculture, Conservation and Trade Act of 1990, the Federal Agriculture, Improvement and Reform Act of 1996, and the Farm Security and Rural Investment Act of 2002 (the Statute).

**DATES:** Comments on this notice must be received on or before May 26, 2006 to be assured consideration.

*Additional Information or Comments:* Comments concerning this notice should be addressed to Jan Jamrog, Program Manager, Production, Emergencies, and Compliance Division, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250–0517, (202) 690–0926, facsimile (202) 720–4941. Comments should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by writing to Jan Jamrog at the above address. Comments may be also submitted by e-mail to *Jan.Jamrog@wdc.usda.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Highly Erodible land Conservation and Wetland Conservation Certification.

*OMB Control Number:* 0560–0185.

*Expiration Date of Approval:* October 31, 2006.

*Type of Request:* Extension and revision of a currently approved information collection.

*Abstract:* The collection of this information is necessary to determine payment eligibility of individuals and entities for various programs administered by the USDA including the Conservation Programs, Price Support Programs, Direct and Counter Cyclical Program, Noninsured Assistance Program, Disaster Programs and Farm Loan Programs. Regulations governing those requirements under Title XII of the Food Security Act of 1985, as amended by the Food, Agriculture, Conservation and Trade Act of 1990, the Federal Agriculture, Improvement and Reform Act of 1996, and the Farm Security and Rural Investment Act of 2002 relating to highly erodible lands and wetlands are codified in 7 CFR part 12. In order to ensure that persons who request program benefits subject to conservation restrictions obtain the necessary technical assistance and are informed regarding the compliance requirements on their land, information is collected with regard to their intended activities on their land which could affect their eligibility for requested USDA benefits. Producers are required to certify that they will comply with the conservation requirements on their land to maintain their eligibility for certain programs. Persons may request that certain activities be exempt according to provisions of the Statute. Information is collected from those who seek these exemptions for the purpose of evaluating whether the exempted conditions will be met. Forms AD–1026, AD–1026B, AD–1026–C, AD–1026D, AD–1068, AD–1069, CCC–21, and FSA–492 are being used for making determinations in this information collection. The forms are not required to be completed on an annual basis.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .16 hours (10 minutes) per response.

*Respondents:* Individuals and entities.

*Estimated Number Respondents:* 262,175.

*Estimated Total Annual Burden Hours:* 43,696.

*Comments are invited on:* (a) Whether the collection information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on March 21, 2006.

**Teresa C. Lasseter,**

*Administrator, Farm Service Agency.*

[FR Doc. E6–4423 Filed 3–24–06; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Newspapers Used for Publication of Legal Notices by the Intermountain Region; Utah, Idaho, Nevada, and Wyoming

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists the newspapers that will be used by the ranger districts, forests and regional office of the Intermountain Region to publish legal notices required under 36 CFR 215, 217, and 218. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions and notices of decision. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment or appeal, and establish the date that the Forest Service will use to determine if comments or appeals were timely.

**DATES:** Publication of legal notices in the listed newspapers will begin on or after April 1, 2006. The list of newspapers will remain in effect until October 1, 2006, when another notice will be published in the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:** Priscilla McLain, Regional Appeals Coordinator, Intermountain Region, 324 25th Street, Ogden, UT 84401, and phone (801) 625–5146.

**SUPPLEMENTARY INFORMATION:** The administrative procedures at 36 CFR part 215, 217, and 218 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR parts 215, 217 and 218. In general, the notices will identify: the decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments or appeals. The date the notice is published will be used to establish the official date for the beginning of the comment or appeal period. The newspapers to be used are as follows:

**Regional Forester, Intermountain Region**

Regional Forester decisions affecting National Forests in Idaho: *Idaho Statesman.*

Regional Forester decisions affecting National Forests in Nevada: *Reno Gazette-Journal.*

Regional Forester decisions affecting National Forests in Wyoming: *Casper Star-Tribune.*

Regional Forester decisions affecting National Forests in Utah: *Salt Lake Tribune.*

Regional Forester decisions affecting National Forests in the Intermountain Region: *Salt Lake Tribune.*

**Ashley National Forest**

Ashley Forest Supervisor decisions: *Vernal Express.*

District Ranger decisions for Duchesne, Roosevelt and Vernal: *Uinta Basin Standard.*

Flaming Gorge District Ranger for decisions affecting Wyoming: *Rocket Miner.*

Flaming Gorge District Ranger for decisions affecting Utah: *Vernal Express.*

**Boise National Forest**

Boise Forest Supervisor decisions: *Idaho Statesman.*

Cascade District Ranger decisions: *Long Valley Advocate.*

Emmett District Ranger decisions: *Messenger-Index.*

District Ranger decisions for Idaho City and Mountain Home: *Idaho Statesman.*

Lowman District Ranger decisions: *Idaho World.*

**Bridger-Teton National Forest**

Bridger-Teton Forest Supervisor and District Ranger decisions: *Casper Star-Tribune.*

**Caribou-Targhee National Forest**

Caribou-Targhee Forest Supervisor decisions for the Caribou portion: *Idaho State Journal.*

Caribou-Targhee Forest Supervisor decisions for the Targhee portion: *Post Register.*

District Ranger decisions for Ashton, Dubois, Island Park, Palisades and Teton Basin: *Post Register.*

District Ranger decisions for Montpelier, Soda Springs and Westside: *Idaho State Journal.*

**Dixie National Forest**

Dixie Forest Supervisor decisions: *Daily Spectrum*

District Ranger decisions for Cedar City, Excalante, Pine Valley and Powell: *Daily Spectrum.*

Teasdale District Ranger decision: *Richfield Reaper.*

**Fishlake National Forest**

Fishlake Forest Supervisor and District Ranger decisions: *Richfield Reaper.*

**Humboldt-Toiyabe National Forest**

Humboldt-Toiyabe Forest Supervisor decisions that encompass all or portions of both the Humboldt and Toiyabe National Forests: *Reno Gazette-Journal.*

Humboldt-Toiyabe Forest Supervisor decisions for the Humboldt portion: *Elko Daily Free Press.*

Humboldt-Toiyabe Forest Supervisor decisions for the Toiyabe portion: *Reno Gazette-Journal.*

Austin District Ranger decisions: *The Battle Mountain Bugle.*

Bridgeport District Ranger decisions: *Mammoth Times.*

Carson District Ranger decisions: *Reno Gazette-Journal.*

Ely District Ranger decisions: *The Ely Times.*

District Ranger decisions for Jarbidge, Mountain City and Ruby Mountains: *Elko Daily Free Press.*

Santa Rosa District Ranger decisions: *Humboldt Sun.*

Spring Mountains National Recreation Area District Ranger decisions: *Las Vegas Review Journal.*

Tonopah District Ranger decisions: *Tonopah Times Bonanza-Goldfield News.*

**Manti-LaSal National Forest**

Manti-LaSal Supervisor decisions: *Sun Advocate.*

Ferron District Ranger decisions: *Emery County Progress.*

Moab District Ranger decisions: *Times Independent.*

Monticello District Ranger decisions: *San Juan Record.*

Price District Ranger decisions: *Sun Advocate.*

Sanpete District Ranger decisions: *Sanpete Messenger.*

**Payette National Forest**

Payette Forest Supervisor decisions: *Idaho Statesman.*

Council District Ranger decisions: *Adams County Record.*

District Ranger decisions for Krassel, McCall and New Meadows: *Star News.*

Weiser District Ranger decisions: *Signal American.*

**Salmon-Challis National Forest**

Salmon-Challis Forest Supervisor decisions for the Salmon portion: *The Recorder-Herald.*

Salmon-Challis Forest Supervisor decisions for the Challis portion: *The Challis Messenger.*

District Ranger decisions for Challis, Lost River, Middle Fork and Yankee Fork: *The Challis Messenger.*

District Ranger decisions for Leadore, North Fork and Salmon/Colbalt: *The Recorder-Herald.*

**Sawtooth National Forest**

Sawtooth Forest Supervisor decisions: *The Times News.*

District Ranger decisions for Fairfield and Minidoka: *The Times News.*

Ketchum District Ranger decisions: *Idaho Mountain Express.*

Sawthooth National Recreation Area: *The Challis Messenger.*

**Uinta National Forest**

Uinta Forest Supervisor and District Ranger decisions: *The Daily Herald.*

**Wasatch-Cache National Forest**

Wasatch-Cache Forest Supervisor decisions: *Salt Lake Tribune.*

District Ranger decisions for Evanston and Mountain View: *Uinta County Herald.*

District Ranger decisions for Kamas and Salt Lake: *Salt Lake Tribune.*

Logan District Ranger decisions: *Logan Herald Journal.*

Mountain View District Ranger decisions: *Uinta County Herald.*

Ogden District Ranger decisions: *Standard Examiner.*

Dated: March 16, 2006.

**Mary Wagner,**

*Deputy Regional Forester.*

[FR Doc. 06–2933 Filed 3–24–06; 8:45 am]

BILLING CODE 3410–11–M

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Rhode Island State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island State Advisory Committee will convene at 8:30 a.m. and adjourn at 10 a.m. on Monday, April 3, 2006 at the law offices of Tillinghast Licht at 10 Weybosset Street in Providence, Rhode Island. The purpose of the meeting is to plan for the Committee's May briefing on "The Disparate Treatment of Minority Youth in Rhode Island.

Persons desiring additional information should contact Barbara de La Viez of the Eastern Regional Office, 202–376–7533 (TTY 202–376–8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Office at least 5 (five) working days before the scheduled date of the planning meeting. It was not possible to publish this notice 15 days in advance of the meeting date because of internal processing delays.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 21, 2006.

**Ivy L. Davis,**

*Acting Chief, Regional Programs Coordination Unit.*

[FR Doc. E6–4365 Filed 3–24–06; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Vermont State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning with briefing meeting for the Vermont State Advisory Committee will convene at 10 a.m. and adjourn at 1 p.m. on Friday, March 31, 2006 in Room 11 at the Vermont State House located at 115 State Street in Montpelier, Vermont. The purpose of the planning with briefing meeting is for the committee to gather information regarding the civil rights of immigrants and refugees in Vermont and plan future activities.

Persons desiring additional information should contact Barbara de La Viez of the Eastern Regional Office, 202–376–7533 (TTY 202–376–8116). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Office at least 10 (ten) working days before the scheduled date of the planning with briefing meeting. It was not possible to publish this notice 15 days in advance of the meeting date because of internal processing delays.

The planning with briefing meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 21, 2006.

**Ivy L. Davis,**

*Acting Chief, Regional Programs Coordination Unit.*

[FR Doc. E6–4364 Filed 3–24–06; 8:45 am]

BILLING CODE 6335–01–P

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Notice

**AGENCY:** U.S. Commission on Civil Rights.

**DATE AND TIME:** Monday, April 3, 2006, 2 p.m.

**PLACE:** U.S. Commission on Civil Rights, 624 9th Street, NW., Washington, DC 20425. Via Teleconference. Public Call-In number: 1–800–377–4872. Access Code Number: 48734967. Federal Relay Service: 1–800–877–8339.

**STATUS:**

**Agenda**

I. Approval of Agenda
II. Campus Anti-Semitism: Findings and Recommendations
III. Future Business
IV. Adjournment

**CONTACT PERSON FOR FURTHER INFORMATION:** To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Audrey Wright of the Office of the Staff Director at (202) 376–7700 or TTY (202) 376–8116, by noon (EST) on Thursday, April 2, 2006.

Any interested member of the public may call the above call-in number and listen to the meeting. Caller will incur no charges for calls using the call-in number overland-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service and providing the Service with the call-in number and access code.

**Kenneth L. Marcus,**

*Staff Director, Acting General Counsel.*

[FR Doc. 06–2965 Filed 3–23–06; 11:34 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

### Proposed Data Sharing Activity

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice and request for public comment.

**SUMMARY:** The Bureau of Economic Analysis (BEA) proposes to provide to the Bureau of Labor Statistics (BLS) data collected from several surveys that it conducts on U.S. direct investment abroad, foreign direct investment in the United States, and U.S. international trade in services for statistical purposes exclusively. In accordance with the requirement of Section 524(d) of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), we are providing the opportunity for public comment on this data-sharing action. BEA will provide data collected in its surveys to link with data from BLS surveys, including the Quarterly Census of Employment and Wages, the Occupational Employment Statistics survey, and the Mass Layoff Statistics survey. The linked data will

be used for several purposes by both agencies, such as to develop detailed industry-level estimates of the employment, payroll, and occupational structure of foreign-owned U.S. companies or of U.S. companies that own foreign affiliates, and to assess the adequacy of current government data for understanding the international outsourcing activities of U.S. companies. Non-confidential aggregate data (public use) and reports that have cleared BEA and BLS disclosure review will be provided to the National Academy of Public Administration (NAPA) as potential inputs into a study of off-shoring authorized by a grant to NAPA under Public Law 108–447. Disclosure review is a process conducted to verify that the data to be released do not reveal any confidential information.

**DATES:** Written comments must be submitted on or before 5 p.m., May 26, 2006.

**ADDRESSES:** Please direct all written comments on this proposed program to the Director, Bureau of Economic Analysis (BE–1), Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information on this proposed program should be directed to Obie G. Whichard, Department of Commerce, Bureau of Economic Analysis, BE–50(OC), Washington, DC 20230, via the Internet at *obie.whichard@bea.gov*, by phone on (202) 606–9890, or by fax on (202) 606–5318.

**SUPPLEMENTARY INFORMATION:**

### Background

CIPSEA (Pub. L. 107–347, Title V) and the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 United States Code (U.S.C.) 3101–3108) allow BEA and BLS to share certain business data for exclusively statistical purposes. Section 524(d) of the CIPSEA requires us to publish a **Federal Register** notice announcing our intent to share data (allowing 60 days for public comment), since BEA respondents were required by law to report the data. Section 524(d) also requires us to provide information about the terms of the agreement for data sharing. For purposes of this notice, BEA has decided to group these terms by three categories. The categories are:

- Shared data.
- Statistical purposes for the shared data.
- Data access and confidentiality.

### Shared Data

BEA proposes to provide the BLS with data collected in the benchmark, annual, and quarterly surveys of U.S. direct investment abroad, of foreign direct investment in the United States, and of U.S. international trade in services, as well as a survey of new foreign direct investments in the United States. BLS will use these data for statistical purposes exclusively.

### Statistical Purposes for the Shared Data

Data collected in the benchmark and annual surveys of direct investment are used to develop estimates of the financing and operations of U.S. parent companies, their foreign affiliates, and U.S. affiliates of foreign companies; data collected in the quarterly direct investment surveys are used to develop estimates of transactions and positions between parents and affiliates; data collected in the new investments survey are used to develop estimates of new foreign direct investments in the United States; and data collected in the benchmark, annual and quarterly surveys of U.S. international trade in services are used to develop estimates of services transactions between U.S. companies and unaffiliated foreign parties. These estimates are published in the *Survey of Current Business*, BEA's monthly journal; in other BEA publications; and on BEA's Web site at *http://www.bea.gov/*. All data are collected under Sections 3101–3108 of Title 22, U.S.C.

The data set created by linking these data with the data from the above-designated BLS surveys will be used for several purposes by both agencies, such as to develop detailed industry-level estimates of the employment, payroll, and occupational structure of foreign-owned U.S. companies or of U.S. companies that own foreign affiliates, and to assess the adequacy of current government data for understanding the international outsourcing activities of U.S. companies.

### Data Access and Confidentiality

Title 22, U.S.C. 3104 protects the confidentiality of these data. The data may be seen only by persons sworn to uphold the confidentiality of the information. Access to the shared data will be restricted to specifically authorized personnel and will be provided for statistical purposes only. Any results of this research are subject to BEA disclosure protection. All BLS employees with access to these data will become BEA Special Sworn Employees—meaning that they, under penalty of law, must uphold the data's confidentiality. Selected NAPA employees will provide BEA with expertise on the aspects of the data collected in BEA surveys and in the linked data set that may relate to off-shoring; these NAPA consultants assisting with the work at BEA also will become BEA Special Sworn Employees. No confidential data will be provided to the NAPA.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

[FR Doc. E6–4418 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–06–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–201–805]**

### Circular Welded Non–Alloy Steel Pipe From Mexico: Rescission of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to requests from Niples Del Norte S.A. de C.V. ("NDN"), Hylsa S.A. de C.V. ("Hylsa"), Mueller Comercial de Mexico, S. de R.L. de C.V ("Mueller") and Productos Laminados de Monterrey, S.A. de C.V ("Prolamsa"), four Mexican manufacturers of circular welded non–alloy steel pipe, and Southland Pipe Nipples Co., Inc. ("Southland"), an interested party, the Department of Commerce ("the Department") initiated an administrative review of the antidumping duty order on circular welded non–alloy steel pipe from Mexico. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 76024 (December 22, 2005). This administrative review covered the period November 1, 2004, through October 31, 2005. We are now rescinding this review due to requests by parties to withdraw from the review and the Department's determination that Prolamsa did not have shipments of subject merchandise during the period of review.

**EFFECTIVE DATE:** March 27, 2006.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Abdelali Elouaradia, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–1374, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department published an antidumping duty order on circular welded non–alloy steel pipe from Mexico on November 2, 1992. *See Notice of Antidumping Duty Orders: Certain Circular Welded Non–Alloy Steel Pipe from Brazil, the Republic of Korea ("Korea"), Mexico, and Venezuela and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Welded Non–Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the period November 1, 2004, through October 31, 2005, on November 1, 2005. *See* 70 FR 65883. Respondents NDN, Hylsa, Prolamsa, Mueller, and interested party Southland requested that the Department conduct an administrative review of the antidumping duty order on circular welded non–alloy steel pipe and tube from Mexico on November 30, 2005. In response to these requests, the Department published the initiation of the antidumping duty administrative review on circular welded non–alloy steel pipe from Mexico on December 22, 2005. *See* 70 FR 76024. The Department received requests for withdrawal from the administrative review from Mueller, NDN, and Southland on January 31, 2006. The Department received a request for withdrawal from the administrative review from Hylsa on February 27, 2006.

Prolamsa

On December 14, 2005, the Department received a letter from respondent Prolamsa. The letter indicated that U.S. Customs and Border Protection ("CBP") liquidated all of Prolamsa's entries of merchandise during the period of review that Prolamsa considered to be covered by the scope of the order. *See* Letter from Prolamsa to the Department, dated December 14, 2005. In response, the Department requested that Prolamsa provide data on all sales of merchandise made during the period of review that Prolamsa considered covered by the order; *see* Memorandum to the File from John Drury, Senior Case Analyst, dated December 19, 2005. Prolamsa provided the requested information; *see* Letter from Prolamsa to the Department, dated December 20, 2005. Petitioners filed comments regarding the information submitted by Prolamsa on January 23, 2006; *see* Letter from Petitioners to the Department, dated January 23, 2006. In response, Prolamsa requested that the Department determine whether the merchandise exported by Prolamsa during the period of review was merchandise subject to the scope of the order; *see* Letter from Prolamsa to the Department, dated February 6, 2006.

Based on a review of the evidence on the record, the Department determined that Prolamsa had not sold merchandise subject to the order during the period of review. *See* Letter from the Department to Prolamsa, dated February 14, 2006.

**Rescission of the Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Additionally, the Secretary may rescind an administrative review, if the Secretary concludes that there were no entries or sales of subject merchandise during the POR. *See* 19 CFR 351.213(d)(3). NDN, Mueller, Southland and Hylsa have withdrawn their requests in a timely manner, and the Department determined that Prolamsa did not have sales of subject merchandise during the period of review. Therefore, we are rescinding this review. The Department will issue appropriate assessment instructions to CBP within 15 days of publication of this notice.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 16, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6–4398 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–560–818]**

### Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia

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

**EFFECTIVE DATE:** March 27, 2006

**SUMMARY:** We preliminarily determine that imports of certain lined paper products ("CLPP") are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). Interested parties are invited to comment on this preliminary determination. We will make our final determination within 75 days after the date of this preliminary determination.

**FOR FURTHER INFORMATION CONTACT:** Brandon Farlander, or Natalie Kempkey, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0182 or (202) 482–1698, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 6, 2005, the Department of Commerce ("the Department") initiated the antidumping investigation of CLPP from Indonesia. *See Initiation of Antidumping Duty Investigation: Certain Lined Paper Products from Indonesia*, 70 FR 58374 (October 6, 2005) ("*Initiation Notice*"). The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*. The comments we received are discussed in the "Scope Comments" section below.

On October 31, 2005, the International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Indonesia of CLPP alleged to be sold in the United States at less than fair value. *See Certain Lined Paper School Supplies From China, India, and Indonesia [Investigation Nos. 701–TA–442–443 and 731–TA–1095–1097 (Preliminary)], (ITC Preliminary Report)* 70 FR 62329 ( October 31, 2005).

On October 31, 2005, the Department issued Mini-section A quantity and value ("Q&V") questionnaires to six

potential respondents. On November 4, 2005, we issued an extension to the deadline for the Q&V from November 9, 2005, to November 15, 2005. On November 14 and 15, 2005, we issued a memorandum to the file including the responses of two of the six companies from which we requested Q&V information. *See* Memorandum from Natalie Kempkey to the File entitled "November 12, 2005, Letter from P.T. Solo Murni Certain Lined Paper School Supplies from Indonesia;" *see also* Memorandum from Natalie Kempkey to the File entitled "November 15, 2005, Letter from P.T. Locomotif Certain Lined Paper School Supplies from Indonesia." We received responses from the rest of the companies on November 15, 2005, the extended deadline. On November 17, 2005, we concluded that the only potential respondent was P.T. Pabrik Kertas Tjiwi Kimia T.B.K. ("TK"). *See* the Memorandum from Natalie Kempkey to Susan Kuhbach entitled "Antidumping Investigation of Certain Lined Paper Products from Indonesia: Selection of Respondents." On November 28, 2005, the Association of American School Paper Suppliers and its individual members (MeadWestvaco Corporation; Norcom, Inc.; and Top Flight, Inc.) ("Petitioner") alleged that critical circumstances existed with regard to imports from Indonesia, China, and India.

On November 18, 2005, we issued Sections A, B, C, and D of the antidumping questionnaire to TK. We received a Section A response from TK on December 9, 2005. On December 20, 2005, TK asked the Department to extend the deadlines for responding to Sections B and C and Section D to January 2 and 9, 2006, respectively. On December 20, 2006, we granted TK's request. We received the Section B–D responses on the extended deadlines. On January 26, 2006, the Department sent out its second supplemental questionnaire for Section D. This response was due by February 10, 2006. We did not receive a timely response from TK for this supplemental questionnaire. On February 3, 2006, the Department issued a third supplemental questionnaire on sections A–C, due by February 17, 2006. We did not receive a timely response from TK for this third supplemental questionnaire.

On January 30, 2006, the Department issued a letter to Tri–Coastal Design Group, Inc. ("Tri–Coastal") questioning whether Tri–Coastal is an importer of subject merchandise consistent with 19 CFR. 351.102(b) and whether Tri–Coastal qualifies as an interested party to this proceeding consistent with 19 U.S.C. 1677(a). Tri–Coastal responded via a letter dated February 1, 2006, which the Department received on February 6, 2006, that it does not qualify as an interested party. Tri–Coastal subsequently withdrew its appearance in this investigation, resulting in Tri–Coastal's removal from the APO and Public Service lists of this proceeding. On March 20, 2006, the Department issued a Memorandum to the File concerning the Department's conversation with counsel for TK on February 17, 2006, confirming that TK would not respond to further Department supplemental questionnaires and that TK did not expect the Department to verify TK's information on the record. *See* Memorandum from Damian Felton to the File, dated March 20, 2006, and entitled "Conversation with Counsel for PT. Pabrik Kertas Tjiwi Kimia Tbk. Regarding Respondent's Withdrawal from Active Participation."

**Period of Investigation**

The period of investigation is July 1, 2004, through June 30, 2005.

**Scope of Investigation**

The scope of this investigation includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non–school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi–subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8–3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear–out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this investigation whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated , included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this investigation are:

- Unlined copy machine paper;
- Writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole–punched or drilled filler paper;
- Three–ring or multiple–ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- Index cards;
- Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- Newspapers;
- Pictures and photographs;
- Desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- Telephone logs;
- Address books;
- Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- Lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- Lined continuous computer paper;
- Boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper, " and "letterhead"), whether or not containing a lined header or decorative lines;

- Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double–margin vertical ruling line down the center of the page. For a six–inch by nine–inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches;

Also excluded from the scope of this investigation are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen–top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially–developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2–3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3–ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this investigation is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090 of the Harmonized Tariff Schedule of the United States (HTSUS). During the investigation additional HTS codes may be identified. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the investigation is dispositive.

**Scope Comments**

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296 (May 19, 1997)), in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.

On October 28, 2005, Continental Accessory Corporation ("Continental") submitted timely scope comments in which it argues that the Department should issue a ruling that the scope of this investigation does not cover "fashion stationery," a niche lined paper product. Continental argues that fashion stationery is substantially different from subject commodity–grade lined paper products because of differences in physical appearance, production methods, costs, consumer expectations, and other factors. Continental also argues that none of the domestic petitioners has the capability of manufacturing fashion stationery in the United States.

On November 16, 2005, Petitioner submitted rebuttal comments. Petitioner argues that what Continental refers to as "stationery," and "fashion goods," is actually nothing more than notebooks. Contrary to Continental's allegation, Petitioner claims these notebooks are "substantially produced" within the United States. Petitioner states that the language of the scope is clear in describing the products for which relief is sought, "certain lined paper products regardless of the material used for a front or back cover, regardless of the inclusion of material on the front and cover, and regardless of the binding materials." Petitioner also argues that Continental's claim that fashion notebooks "are not intended to be included with covered merchandise" is baseless. Petitioner states that Continental has provided no evidence to demonstrate that the purchaser views fashion notebooks as a higher value product. Lastly, Petitioner notes that the ITC has already rejected Continental's claims that its fashion books are not within the scope of the domestic like product or should be treated as a separate like product. *See ITC Preliminary Report.*

As further discussed in the March 20, 2006, memorandum entitled "Scope Exclusion Request: Continental Accessory Corporation" (on file in the Department's Central Records Unit), we denied Continental's request that its fashion notebooks be excluded from the scope of the investigation.

**Use of Facts Otherwise Available**

For the reasons discussed below, we determine that the use of adverse facts available ("AFA") is appropriate for the preliminary determination with respect

to TK. See Memorandum to the File from Natalie Kempkey entitled "Preliminary Determination in the Antidumping Duty Investigation of Certain Lined Paper Products from Indonesia: Corroboration of Total Adverse Facts Available Rate," dated March 20, 2006.

*A. Use of Facts Available*

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, TK did not provide information we requested that is necessary to calculate an antidumping margin for the preliminary determination. Specifically, TK did not respond to two of the Department's supplemental questionnaires. We note that information requested in those supplemental questionnaires is necessary for the Department to complete its analysis and calculations. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2)(A), and (C) of the Act, we have based TK's dumping margin on facts otherwise available.

*B. Application of Adverse Inferences for Facts Available*

In applying adverse inferences to facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination: Certain Circular Welded Carbon–Quality Line Pipe From Mexico*, 69 FR 59892 (October 6, 2004).

Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. No. 103–316, at 870 (1994) ("SAA"). Further, "affirmative evidence of bad faith, or willfulness, on the part of a respondent is not required before the Department may make an adverse inference." *See Antidumping Duties; Countervailing Duties*, 62 FR 27296 (May 19, 1997).

Although the Department provided the respondent with notice of the consequences of failure to respond adequately to the supplemental questionnaires in this case, TK did not respond to the supplemental questionnaires. This constitutes a failure on the part of TK to cooperate to the best of its ability to comply with a request for information by the Department within the meaning of section 776 of the Act. Therefore, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

*C. Selection and Corroboration of Information Used as Facts Available*

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c) and SAA at 829–831. In this case, because we are unable to calculate a margin based on TK's own data and because an adverse inference is warranted, we have assigned to TK the highest margin alleged in the petition and which we included in the notice of initiation of this investigation. *See Initiation Notice*, 70 FR 58374.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition), it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that "corroborate" means the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d) and SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre–initiation analysis. *See* the September 29, 2005, Office of AD/CVD Operations Initiation Checklist (*Initiation Checklist*) on file in Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

For this preliminary determination, we examined evidence supporting the calculations in the petition to determine the probative value of the margins in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export–price and normal–value calculations on which the margins in the petition were based. We find that the estimated margins we set forth in the *Initiation Notice* have probative value. *See* Memorandum to the File from Natalie Kempkey entitled "Preliminary Determination in the Antidumping Duty Investigation of Certain Lined Paper Products from Indonesia: Corroboration of Total Adverse Facts Available Rate," dated March 20, 2006. Therefore, in selecting

AFA with respect to TK, we have applied the margin rate of 118.63 percent, the highest estimated dumping margin set forth in the notice of initiation. *See Initiation Notice.*

**All Others Rate**

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted–average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated "all others" rate for exporters and producers not individually investigated. This provision contemplates that the Department may weight–average margins other than the zero, *de minimis*, or facts–available margins to establish the "all others" rate.

For purposes of determining the "all others" rate and pursuant to section 735(c)(5)(B) of the Act, we have calculated a simple average of the two margin rates from the petition. As such, we shall use the weighted–average percent of 97.85 percent as the "all others" rate.

**Critical Circumstances**

*A. TK*

On November 28, 2005, Petitioner requested that the Department make an expedited finding that critical circumstances exist with respect to CLPP from Indonesia. Petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise. Petitioner based its allegation on evidence of retailers engaging in negotiations that would cause a surge of imports of subject merchandise into the United States from December 2005 through February 2006 (in advance of the preliminary determination date) in order to avoid duties.

In accordance with 19 CFR 351.206(c)(2), since this allegation was filed earlier than the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the preliminary determination. *See Policy Bulletin 98/4 regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

Section 733(e)(1)(A) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales.

The statute and the SAA are silent as to how we are to make a finding that there was knowledge that there was likely to be material injury. Therefore, Congress has left the method of implementing this provision to the Department's discretion. In determining whether the relevant statutory criteria have been satisfied, we considered: (i) Import statistics from the ITC Dataweb, and (ii) the ITC preliminary injury determination. *See ITC Preliminary Report.*

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000). Because we are not aware of any antidumping order in any country on CLPP from Indonesia, we do not find that a reasonable basis exists to believe or suspect that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise. For this reason, the Department does not find a history of injurious dumping of CLPP from Indonesia pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price sales, or 15 percent or more for constructed export price transactions, sufficient to impute knowledge of dumping. See Preliminary Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from the People's Republic of China, 62 FR 31972, 31978 (June 11, 1997). For the reasons explained above, we have assigned a margin of 118.63 percent to TK. Based on this margin, we have imputed importer knowledge of dumping for TK. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan, (TTR from Japan)* 68 FR 71072, 71076 (December 22, 2003).

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports consistent with section 733(e)(1)(A)(ii) of the Act, the Department normally will look to the preliminary injury determination of the ITC. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan, (Stainless Steel from Japan)* 64 FR 30573, 30578 (June 8, 1999). The ITC preliminarily found material injury to the domestic industry due to imports from Indonesia of CLPP, which are alleged to be sold in the United States at less than fair value and, on this basis, the Department may impute knowledge of likelihood of injury to these respondents. *See ITC Preliminary Report.* Thus, we determine that the knowledge criterion for ascertaining whether critical circumstances exist has been satisfied.

Since TK has met the first prong of the critical circumstances test according to section 733(e)(1)(A) of the Act, we must examine whether its imports were massive over a relatively short period. Section 733(e)(1)(B) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive."

Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The Department's regulations also provide, however, that if the

Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

On February 6, 2006, TK filed company–specific monthly import data for shipments of subject merchandise to the United States for January 2003 through January 2006. However, we are disregarding this information because, as noted above, TK has withdrawn from the investigation and we will not be able to verify this data. Therefore, the Department must base its determination on facts available. Moreover, because of TK's failure to cooperate, we have made an adverse inference that there were massive imports from TK over a relatively short period. *See TTR from Japan*, 68 FR at 71077.

In this case, the Department is unable to use information supplied by U.S. Customs and Border Protection (CBP) to corroborate whether massive imports occurred because the HTS numbers listed in the scope of the investigation are basket categories that include non–subject merchandise and, thus, do not permit the Department to make an accurate analysis. *See Stainless Steel from Japan*, 64 FR at 30585. In addition, the SAA states that, "The fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference under subsection (b)." *See SAA* at 870.

Based upon the above, we preliminarily find critical circumstances with respect to TK.

*B. All Others*

It is the Department's normal practice to conduct its critical circumstances analysis of companies in the "all others" group based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 ( March 4, 1997) (the Department found that critical circumstances existed for the majority of the companies investigated and, therefore, concluded that critical circumstances also existed for companies covered by the "all others" rate). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the "all others" rate. *See Stainless Steel from Japan*, 64 FR at 30585. Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the "all others" rate.

First, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling CLPP at less than fair value, we look to the "all others" rate. *See TTR from Japan*, 64 FR at 71077. The dumping margin for the "all others" category, 97.85 percent, exceeds the 15 percent threshold necessary to impute knowledge of dumping consistent with 19 CFR 351.206. Second, based on the ITC's preliminary material injury determination, we also find that importers knew or should have known that there would be material injury from the dumped merchandise consistent with 19 CFR. 351.206. *See ITC Preliminary Report.*

Finally, with respect to massive imports, we are unable to base our determination on our findings for TK because our determination for TK was based on AFA. Consistent with *TTR from Japan*, 68 FR at 71077, we have not inferred, as AFA, that massive imports exist for "all others" because, unlike TK, the "all others" companies have not failed to cooperate in this investigation. Therefore, an adverse inference with respect to shipment levels by the "all others" companies is not appropriate.

The approach taken in *Notice of Final Determination of Sales at Less Than Fair Value: Hot–Rolled Flat–Rolled Carbon–Quality Steel Products from Japan*, 64 FR 24239 (May 6, 1999) and *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5220, 5227 (February 4, 2000), was to examine CBP data on overall imports from the countries in question to see if the Department could ascertain whether an increase in shipments occurred within a relatively short period following the point at which importers had reason to believe that a proceeding was likely. However, we are unable to rely on information supplied by CBP because in this investigation the HTS numbers listed in the scope of the investigation are basket categories that include non–subject merchandise. Lacking information on whether there was a massive import surge for the "all others" category, we are unable to determine whether there have been massive imports of CLPP from the producers included in the "all others" category. *See TTR from Japan*, 68 FR at 71077. Consequently, the third criterion necessary for determining affirmative critical circumstances has not been met. Therefore, we have preliminarily determined that critical circumstances do not exist for imports of CLPP from Indonesia for companies in the "all others" category.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing CBP to suspend liquidation of all entries of CLPP from Indonesia that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. For P.T. Pabrik Kertas Tjiwi Kimia T.B.K., we are directing CBP to suspend liquidation of all imports of subject merchandise that are entered or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. *See* section 733(e)(2) of the Act. We will instruct CBP to require a cash deposit or the posting of a bond equal to the margins, as indicated in the chart below. These suspension–of-liquidation instructions will remain in effect until further notice. The dumping margins are as follows:

| Manufacturer or Exporter | Margin (percent) |
|---|---|
| P.T. Pabrik Kertas Tjiwi Kimia T.B.K. | 118.63 |
| All Others | 97.85 |

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

**Public Comment**

Case briefs for this investigation must be submitted no later than 30 days after the publication of this notice. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case

or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination within 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: March 20, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6–4399 Filed 3–24–06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 031606A]**

### Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Issuance of an Incidental Take Permit

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

**ACTION:** Notice; scoping meetings.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), this notice advises the public that NOAA's National Marine Fisheries Service (NMFS) intends to gather the necessary information to prepare an Environmental Impact Statement (EIS). The EIS will examine the proposed implementation of a Habitat Conservation Plan (HCP) and issuance of one incidental take permit (ITP) in accordance the Federal Endangered Species Act (ESA), as amended. The U.S. Forest Service (USFS) and the U.S. Fish and Wildlife Service (USFWS) will be participating as Federal cooperating agencies. The USFS manages land in close proximity to the project area and, therefore, has an interest is the analysis of the proposed action. The applicant may seek an ITP from the USFWS for coverage for species under its jurisdiction; therefore, the USFWS is participating in the scoping process for EIS development.

**DATES:** We must receive written comments on alternatives and issues to be addressed in the EIS May 26, 2006. We will hold public scoping meetings on:

Tuesday, June 6, 2006, at East Portland Community Center, 740 SE 106th Avenue, Portland, OR from 6 p.m. to 7 p.m., and on Wednesday, June 7, 2006, at Portland City Hall, Lovejoy Room, 1221 SW 4th Avenue, Portland, OR from 5 p.m. to 7 p.m.. We will accept oral and written comments at these meetings.

**ADDRESSES:** Comments and requests for information should be sent to Ben Meyer, Branch Chief, Willamette Basin Habitat Branch, NMFS, 1201 NE Lloyd Blvd, Suite 1100 Portland, OR 97232, or by facsimile (503) 231–6893; or Joe Zisa, Supervisor, Land and Water Conservation Division, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 S.E. 98th Ave., Portland, OR 9726, or by facsimile (503) 231–6195. Comments may be submitted by e-mail to the following address: *BullRunHCP.nwr@noaa.gov*. In the subject line of the e-mail, include the document identifier: Bull Run HCP EIS. Comments and materials received will be available to public inspection, by appointment, during normal business hours at the above addresses.

**FOR FURTHER INFORMATION CONTACT:** Joe Zisa, USFWS, (360) 231–6961 or Ben Meyer, NMFS, (503) 230–5425.

**SUPPLEMENTARY INFORMATION:** The permit applicant is the City of Portland, Bureau of Water Works (PWB). PWB intends to request an ITP for four fish species: Chinook salmon (*Oncorhynchus tshawytscha*), chum salmon (*Oncorhynchus keta*), coho salmon (*Oncorhynchus kisutch*) and steelhead/rainbow trout (*Oncorhynchus mykiss*), which are listed as threatened under the ESA. The PWB may also seek coverage for four species of concern under the jurisdiction of the USFWS - cutthroat trout (*Oncorhynchus clarki*), Pacific lamprey (*Lampetra tridentata*), western brook lamprey (*Lampetra richardsoni*), and river lamprey (*Lampetra ayresi*), should these species be listed in the future. The PWB, NMFS, and USFWS are also considering coverage for aquatic/riparian species that, if present, could be potentially affected by proposed flow alteration and riparian habitat management measures. The species under consideration include: Cope's giant salamander (*Dicamptodon copei*), Cascade torrent salamander (*Rhyacitruton cascadae*), northern red-legged frog (*Rana aurora aurora*; species of concern), Cascades frog (*Rana cascadae*; species of concern), coastal tailed frog (*Ascaphus truei*; species of concern), western toad (*Bufo boreas*), western painted turtle (*Chrysemys picta belli*), and northwestern pond turtle (*Clemmys marmorata marmorata*; species of concern). The PWB and NMFS will undertake a process to evaluate the possibility for impacts to these species, the implications of covering them in the HCP, and the analysis necessary in the EIS. If the species are covered, appropriate conservation measures will be included in the HCP.

The PWB, NMFS, and USFWS are also considering coverage for forest-dwelling species that, if present, could be potentially affected by proposed riparian habitat management measures and noise generated during water supply system operation, maintenance, and repair. Species under consideration include: clouded salamander (*Aneides ferreus*), fisher (*Martes pennanti*), Oregon slender salamander (*Batrachoseps wrighti*; species of concern), Larch Mountain salamander (*Plethodon larselli*; species of concern), bald eagle (*Haliaeetus leucocephalus*; threatened), and northern spotted owl (*Strix occidentalis caurina*; threatened). The PWB and USFWS will undertake a process to evaluate the possibility for impacts to these species, the implications of covering them in the HCP, and the analysis necessary in the EIS. If the species are covered, appropriate conservation measures will be included in the HCP.

The permits would authorize incidental take for specified PWB activities within the Sandy River Basin for a period of 50 years: storage and withdrawal of water from the Bull Run River watershed; operation, maintenance, and repair of existing water supply facilities; generation of electricity (as a byproduct of water supply operation); related land management activities; and biological monitoring.

The HCP would provide measures to minimize and mitigate impacts of the proposed incidental taking of listed species and the habitats upon which they depend.

NMFS is furnishing this notice to advise other agencies and the public of our intentions; and to obtain suggestions and information on the scope of issues

to include in the EIS. Written comments and suggestions are invited from all interested parties to ensure that the full range of issues related to the NMFS proposed action is identified as well as possible issues related to USFWS species coverage. All comments and suggestions will become part of the administrative record and may be released to the public, including respondents' names and addresses. Section 10 of the ESA contains provisions for the issuance of incidental take permits to non-federal entities for the take of endangered and threatened species, provided that take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In support of the request for an incidental take permit, the applicant must prepare and submit an HCP to NMFS (and possibly to the USFWS if jurisdictional coverage is considered) describing measures that will be implemented to minimize and mitigate the impacts of the proposed activities to the maximum extent practicable. The applicant must also demonstrate that adequate funding will be provided to ensure that the HCP will be implemented and monitored throughout the proposed term of the plan.

**Background**

The 140–square-mile (362.6 km) Bull Run watershed lies within the Sandy River Basin in the western foothills of the Cascade Mountains, east of Portland, OR. Primarily within the Mt. Hood National Forest, Bull Run has been a water resource for the City of Portland since 1895. In 1904, a Federal statute restricted access to the watershed to protect the water quality for municipal use. Subsequent laws help protect Portland's water supply, including Public Law 95–200, which established the Bull Run Watershed Management Unit.

The Bull Run water supply system serves drinking water to approximately 800,000 Oregonians, representing nearly one-fourth of Oregon's population. In fiscal year 2002–2003 the PWB estimates it served more than 482,500 in-city customers. The PWB also serves wholesale customers within Multnomah and Washington Counties. Portland's system is configured to serve a wholesale population of 420,000 and routinely provides wholesale service to over 300,000 people.

The PWB owns and operates two dams on the Bull Run River that impound two reservoirs (Bull Run Reservoirs Nos.1 and 2). The reservoirs store an estimated 17 billion gallons of water, of which about 10 billion gallons are usable for drinking water within the operating constraints of an unfiltered water system.

The PWB's activities associated with operation and maintenance of the Bull Run water supply system have the potential to affect species subject to protection under the ESA. In addition to PWB's activities, The Sandy River Basin Agreement (SRBA) partners are working on salmonid recovery in the Sandy Basin. The SRBA is comprised of more than a dozen public and private organizations. To address potential PWB operation and maintenance effects, PWB worked with the SRBA partners to develop a proposed package of conservation measures. The intent is to use the proposed conservation measures as a framework from which the PWB will develop the draft Habitat Conservation Plan.

**Purpose and Need**

Section 9 of the ESA prohibits the "taking" of threatened and endangered species. NMFS (and possibly the USFWS if jurisdictional coverage is considered) may, however, under limited circumstances, issue permits to take federally listed and candidate species, when such a taking is incidental to, and not the purpose of, otherwise lawful activities. The term "take" under the ESA means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Regulations governing permits for threatened and endangered species are at 50 CFR 17.22.

Section 10(a)(1)(B) of the ESA and regulations at 50 CFR 17.32 contain provisions for issuing ITPs to non-federal entities for the take of threatened and endangered species, provided the Services determine the following criteria are met: (1) The taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) the applicant will develop an HCP and ensure that adequate funding for the HCP will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) any other measures that the Services may require as being necessary or appropriate for the purposes of the HCP to be met.

The purposes of the Proposed Action are to: (1) Authorize incidental take of certain listed and unlisted species in the Bull Run watershed and the Sandy River that may be affected by the PWB's Bull Run water supply system operations and maintenance; (2) minimize and mitigate the impacts of any incidental take of covered species that might occur as a result of operation and maintenance of the Bull Run water supply system; and (3) provide PWB with reasonable regulatory assurances that additional mitigation measures to address impacts on covered species would not be required beyond the measures described in the 50–year HCP.

The need for the proposed action – issuance of an ITP based on an acceptable HCP is to protect listed species through compliance with the ESA while managing the Bull Run water supply system on a long-term basis. The goal is for the ITP and the HCP to be consistent with PWB's obligations to: (1) Provide cost-effective minimization and mitigation measures for incidental take; (2) ensure an adequate long-term water supply at reasonable cost to ratepayers; and (3) comply with state water quality standards and total maximum daily load (TMDL) designations for the Bull Run and Sandy River Basin.

The needs and goals for NMFS are to conserve listed species and their habitats and associated species during PWB's proposed activities to ensure compliance with the ESA and other applicable laws and regulations. NMFS and PWB consider implementation of an HCP to be an appropriate means of reconciling PWB's proposed activities with the prohibitions against take and other conservation mandates of the ESA. In the event that the USFWS becomes a co-lead agency for EIS development, its needs and goals will be the same as those described above.

**Proposed Action**

The Proposed Action by NMFS is the issuance of an ITP (and perhaps an additional ITP from USFWS) based on an acceptable HCP for specific listed and unlisted species for PWB's operation and maintenance of the Bull Run water supply system for a period of 50 years, pursuant to section 10(a)(1)(B) of the ESA.

PWB is applying for ITPs for the federally listed and nonlisted species described above. Other listed and unlisted species for which PWB is not seeking permit coverage may also benefit from the conservation measures provided in the HCP.

Covered lands proposed for incidental take include all lands within the hydrologic boundary of the Sandy River Basin but only to the extent those lands are affected by the covered activities and/or the conservation measures. Proposed coverage in the HCP is driven primarily by PWB activities as they may affect aquatic and riparian species, not by land ownership or management of land by the City.

Associated facilities include, but are not limited to:

Bull Run Dam Nos. 1 and 2 and associated structures
Reservoir No. 1 (Lake Ben Morrow) and Reservoir No. 2
Diversion Dam and Pool below Dam No. 2
Powerhouses and associated structures at Dam Nos. 1 and 2
Reservoir log booms and other reservoir structures
Headworks facility (screens, chlorination facility, operation equipment)
Water supply conduits (including interties and blowoffs), bridges, and trestles
Roads and other paved/graveled surfaces on non-federal lands
Water quality monitoring stations and flow gauges
Microwave communication towers

PWB facilities located outside the Sandy River Basin (e.g., urban reservoirs, water distribution system, Columbia South Shore Well Field) will not be covered in the ITPs. The PWB facilities at Bull Run Lake are also not proposed for coverage. The PWB and NMFS do not anticipate significant new facilities or major modifications to existing Bull Run water supply system facilities during the term of the ITPs. If they were proposed, future coverage of new facilities would require possible amendment of the HCP and further NEPA review.

The ITP would cover activities associated with the lands and facilities described above. These include:

- Storage of water behind Dam No. 1 and Dam No. 2 on the Bull Run River, and withdrawal of water from the Bull Run River at the headworks diversion dam downstream of Dam No. 2 at River Mile 5.8. The amount and timing of water storage and withdrawal would be determined by the City to meet water demand, within the limits to be specified in the HCP to maintain appropriate instream flow, water quality, and temperature.
- Operation, maintenance, and repair of water supply facilities, including but not limited to adjustment of water intake depth to regulate temperature, turbidity, and color; removal of debris (including logs) from reservoirs; operation of boats and barges on reservoirs; delivery and storage of fuel and lubricants for water supply system vehicles and equipment; flushing and de-chlorination of diversion conduits; and general landscape maintenance in and around facilities.
- Generation of electricity at Dam No. 1 and Dam No. 2 as a byproduct of water supply operation, subject to limits on the release of water through the turbines (ramping rates) to be specified in the HCP.
- Related land management activities such as maintenance and repair of roads, bridges, culverts, and parking lots on non-federal lands in the watershed; management of City-owned riparian lands in the watershed; operation and maintenance of Dodge Park; and operation and maintenance of the Sandy River Station headquarters and yard.
- Implementation of habitat conservation measures and monitoring measures included in the HCP.
- Two specific improvements at DAM 2 intake towers and spillway weir. Intake towers would be modified to allow for improved water temperature management, and fish screens would be installed. Spillway weir will be rebuilt to protect water supply conduits from the energy of the spillway flow.

The PWB is not applying for coverage of forest management or other land management activities on federal land (e.g., road maintenance, building maintenance, communication system maintenance), and the potential associated effects of habitat manipulation of terrestrial species (e.g., northern spotted owl). Mechanisms other than implementing an HCP (e.g., ESA consultations) have been, and will be, used to deal with ESA compliance issues affecting those species and activities, when and if they arise.

**Conservation Measures**

The PWB, in negotiation with the Services and with the assistance of the Sandy River Basin Agreement (SRBA) partners, has identified possible conservation measures that could provide ecological compensation for incidental take. Identified conservation measures have the following biological objectives:

Increase minimum flows in lower Bull Run River to improve spawning and rearing habitat.

Minimize fish stranding by controlling river flow fluctuations.

Provide improved summer rearing water temperatures for steelhead.

Increase availability of spawning gravel in the lower Bull Run River.

Improve habitat in the Sandy Basin.

Preserve riparian habitat along the lower Bull Run River.

Protect instream flows in the Little Sandy River.

Minimize mortality of cutthroat trout in Bull Run Reservoir 2.

Protect and improve riparian habitat along the lower and middle mainstem Sandy River and the Salmon River.

Improve instream habitat in the Sandy Basin.

Restore access to blocked habitat in the Sandy Basin.

The PWB is proposing to implement conservation measures to address these objectives for the duration of the HCP and term of the ITPs. The preliminary package of measures is documented as draft conservation measures available from the PWB. Implementation would also include monitoring compliance with and effectiveness of the HCP provisions and regular reporting to NMFS (and perhaps to the USFWS if an ITP is issued under its jurisdiction). Adaptive management, as will be specified in the HCP and associated federal Implementation Agreement, could result in the modification and improvement of HCP measures in response to new information.

**Preliminary Alternatives**

The EIS shall consider a range of alternative conservation strategies that satisfy the project purpose and need. These alternatives, including the Proposed Action, will be documented in the draft EIS. Those alternatives best satisfying the underlying need as well as addressing the project objectives of both the PWB and NMFS will be fully evaluated in the draft EIS. In addition, a No Action Alternative will be evaluated that considers actions likely to occur in the absence of the HCP.

It is anticipated that, in addition to the No Action Alternative, the draft EIS will provide a full evaluation of one or two other alternatives that satisfy section 10 of the ESA and NEPA requirements for alternatives analyses. These alternative conservation strategies could describe sets of actions intended to further reduce the risk of take, or describe different or additional measures intended to mitigate the impacts of the proposed incidental take. An alternative that includes transporting fish around the Bull Run dams will be evaluated. Other examples of potential alternatives include different flow regimes or altered conservation measure implementation schedules. Additional project alternatives may be developed based on input received as a result of this notice and the scoping process.

**NMFS Scoping**

NMFS and its cooperating agencies invite comments from all interested parties to ensure that the full range of issues related to the permit requests are addressed and that all significant issues are identified. Comments are encouraged on potential impacts related to all species described above in the event that the USFWS considers species under its jurisdiction for coverage. No additional NEPA scoping is anticipated if the USFWS becomes a co-lead agency

for the preparation of this EIS. We will conduct the environmental review of the permit applications in accordance with the requirements of the NEPA (42 U.S.C. 4321 *et seq.*), other appropriate Federal laws, and regulations, policies, and procedures of the Services for compliance with those regulations.

Comments and suggestions are invited from all interested parties to ensure the full range of alternatives related to this proposed action, including possible USFWS species coverage, and all significant issues are identified. NMFS and the USFWS request that comments be as specific as possible. Comments are requested to include information, issues, and concerns regarding: The direct, indirect, and cumulative effects that implementation of the proposal could have on all NMFS or USFWS-listed endangered and threatened species described above for coverage or potential coverage, or their habitats; other possible alternatives; potential adaptive management and/or monitoring provisions; funding issues; baseline environmental conditions; other plans or projects that might be relevant to this project; and minimization and mitigation measures. In addition to considering impacts to threatened and endangered species and their habitats, the EIS will analyze the effects the alternatives would cause to other components of the human environment. As a result, comments are also solicited regarding these other components of the human environment, which may include the following: air quality; water quality and quantity; geology and soils; cultural resources; social resources; economic resources; and environmental justice.

After the environmental review is completed, NMFS will publish a notice of availability and a request for comment on the draft EIS and PWB's permit applications, which will include the draft HCP and draft Implementation Agreement.

The draft EIS, draft HCP, and draft Implementation Agreement may include actions by the USFWS, which would be described in the notice of availability.

Dated: March 22, 2006.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E6–4397 Filed 3–24–06; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 030602141–6075–36; I.D. 061505A]**

**RIN 0648–ZB55**

### Availability of Grant Funds for Fiscal Year 2006

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice; availability of grant funds.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) has published two omnibus notices announcing an availability of grant funds for Fiscal Year 2006. The purpose of those notices was to provide the general public with a consolidated source of program and application information related to NOAA's competitive grant offerings. In those announcements, it was noted that additional program initiatives unanticipated at the time of the publication of this notice may be announced later in the year. This is such an announcement, for grant funding opportunities now being offered by programs within the NOAA Office of Oceanic and Atmospheric Research. Applicants must comply with all requirements contained in the full funding opportunity announcements for each project competition in this announcement.

**DATES:** Applications must be received by the date and time indicated under each program listing in the APPLICATION AND SUBMISSION INFORMATION section of the Full Announcement for each program.

**ADDRESSES:** Applications must be submitted to the addresses listed in the APPLICATION AND SUBMISSION INFORMATION section of the Full Announcement for each program. This **Federal Register** notice may be found at the Grants.gov Web site, *http://www.grants.gov*, and the NOAA Web site at *http://www.ago.noaa.gov/grants/funding.shtml*.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the full funding opportunity announcement and/or application kit, access it at Grants.gov, via NOAA's Web site, or by contacting the person listed as the information contact under each program.

**SUPPLEMENTARY INFORMATION:** NOAA published its first omnibus notice announcing the availability of grant funds for both projects and fellowships/scholarships/internships for Fiscal Year 2006 in the **Federal Register** on June 30, 2005 (70 FR 37766), and its second on December 20, 2005 (70 FR 76253). The evaluation criteria and selection procedures contained in those notices are applicable to this solicitation. For a copy of these omnibus notices, please go to: *http://www.Grants.gov* or *http://www.ago.noaa.gov/grants/funding.shtml*. Applicants must comply with all requirements contained in the full funding opportunity announcements for each project competition in this announcement. This omnibus notice describes funding opportunities for the following NOAA discretionary grant programs:

**List of NOAA Project Competitions**

Detailed information is found elsewhere in this notice.

*Oceanic and Atmospheric Research*

1. Aquatic Invasive Species Program/ National Sea Grant College Program

2. National Sea Grant College Program/Climate Program Office

**Electronic Access**

As has been the case since October 1, 2004, applicants can access, download and submit electronic grant applications for NOAA Programs through the Grants.gov Web site at *http://www.Grants.gov*. These announcements will also be available at the NOAA Web site or by contacting the program official identified below. However, applicants without Internet access may still submit hard copies of their applications. The closing dates for applications filed through Grants.gov are the same as for the paper submissions noted in this announcement. For applicants filing through Grants.gov, NOAA strongly recommends that you do not wait until the application deadline date to begin the application process. Registration may take up to 10 business days.

Getting started with Grants.gov is easy. Go to *http://www.Grants.gov*. There are two key features on the site: Find Grant Opportunities and Apply for Grants. Everything else on the site is designed to support these two features and your use of them. While you can begin searching for grant opportunities for which you would like to apply immediately, it is recommended that you complete the remaining Get Started steps sooner rather than later, so that when you find an opportunity for which you would like to apply, you are ready to go.

*Get Started Step 1B Find Grant Opportunity for Which You Would Like To Apply*

Start your search for Federal government-wide grant opportunities and register to receive automatic e-mail notifications of new grant opportunities or any modifications to grant opportunities as they are posted to the site by clicking the Find Grant Opportunities tab at the top of the page.

*Get Started Step 2B Register With Central Contractor Registry (CCR)*

Your organization will also need to be registered with Central Contractor Registry. You can register with them online. This will take about 30 minutes. You should receive your CCR registration within three business days. Important: You must have a DUNS number from Dun & Bradstreet before you register with CCR. Many organizations already have a DUNS number. To determine if your organization already has a DUNS number or to obtain a DUNS number, contact Dun & Bradstreet at 1–866–705–5711. This will take about 10 minutes and is free of charge. Be sure to complete the Marketing Partner ID (MPIN) and Electronic Business Primary Point of Contact fields during the CCR registration process. These are mandatory fields that are required when submitting grant applications through Grants.gov.

*Get Started Step 3B Register With the Credential Provider*

You must register with a Credential Provider to receive a username and password. This will be required to securely submit your grant application.

*Get Started Step 4B Register With Grants.gov*

The final step in the Get Started process is to register with Grants.gov. This will be required to submit grant applications on behalf of your organization. After you have completed the registration process, you will receive e-mail notification confirming that you are able to submit applications through Grants.gov.

*Get Started Step 5B Log on to Grants.gov*

After you have registered with Grants.gov, you can log on to Grants.gov to verify if you have registered successfully, to check application status, and to update information in your applicant profile, such as your name, telephone number, e-mail address, and title. In the future, you will have the ability to determine if you are authorized to submit applications through Grants.gov on behalf of your organization.

**NOAA Project Competitions**

*Oceanic and Atmospheric Research (OAR)*

1. National Sea Grant College Program/ Aquatic Invasive Species Program

*Summary Description:* The National Sea Grant College Program (NSGCP) was established by Congress to promote responsible use and conservation of the nation's marine and Great Lakes resources, including to conduct research and outreach to protect these resources from the threats of invasive species. The mission of the NOAA Aquatic Invasive Species Program (AISP) is to protect resources under NOAA's stewardship responsibilities from invasive species threats, and it also emphasizes the use of research and outreach to confront these threats.

To accomplish these missions, the AISP and the NSGCP are soliciting applications for aquatic invasive species research and outreach projects for specific activities listed in the PROGRAM GUIDANCE section in the Full Announcement. They include (1) human health-related outreach activities related to the invasive species Pterois volitans (lionfish) in the southeast United States, (2) research related to control of invasive Carcinus maenus (green crab), and (3) research and outreach related to the control of several species of tunicates invading the northern east and west coasts of North America and related fishing grounds.

*Funding Availability:* It is expected that about $50,000 will be available from the NSGCP for these projects in FY 2006, and about $200,000 will be available from the AISP.

*Funding Opportunity Number:* OAR–SG–2006–2000586.

*Statutory Authority:* 33 U.S.C. 1121–1131.

*CFDA:* 11.417, Sea Grant Support.

*Application Deadline:* Proposals must be received no later than 5 p.m. Eastern Standard Time, April 13, 2006.

*Address For Submitting Proposal(s):* Proposals should be submitted through Grants.Gov, following the directions in ELECTRONIC ACCESS, above. Proposals from those that do not have access to Internet should be sent to: Geraldine Taylor, NOAA R/SG; 1315 East-West Highway, Bldg SSMC 3, Room 11828, Silver Spring, MD 20910–3283, tel. 301–713–2435.

*Information Contact:* Dorn Carlson, NOAA R/SG, 1315 East-West Highway, Silver Spring, MD 20910–3283, e-mail *Invasive.Species@noaa.gov.*

*Eligibility:* Proposals may be submitted by individuals, institutions of higher education, nonprofit organizations, for-profit organizations, Federal, State, local and Indian tribal governments, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations. Federal applicants are subject to limitations described in the Full Announcement in the ELIGIBILITY INFORMATION section.

*Cost Sharing Requirements:* There is no matching fund requirement for AISP funds for this competition; however, to be eligible for the NSGCP funds a match of 50% of the requested Federal funds (direct and indirect costs) is needed. Additionally, the presence of matching funds can increase the likelihood of an application being selected. See Section III.B. in the Full Announcement for more information on matching funds.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

2. National Sea Grant College Program/ Climate Program Office

*Summary Description:* The National Oceanic and Atmospheric Administration's National Sea Grant College Program (NSGCP) in conjunction with the Climate Program Office (CPO) Regional Integrated Sciences and Assessments (RISA) Program are soliciting applications for a Regional Climate Extension Specialist with specific objectives and priorities listed in the PROGRAM GUIDANCE section in the Full Announcement. The Regional Climate Extension Specialist will lead Sea Grant's effort in climate application issues at the regional level, coordinate with individuals within the regional Sea Grant network on specific climate issues, and promote the growth and development of Sea Grant leadership in climate issues. The Regional Climate Extension Specialist will serve as an integral bridge between RISA's climate impacts research and the Sea Grant extension network that reaches coastal communities.

*Funding Availability:* Amount of support anticipated is $100,000 in federal funds that will be available for the Regional Climate Extension Specialist in FY 2006. The NSGCP and CPO will contribute equal amounts of funding for this program ($50,000 each). There is a matching funds requirement.

*Funding Opportunity Number:* OA–SG–2006–2000586.

*Statutory Authority:* 33 U.S.C. 1121–1131.

*CFDA:* 11.417, Sea Grant Support.

*Application Deadline:* Proposals must be received no later than 5 p.m. eastern standard time, May 1, 2006.

*Address For Submitting Applications:* Proposals should be submitted through Grants.Gov, following the directions in ELECTRONIC ACCESS, above. Proposals from those that do not have access to Internet should be sent to: Geraldine Taylor, NOAA R/SG; 1315 East-West Highway, Bldg SSMC 3, Room 11828, Silver Spring, MD 20910–3283, tel. 301–713–2435.

*Information Contact:* Jim Murray, NOAA R/SG, 1315 East West Highway, Silver Spring, MD 20910–3283, e-mail *jim.d.murray@noaa.gov* or Hannah Campbell, NOAA/CPO, 1100 Wayne Ave, suite 1225, Silver Spring, MD 20910.

*Eligibility:* Proposals may be submitted by institutions of higher education, nonprofit organizations, and State governments.

*Cost Sharing Requirements:* Matching funds equal to at least 50 percent of the Federal funding given by Sea Grant only must be provided. For funding provided by the Sea Grant Program, by law the matching funds must be from a non-Federal source and cannot be waived.

*Intergovernmental Review:* Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

**Limitation of Liability**

Funding for programs listed in this notice is contingent upon the availability of Fiscal Year 2006 appropriations. In no event will NOAA or the Department of Commerce be responsible for application preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

**Universal Identifier**

Applicants should be aware that, they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002 **Federal Register**, (69 FR 66177) 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 via the Internet *http://www.dunandbradstreet.com.*

**National Environmental Policy Act (NEPA)**

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals that are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf,* and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toclceq.htm.*

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (*e.g.*, the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

**Pre-Award Notification Requirements for Grants and Cooperative Agreements**

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389), are applicable to this solicitation.

**Paperwork Reduction Act**

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

**Executive Order 12866**

This notice has been determined to be not significant for purposes of Executive Order 12866.

**Executive Order 13132 (Federalism)**

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

**Administrative Procedure Act/ Regulatory Flexibility Act**

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)).

Because notice and opportunity for 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 has not been prepared.

Dated: March 22, 2006.

**Mark E. Brown,**

*Chief Financial Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. E6–4378 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–12–P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 032106G]**

### Fisheries of the South Atlantic and Gulf of Mexico; Joint South Atlantic Fishery Management Council (SAFMC) and Gulf of Mexico Fishery Management Council (GMFMC), Scientific and Statistical Committee ad hoc Sub-Committee; Public Meeting

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

**ACTION:** Notice of a joint SAFMC and GMFMC Scientific and Statistical

Committee (SSC) ad hoc Sub-Committee meeting to address king mackerel stock identification.

**SUMMARY:** The SAFMC and GMFMC will hold a joint Scientific and Statistical Committees (SSC) ad hoc Sub-Committee meeting to determine appropriate king mackerel mixing rates for the South Atlantic and Gulf of Mexico. The meeting will be held in Atlanta, GA. See **SUPPLEMENTARY INFORMATION.**

**DATES:** The workshop will take place April 13, 2006, from 8 a.m. until 4 p.m.. See **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** The meeting will be held at the Double Tree Club Hotel Atlanta Airport, 3400 Norman Berry Drive, Atlanta, GA 30344; telephone: (404) 763–1600, fax: (404) 765–0200.

*Council address*: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

**SUPPLEMENTARY INFORMATION:** Under the Magnuson-Stevens Act, the SSC is the body responsible for reviewing the council's scientific materials. The South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council manage coastal migratory pelagics (mackerels) under a joint management plan. The two Councils will hold a joint meeting of delegates from each of their Scientific and Statistical Committees on April 13, 2006, from 8 a.m. until 4 p.m. During the meeting, the SSC ad hoc Sub-Committee will review materials relevant to stock identification of king mackerel.

Items for discussion include: (1) A review of documents pertaining to king mackerel stock identification and migratory unit discrimination presented to or cited by the Southeast Data, Assessment and Review (SEDAR) 5 stock assessment workshops, (2) a review of recommendations of the SEDAR 5 Workshops pertaining to king mackerel stock identification and allocation of landings into migratory units, (3) a review of any additional research materials regarding king mackerel stock identification and migratory unit allocations since the SEDAR 5 Workshops, (4) recommendations for a stock definition for Gulf and South Atlantic migratory units of king mackerel, and (5) recommendations for the most appropriate method for allocating king mackerel landings into the Gulf and South Atlantic migratory units. The ad hoc SSC Sub-Committee will prepare a written consensus report documenting committee discussions and recommendations for use by the South Atlantic and Gulf Councils.

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 auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meetings.

Note: The times and sequence specified in this agenda are subject to change.

Dated: March 22, 2006.

**Tracey L. Thompson,**

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

[FR Doc. E6–4350 Filed 3–24–06; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 032106C]**

### Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeastern Data, Assessment, and Review (SEDAR) Steering Committee Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The SEDAR Steering Committee will meet to discuss the SEDAR schedule of events for 2006; composition of the SEDAR 10, gag grouper, Review Panel; and scheduling of management activities for 2006. See **SUPPLEMENTARY INFORMATION.**

**DATES:** The SEDAR Steering Committee will meet via conference call from 10 a.m. to 12 p.m. EST on Wednesday, April 19, 2006.

**ADDRESSES:** The meeting will be via conference call. Listening stations will be available at the following locations:

1. South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407;
2. Gulf of Mexico Fishery Management Council 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; and
3. Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918.

**FOR FURTHER INFORMATION CONTACT:** John Carmichael, SEDAR Coordinator, SEDAR/SAFMC, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

**SUPPLEMENTARY INFORMATION:** The South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils; in conjunction with NOAA Fisheries, the Atlantic States Marine Fisheries Commission, and the Gulf States Marine Fisheries Commission; implemented the SEDAR process, a multi-step method for determining the status of fish stocks. The SEDAR Steering Committee provides oversight of the SEDAR process and establishes assessment priorities. The Steering Committee also ensures that management activities are coordinated with assessment scheduling.

The SEDAR Steering Committee will meet April 19, 2006 to review the SEDAR assessment schedule, review planned management activities, and determine the composition of the SEDAR Peer Review Panel for SEDAR 10.

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

Listening stations are physically accessible to those with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to the conference call.

Dated: March 22, 2006.

**Tracey L. Thompson,**

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

[FR Doc. E6–4348 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 032106F]**

### Western Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council (Council) will hold a meeting of the Coral Reef Ecosystem Plan Team (CREPT) in Honolulu, HI to discuss development of annual reports for coral reef ecosystem fisheries of the Western Pacific Region.

**DATES:** The CREPT meeting will be held from 9 a.m. to 5 p.m. on April 11, 2006 and from 8:30 a.m. to 5 p.m. on April 12, 2006. For specific times, and the agenda, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** The meeting of the CREPT will be held at the Western Pacific Fishery Management Council conference room, 1164 Bishop Street, Suite 1400, Honolulu, HI.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

**SUPPLEMENTARY INFORMATION:** The CREPT will meet to discuss the following agenda items:

*April 11, 2006, 9 a.m.-5 p.m.*

1. Introductions
2. Approval of Draft Agenda
3. Update on Recent Council Actions
   A. NWHI Fishing Regulations
   B. Development of Western Pacific Fishery Ecosystem Plans
4. Development of Annual Report for Coral Reef Ecosystem Fisheries of the Western Pacific Region

*April 12, 2006 8:30 a.m.-5 p.m.*

5. Review of MSA Overfishing Definitions and Control Rules
6. Refining Coral Reef Ecosystem Stock Indicators
7. Public Comments
8. Discussion and Recommendations

The order in which agenda items addressed may change. Public comment periods will be provided throughout the agenda. The Plan Team will meet as late as necessary to complete scheduled business.

*Agenda Background Information*

This meeting is being convened to continue development of an annual report for coral reef ecosystem fisheries of the western Pacific region, to discuss the proposed changes to national standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act and to consider appropriate ecosystem-level approaches for monitoring the diverse and numerous coral reef ecosystem management unit species consistent with national standard 1.

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

**Special Accommodations**

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

**Authority:**

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

Dated: March 22, 2006.

**Tracey L. Thompson,**

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

[FR Doc. E6–4349 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–22–S

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Designation Under the Textile and Apparel Commercial Availability Provisions of the African Growth and Opportunity Act (AGOA)

March 21, 2006.

**AGENCY:** The Committee for the Implementation of Textile Agreements (CITA)

**ACTION:** Designation.

**EFFECTIVE DATE:** March 27, 2006.

**SUMMARY:** : The Committee for the Implementation of Textile Agreements (CITA) has determined that certain, 100 percent nylon 66, fully drawn flat filament yarn, of yarn count 156 decitex, comprised of 51 trilobal filaments and 20 round filaments, classified in subheading 5402.41.9040 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in apparel articles classified under HTSUS subheadings 6108.22.9020 and 6109.90.1065, cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA hereby designates such apparel articles of such yarn, that are cut from fabric formed, or knit-to-shape, and sewn or otherwise assembled in one or more eligible AGOA beneficiary countries as eligible to enter free of quotas and duties under HTSUS subheading 9819.11.24.

**FOR FURTHER INFORMATION CONTACT:** Anna Flaaten, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 3400.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Authority: Section 112(b)(5)(B) of the AGOA; Presidential Proclamation 7350 of October 2, 2000; Section 1 of Executive Order No. 13191 of January 17, 2001.

**Background**

The AGOA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The AGOA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On November 9, 2005 the Chairman of CITA received a petition from Shibani Inwear alleging that certain 100 percent nylon 66, fully drawn flat filament yarn,

of yarn count 156 decitex, comprised of 51 trilobal filaments and 20 round filaments, classified in HTSUS subheading 5402.41.9040, for use in apparel articles classified under HTSUS subheadings 6108.22.90.20 and 6109.90.10.65, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requested quota- and duty-free treatment under the AGOA for such apparel articles that are both cut from fabric formed, or knit-to-shape, and sewn or otherwise assembled in one or more AGOA beneficiary countries from such yarn.

On November 14, 2005, CITA requested public comments regarding the petition. **See Request for Public Comments on Commercial Availability Request under the African Growth and Opportunity Act (AGOA)**, 70 FR 69524 (November 16, 2005). On November 30, 2005, CITA and the U.S. Trade Representative (USTR) sought the advice of the Industry Trade Advisory Committee for Textiles and Clothing and the Industry Trade Advisory Committee for Distribution Services. On November 30, 2005, CITA and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). On December 21, 2005, the U.S. International Trade Commission provided advice on the petition.

Based on the information and advice received and its understanding of the industry, CITA determined that the yarn set forth in the petition cannot be supplied by the domestic industry in commercial quantities in a timely manner. On January 6, 2006, CITA and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and advice obtained. A period of 60 calendar days since this report was submitted has expired.

CITA hereby designates apparel articles classified under HTSUS subheadings 6108.22.9020 and 6109.90.1065 that are both cut from fabric formed, or knit-to-shape, and sewn or otherwise assembled in one or more eligible beneficiary sub-Saharan African country from 100 percent nylon 66, fully drawn flat filament yarn, of yarn count 156 decitex, comprised of 51 trilobal filaments and 20 round filaments, classified in HTSUS subheading 5402.41.9040, as eligible to enter free of quotas and duties under HTSUS subheading 9819.11.24, provided all other yarns used in the referenced apparel articles are U.S. formed, subject to the special rules for findings and trimmings, certain interlinings and de minimis fibers and yarns under section 112(d) of the AGOA, and that such articles are imported directly into the customs territory of the United States from an eligible AGOA beneficiary country.

An "eligible beneficiary sub-Saharan African country" means a country which the President has designated as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a), and which has been the subject of a finding, published in the Federal Register, that the country has satisfied the requirements of section 113 of the AGOA (19 U.S.C. 3722), resulting in the enumeration of such country in U.S. note 1 to subchapter XIX of chapter 98 of the HTSUS.

**Philip J. Martello,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.E6–4404 Filed 3–24–06; 8:45 am]

**BILLING CODE 3510–DS–S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Designation Under the Textile and Apparel Commercial Availability Provisions of the Andean Trade Preference Drug Eradication Act (ATPDEA)

March 21, 2006.

**AGENCY:** The Committee for the Implementation of Textile Agreements (CITA)

**ACTION:** Designation.

**EFFECTIVE DATE:** March 27, 2006.

**SUMMARY:** CITA has determined that certain 100 percent cotton woven flannel fabrics, made from 21 through 36 NM single ring-spun yarns, of 2 x 2 twill weave construction, weighing not more than 200 grams per square meter, classified in subheading 5208.43.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in shirts, trousers, nightwear, robes and dressing gowns, and woven underwear, cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA hereby designates such apparel articles that are sewn or otherwise assembled in one or more eligible ATPDEA beneficiary countries from such fabrics, as eligible for quota-free and duty-free treatment under the textile and apparel commercial availability provisions of the ATPDEA and eligible under HTSUS subheadings 9821.11.10, provided that all other fabrics in the referenced apparel articles are wholly formed in the United States from yarns wholly formed in the United States, including fabrics not formed from yarns, if such fabrics are classifiable under HTS heading 5602 or 5603, and are wholly formed in the United States. CITA notes that this designation under the ATPDEA renders such apparel articles, sewn or otherwise assembled in one or more eligible ATPDEA beneficiary countries, as eligible for quota-free and duty-free treatment under HTSUS subheading 9821.11.13, provided the requirements of that subheading are met.

**FOR FURTHER INFORMATION CONTACT:** Maria K. Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 (b)(3)(B)(ii) of the ATPDEA, Presidential Proclamation 7616 of October 31, 2002, Executive Order 13277 of November 19, 2002, and the United States Trade Representative's Notice of Further Assignment of Functions of November 25, 2002.

### Background

The ATPDEA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The ATPDEA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more ATPDEA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. Pursuant to Executive Order No. 13277 (67 FR 70305) and the United States Trade Representative's Notice of Redelegation of Authority and Further Assignment of Functions (67 FR 71606), the President's authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the ATPDEA has been delegated to CITA.

On November 18, 2005, the Chairman of CITA received a petition from Oxford Industries alleging that certain 100 percent cotton woven flannel fabrics, made from 21 through 36 NM single ring-spun yarns, of 2 X 2 twill weave construction, weighing not more than 200 grams per square meter, classified under HTSUS subheading 5208.43.0000, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota-

and duty-free treatment under the ATPDEA of such fabrics, for use in the manufacture of shirts, trousers, nightwear, robes and dressing gowns and woven underwear in one or more ATPDEA beneficiary countries for export to the United States.

On November 25, 2005, CITA requested public comment on the petition. **See Request for Public Comment on Commercial Availability Petition under the Andean Trade Promotion and Drug Eradication Act (ATPDEA)**, 70 FR 71089 (November 25, 2005). On December 13, 2005, CITA and the U.S. Trade Representative (USTR) sought the advice of the Industry Trade Advisory Committee (ITAC) for Textiles and Clothing and the ITAC for Distribution Services. No advice was received from either ITAC. On December 13, 2005, CITA and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). No consultations were requested regarding this petition. USTR requested the advice of the U.S. International Trade Commission (ITC). On January 9, 2006, the ITC provided advice on the petition.

Based on the information and advice received and its understanding of the industry, CITA determined that the fabrics set forth in the petition cannot be supplied by the domestic industry in commercial quantities in a timely manner. On January 13, 2006, CITA and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and the advice obtained. A period of 60 calendar days since this report was submitted has expired, as required by the ATPDEA.

CITA hereby designates as eligible to enter free of quotas and duties, under HTSUS subheading 9821.11.10, if used in shirts, trousers, nightwear, robes and dressing gowns and woven underwear that are sewn or otherwise assembled in one or more eligible ATPDEA beneficiary countries, from certain 100 percent cotton woven flannel fabrics, made from 21 through 36 NM single ring-spun yarns, of 2 x 2 twill weave construction, weighing not more than 200 grams per square meter, classified in HTSUS subheading 5208.43.0000, not formed in the United States. The referenced apparel articles are eligible provided that all other fabrics are wholly formed in the United States from yarns wholly formed in the United States, including fabrics not formed from yarns, if such fabrics are classifiable under HTS heading 5602 or 5603 and are wholly formed in the United States, subject to the special rules for findings and trimmings, certain interlinings and de minimis fibers and yarns under section 204(b)(3)(B)(vi) of the ATPDEA, and that such articles are imported directly into the customs territory of the United States from an eligible ATPDEA beneficiary country.

An "eligible ATPDEA beneficiary country" means a country which the President has designated as an ATPDEA beneficiary country under section 203(a)(1) of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3202(a)(1)), and which has been the subject of a finding, published in the Federal Register, that the country has satisfied the requirements of section 203(c) and (d) of the ATPA (19 U.S.C. 3202(c) and (d)), resulting in the enumeration of such country in U.S. note 1 to subchapter XXI of Chapter 98 of the HTSUS.

**Philip J. Martello,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. E6–4405 Filed 3–24–06; 8:45 am]

BILLING CODE 3510–DS–S

## COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

### Privacy Act of 1974; Notice of Amended System

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) gives notice of proposed amendments to its previously published system of records on the Supervision Offender Case File (CSOSA–9).

The system of records is being amended to add to the existing categories of records and make editorial or organization changes, to add other identifiers that may be used to retrieve information, and to update the provisions for storage and safeguards and the citation for the authority for maintenance of the system.

More specifically, the categories of records would be amended to include electronic monitoring information (for example, Global Positioning System (GPS) data) and United States Parole Commission decisions. In addition, the routine use provision in Section B, which applies to the disclosure of information to "any civil or criminal law enforcement agency, whether Federal, state, or local or foreign, which requires information relevant to a civil or criminal investigation unless prohibited by law or regulation" would be amended by adding the qualifying phrase "to the extent necessary to accomplish their assigned duties" to conform with the language set forth in the comparable routine use provision in CSOSA's system of records for Supervision & Management Automated Record Tracking (CSOSA–11). The routine uses would also be amended for stylistic reasons to make use of parallel construction and to redesignate Section I. The Retrievability provision is being amended to note that Metropolitan Police Department, D.C. Department of Corrections, and Federal Bureau of Investigation identification numbers can be used to retrieve information.

Finally, the Storage provisions and the Safeguards provisions are being amended to note the special requirements for electronic monitoring information. The citation for the authority for maintenance of the system would be amended to include CSOSA's enabling legislation which is the underlying programmatic authority for collecting, maintaining, and using the information.

In accordance with Title 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment on this notice; and the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments to Renee Barley, FOIA Officer, Office of the General Counsel, Court Services and Offender Supervision Agency for the District of Columbia, 633 Indiana Avenue, NW., Washington, DC 20004 by April 26, 2006. The amended system of records will be effective, as proposed, on May 11, 2006 unless CSOSA determines, upon review of the comments received, that changes should be made. In that event, CSOSA will publish a revised notice in the **Federal Register**.

In accordance with Privacy Act requirements, CSOSA has provided a report on the amended systems to OMB and Congress.

The amended system of records is given below in its entirety for the convenience of the reader.

Dated: March 22, 2006.

**Paul A. Quander, Jr.,**

*Director, Court Services and Offender Supervision Agency.*

**Court Services and Offender Supervision Agency for the District**

**CSOSA–9**

**SYSTEM NAME:**

Supervision Offender Case File.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Court Services and Offender Supervision Agency, 633 Indiana Avenue, NW., Washington, DC 20004. See 28 CFR part 800, Appendix A for field office addresses.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals currently or formerly under Agency supervision.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The files may contain but are not limited to presentence information, sentencing information, institutional adjustment (parole only), treatment records, compliance orders, field notes, PD–163 (police report), electronic monitoring information (for example, Global Positioning System (GPS) data), judgment and commitment orders, program reports, psychiatric reports, assessments, Parole Board and United States Parole Commission and judicial decisions and post-release information to include risk assessment, substance abuse testing, referrals, offender reporting forms, progress and behavior reports and correspondence.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 111 Stat. 748, Pub. L. 105–33, § 11233; D.C. Official Code § 24–133(c).

**PURPOSE(S):**

Information is maintained and used to determine risk/needs assessment, supervision documentation, case management and documentation of the offenders' compliance with release conditions.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

A. Disclosure to a congressional office or member or D.C. Council member in response to an inquiry made at the request of an individual currently or formerly under CSOSA supervision.

B. Disclosure to any civil or criminal law enforcement agency, whether Federal, state, or local or foreign, which requires information relevant to a civil or criminal investigation to the extent necessary to accomplish their assigned duties unless prohibited by law or regulation.

C. Disclosure to a Federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency.

D. Disclosure to a source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation and to identify the type of information requested unless prohibited by law or regulation.

E. Disclosure to the appropriate Federal, state, local, foreign or other public authority responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order where CSOSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation unless prohibited by law or regulation.

F. Disclosure to a contract or treatment facility that provides services to individuals under CSOSA supervision to the extent necessary to accomplish its assigned duties unless prohibited by law or regulation.

G. Disclosure to Federal, local and state court or community correction officials to the extent necessary to permit them to accomplish their assigned duties in any criminal matter unless prohibited by law or statute.

H. Disclosure to employers or prospective employers concerning an individual's criminal history and other pertinent information relating to prospective or current employment of the individual unless prohibited by law or regulation.

I. Disclosure to the National Archives and Records Administration and to the General Services Administration during a records management inspection conducted under 44 U.S.C. 2904 and 2906 unless prohibited by law or regulation.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

GPS data is hosted on servers that are managed by contract companies. Other information is stored manually in file folders or electronically on computers.

**RETRIEVABILITY:**

Information can be retrieved by the name of the individual or by the DC Department of Corrections (DCDC) number, the Metropolitan Police Department (PDID) number, or the Federal Bureau of Investigation number.

**SAFEGUARDS:**

The servers maintaining GPS data are located in a locked room; access to the servers is restricted, and end users must have a valid ID and password to access the data. Other information is maintained manually in file cabinets which are kept in locked offices.

**RETENTION AND DISPOSAL:**

Information will be maintained for 20 years after expiration of supervision.

**SYSTEM MANAGER(S) AND ADDRESS:**

Associate Director, Community Supervision Services, Court Services and Offender Supervision Agency, 300 Indiana Avenue, NW., Room 2132, Washington, DC 20001.

**NOTIFICATION PROCEDURE:**

Inquiries concerning this system should be directed to the Freedom of Information Act Office, Court Services and Offender Supervision Agency, 633 Indiana Avenue, NW., Washington, DC 20004.

The major part of this system is exempt from this requirement under 5 U.S.C. 552a(j).

**RECORD ACCESS PROCEDURES:**

The major part of this system is exempt from this requirement under 5 U.S.C. 552a(j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

**CONTESTING RECORD PROCEDURES:**

Same as Records Access Procedures above.

**RECORD SOURCE CATEGORIES:**

(1) Individual under CSOSA supervision; (2) Federal, state and local law enforcement agencies; (3) state and Federal community correction entities; (4) relatives, friends, and other community individuals; (5) evaluation, observations, and findings of agency staff and treatment staff; and (6) employers and/or social service agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

This system is exempt from 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (2), (3), (4)(G) through (4)(I), (5), and (8), (f) and (g) of the Privacy Act pursuant to 5

U.S.C. 552a(j)(2). In addition, the system has been exempted from subsections (c)(3), (d) and (e)(1) pursuant to subsections (k)(1) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. E6–4416 Filed 3–24–06; 8:45 am]
BILLING CODE 3129–01–P

## DEPARTMENT OF EDUCATION

**[CFDA No. 84.069]**

### Federal Student Aid; Leveraging Educational Assistance Partnership and Special Leveraging Educational Assistance Partnership Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of the deadline dates for receipt of State applications for Award Year 2006–2007 funds.

**SUMMARY:** This is a notice of the deadline dates for receipt of State applications for Award Year 2006–2007 funds under the Leveraging Educational Assistance Partnership (LEAP) and Special Leveraging Educational Assistance Partnership (SLEAP) programs.

The LEAP and SLEAP programs, authorized under Title IV, Part A, Subpart 4 of the Higher Education Act of 1965, as amended (HEA), assist States in providing aid to students with substantial financial need to help them pay for their postsecondary education costs through matching formula grants to States. Under section 415C(a) of the HEA, a State must submit an application to participate in the LEAP and SLEAP programs through the State agency that administered its LEAP Program as of July 1, 1985, unless the Governor of the State has subsequently designated, and the Department has approved, a different State agency to administer the LEAP Program.

**DATES:** To assure funding under the LEAP and SLEAP programs for Award Year 2006–2007, a State must meet the applicable deadline date. Applications submitted electronically must be received by 11:59 p.m. (Eastern time) May 31, 2006. Paper applications must be received by May 24, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg Gerrans, LEAP Program Manager, Financial Partners, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., room 111G5, Washington, DC 20202. Telephone: (202) 377–3304. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** Only the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands may submit an application for funding under the LEAP and SLEAP programs.

State allotments for each award year are determined according to the statutorily mandated formula under section 415B of the HEA and are not negotiable. A State may also request its share of reallotment, in addition to its basic allotment, which is contingent upon the availability of such additional funds.

In Award Year 2005–2006, 49 States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands received funds under the LEAP Program. Additionally, 34 States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands received funds under the SLEAP Program.

*Applications Submitted Electronically:* Financial Partners within Federal Student Aid has automated the LEAP and SLEAP application process in the Financial Management System (FMS). Applicants may use the web-based form (Form 1288–E OMB 1845–0028) which is available on the FMS LEAP on line system at the following Internet address: *http://fsa-fms.ed.gov.*

*Paper Applications Delivered by Mail:* States or territories may request a paper version of the application (Form 1288 OMB 1845–0028) by contacting Mr. Greg Gerrans, LEAP Program Manager, at (202) 377–3304 or by e-mail: *greg.gerrans@ed.gov.* The form will be mailed to you. A paper application sent by mail must be addressed to: Mr. Greg Gerrans, LEAP Program Manager, Financial Partners, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., room 111G5, Washington, DC 20202.

The Department of Education encourages applicants that are completing a paper application to use certified or at least first-class mail when sending the application by mail to the Department. The Department must receive paper applications that are mailed no later than May 24, 2006.

*Paper Applications Delivered by Hand:* Paper applications that are hand-delivered must be delivered to Mr. Greg Gerrans, LEAP Program Manager, Financial Partners, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., room 111G5, Washington, DC 20002. Hand-delivered applications will be accepted between 8 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

Paper applications that are hand-delivered must be received by 4:30 p.m. (Eastern time) on May 24, 2006.

*Applicable Regulations:* The following regulations are applicable to the LEAP and SLEAP programs:

(1) The LEAP and SLEAP Program regulations in 34 CFR part 692.

(2) The Student Assistance General Provisions in 34 CFR part 668.

(3) The Regulations Governing Institutional Eligibility in 34 CFR part 600.

(4) The Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.60 through 75.62 (Ineligibility of Certain Individuals to Receive Assistance), part 76 (State-Administered Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 82 (New Restrictions on Lobbying), part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)), part 85 (Governmentwide Debarment and Suspension (Nonprocurement)), part 86 (Drug and Alcohol Abuse Prevention), and part 99 (Family Educational Rights and Privacy).

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

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

**Program Authority:** 20 U.S.C. 1070c *et seq.*

Dated: March 22, 2006.

**Theresa S. Shaw,**

*Chief Operating Officer, Federal Student Aid.*

[FR Doc. E6–4396 Filed 3–24–06; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[CFDA Nos. 84.038, 84.033, and 84.007]**

## Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant programs

**ACTION:** Notice of the 2006–2007 award year deadline dates for the campus-based programs.

**SUMMARY:** The Secretary announces the 2006–2007 award year deadline dates for the submission of requests and documents from postsecondary institutions for the campus-based programs.

**SUPPLEMENTARY INFORMATION:** The Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs are collectively known as the campus-based pprograms.

The Federal Perkins Loan Program encourages institutions to make low-interest, long-term loans to needy undergraduate and graduate students to help pay for their education.

The FWS Program encourages the part-time employment of needy undergraduate and graduate students to help pay for their education and to involve the students in community service activities.

The FSEOG Program encourages institutions to provide grants to exceptionally needy undergraduate students to help pay for their cost of education.

The Federal Perkins Loan, FWS, and FSEOG programs are authorized by parts E and C, and part A, subpart 3, respectively, of title IV of the Higher Education Act of 1965, as amended.

Throughout the year, in its "Dear Colleague" letters, the Department will continue to provide additional information for the listed individual deadline dates via the Information for Financial Aid Professionals (IFAP) Web site at: *http://www.ifap.ed.gov.*

*Deadline Dates:* The following table provides the 2006–2007 award year deadline dates for the submission of applications, reports, and waiver requests for the campus-based programs. Institutions must meet the established deadline dates to ensure consideration for funding or a waiver, as appropriate.

2006–2007 Award Year Deadline Dates

| What does an institution submit? | Where is it submitted? | What is the deadline for submission? |
|---|---|---|
| 1. The Campus-Based Reallocation Form designated for the return of 2005–2006 funds and the request of supplemental FWS funds for the 2006–2007 award year. | The Reallocation Form must be submitted electronically and is located in the "Setup" section of the FISAP on the Internet at *http://www.cbfisap.ed.gov.* | August 18, 2006. |
| 2. The 2005–2006 Fiscal Operations Report and 2007–2008 Application to Participate (FISAP). | The FISAP is located on the Internet at the following site: *http://www.cbfisap.ed.gov.*<br>The FISAP form must be submitted electronically via the Internet, and the combined signature page must be mailed to:<br>The FISAP Administrator, INDUS Corporation, 1951 Kidwell Drive, Eighth Floor, Vienna, VA 22182. | September 29, 2006. |
| 3. The Work-Colleges Program Report of 2005–2006 award year expenditures. | The Work-Colleges Program Report must be submitted electronically via the Internet, and a printed copy with an original signature must be submitted by one of the following methods:<br>Hand delivery to: Work-Colleges Program, Campus-Based Systems and Operations Division, U.S. Department of Education, 830 First Street, NE., room 63B1, Washington, DC 20002, or<br>Mail to: The same above address for hand delivery except use Zip Code 20202–5453.<br>The report can be found in the "Setup" section of the FISAP on the Internet at: *http://www.cbfisap.ed.gov.* | October 20, 2006. |
| 4. A request for a waiver of the 2007–2008 award year penalty for the underuse of 2005–2006 award year funds. | The request for a waiver can be found in Part II, Section C of the FISAP on the Internet at: *http://www.cbfisap.ed.gov.*<br>The request and justification must be submitted electronically via the Internet. | February 9, 2007. |
| 5. The Institutional Application for Approval to Participate in the Federal Student Financial Aid Programs. | An institution that has not already established eligibility must submit an application to Case Management and Oversight.<br>The application is located on the Internet at the following site: *http://www.eligcert.ed.gov.* | February 9, 2007. |
| 6. The Institutional Application and Agreement for Participation in the Work-Colleges Program for the 2007–2008 award year. | The Institutional Application and Agreement for Participation in the Work-Colleges Program must be submitted electronically via the Internet, and a printed copy with original signature must be submitted by one of the following methods:<br>Hand delivery to: Work-Colleges Program, Campus-Based Systems and Operations Division, U.S. Department of Education, 830 First Street, NE., room 63B1, Washington, DC 20002, or<br>Mail to: The same above address for hand delivery except use Zip Code 20202–5453. | March 9, 2007. |

2006–2007 AWARD YEAR DEADLINE DATES—Continued

| What does an institution submit? | Where is it submitted? | What is the deadline for submission? |
|---|---|---|
| 7. A request for a waiver of the FWS Community Service Expenditure Requirement for the 2007–2008 award year. | The application and agreement can be found in the "Setup" section of the FISAP on the Internet at: *http://www.cbfisap.ed.gov.*<br>The FWS Community Service waiver request and justification must be submitted by one of the following methods:<br>Hand delivery to: FWS Coordinator, U.S. Department of Education, 830 First Street, NE., room 62A1, Washington, DC 20002, or<br>Mail to: The same address for hand delivery except use Zip Code 20202–5453, or<br>Fax to: (202) 275–0950. | April 27, 2007. |

**Note:**

• The deadline for electronic submissions is 11:59 p.m. (Eastern time) on the applicable deadline date. Transmissions must be completed and accepted by 12 midnight to meet the deadline.

• Paper documents that are sent through the U.S. Postal Service must be postmarked by the applicable deadline date.

• Paper documents that are hand delivered by a commercial courier must be received no later than 4:30 p.m. (Eastern time) on the applicable deadline date.

**Proof of Mailing or Hand Delivery of Paper Documents**

If you submit paper documents when permitted by mail or by hand delivery from a commercial courier, we accept as proof one of the following:

(1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(2) A legibly dated U.S. Postal Service postmark.

(3) A legibly dated shipping label, invoice, or receipt from a commercial courier.

(4) Other proof of mailing or delivery acceptable to the Secretary.

If the paper documents are sent through the U.S. Postal Service, we do not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. All institutions are encouraged to use certified or at least first-class mail.

The Department accepts hand deliveries from commercial couriers between 8 a.m. and 4:30 p.m., eastern time, Monday through Friday except Federal holidays.

**Sources for Detailed Information on These Requests**

A more detailed discussion of each request for funds or waiver is provided in a specific "Dear Colleague" letter, which is posted on the Department's IFAP Web site (*http://www.ifap.ed.gov*) at least 30 days before the established deadline date for the specific request. Information on these items is also found in the Federal Student Aid Handbook.

*Applicable Regulations:* The following regulations apply to these programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Perkins Loan Program, 34 CFR part 674.

(4) Federal Work-Study Programs, 34 CFR part 675.

(5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(6) Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(7) New Restrictions on Lobbying, 34 CFR part 82.

(8) Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 34 CFR part 84.

(9) Governmentwide Debarment and Suspension (Nonprocurement), 34 CFR part 85,

(10) Drug and Alcohol Abuse Prevention, 34 CFR part 86.

**FOR FURTHER INFORMATION CONTACT:** Sherlene McIntosh, Acting Director of Campus-Based Systems and Operations Division, U.S. Department of Education, Federal Student Aid, 830 First Street, NE., Union Center Plaza, room 64A3, Washington, DC 20202–5453. Telephone: (202) 377–3242 or via the Internet: *sherlene.mcintosh@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.* Braille, large print, audiotape, or computer diskette) on request to the program contact person list under **FOR FURTHER INFORMATION CONTACT.**

**Electronic Access to This Document**

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

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

**Program Authority:** 20 U.S.C. 10877aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

Dated: March 22, 2006.

**Theresa S. Shaw,**

*Chief Operating Officer, Federal Student Aid.*

[FR Doc. 06–2940 Filed 3–24–06; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF ENERGY

### Office of International Regimes and Agreements; Proposed Subsequent Arrangement

**AGENCY:** Department of Energy.

**ACTION:** Subsequent arrangement.

**SUMMARY:** Pursuant to Article VIII.C of the Agreement for Cooperation Concerning Civil Uses of Atomic Energy, signed April 4, 1972, as amended, the American Institute in Taiwan and the Tapei Economic and Cultural Representative Office (TECRO) hereby jointly determine that the provisions in Article XI of the Agreement may be effectively applied with respect to the plan proposed by TECRO in February 2006 for the alteration in form or content of irradiated fuel elements at the hot laboratory of the Institute of Nuclear Energy Research, Lungtan, Taiwan. The facility is hereby found acceptable to both parties pursuant to Article VIII.C of the Agreement for the sole purpose of alteration in form or content of irradiated fuel elements for the period ending December 31, 2010.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

**Richard S. Goorevich,**

*Director, Office of International Regimes and Agreements.*

[FR Doc. E6–4391 Filed 3–24–06; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Notice of Renewal of the Secretary of Energy Advisory Board

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with title 41 of the Code of Federal Regulations, section 101–6.1015, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the Secretary of Energy Advisory Board (the Board) has been renewed for an additional 60 days, beginning March 20, 2006.

The Board will provide advice, information, and recommendations to the Secretary of Energy on educational issues, and on any other activities and operations of the Department of Energy as the Secretary may direct.

The Board members are selected to assure well-balanced representation in fields of importance to the Department of Energy. Membership of the Board will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act (Pub. L. 92–463) and implementing regulations.

The extension of the Board has been determined to be in the public interest, important and vital to the conduct of the Department's business in connection with the performance of duties established by statute for the Department of Energy. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rachel M. Samuel, U.S. Department of Energy, MA–70, FORS, Washington, DC 20585, Telephone: (202) 586–3279.

Issued in Washington, DC, on March 20, 2006.

**James N. Solit,**

*Advisory Committee Management Officer.*

[FR Doc. E6–4395 Filed 3–24–06; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Paducah

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

**DATES:** Thursday, April 20, 2006, 5:30 p.m.–9 p.m.

**ADDRESSES:** 111 Memorial Drive,Barkley Centre,Paducah, Kentucky 42001.

**FOR FURTHER INFORMATION CONTACT:** William E. Murphie, Deputy DesignatedFederal Officer, Department of Energy Portsmouth/Paducah Project Office, 1017 Majestic Drive,Suite 200, Lexington, Kentucky 40513, (859) 219–4001.

**SUPPLEMENTARY INFORMATION:**

**Purpose of the Board**

The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

**Tentative Agenda**

| | |
|---|---|
| 5:30 p.m. | Informal Discussion |
| 6 p.m. | Call to Order<br>Introductions<br>Review of Agenda<br>Approval of March Minutes |
| 6:15 p.m. | Deputy Designated Federal Officer's Comments |
| 6:35 p.m. | Federal Coordinator's Comments |
| 6:40 p.m. | Ex-officios' Comments |
| 6:50 p.m. | Public Comments and Questions |
| 7 p.m. | Task Forces/Presentations<br>• Kentucky Research Consortium for Energy and the Environment<br>• Ecology Summary<br>• Water Disposition/Water Quality Task Force—End State Maps |
| 8 p.m. | Public Comments and Questions |
| 8:10 p.m. | Break |
| 8:20 p.m. | Administrative Issues<br>• Preparation for May Presentation<br>• Budget Review<br>• Review of Workplan<br>• Review of Next Agenda |
| 8:30 p.m. | Review of Action Items |
| 8:35 p.m. | Subcommittee Report<br>• Executive Committee—Chairs Meeting Preparation |
| 8:50 p.m. | Final Comments |
| 9 p.m. | Adjourn |

**Public Participation**

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Dollins at the address listed below or by telephone at (270) 441–6819. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

**Minutes**

The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday

through Friday or by writing to David Dollins, Department of Energy, Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6819.

Issued at Washington, DC, on March 21, 2006.

**Carol Matthews,**

*Acting Advisory Committee Management Officer.*

[FR Doc. E6–4392 Filed 3–24–06; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Fossil Energy; Methane Hydrate Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Methane Hydrate Advisory Committee. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat.770) requires that notice of these meetings be announced in the **Federal Register**.

**DATES:** Monday, April 24, 2006, 9 a.m. to 5 p.m. and Tuesday, April 25, 2006, 8:30 a.m. to 3 p.m.

**ADDRESSES:** L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Edith Allison, U.S. Department of Energy, Office of Oil and Natural Gas, Washington, DC 20585. Phone: 202–586–1023.

**SUPPLEMENTARY INFORMATION:** *Purpose of the Committee:* The purpose of the Methane Hydrate Advisory Committee is to provide advice on potential applications of methane hydrate to the Secretary of Energy; assist in developing recommendations and priorities for the Department of Energy methane hydrate research and development program.

**Tentative Agenda**

*Monday, April 24*

- Welcome and Introductions
- Joint meeting with the Interagency Coordinating Committee—9 a.m. to 1:45 p.m. Briefings on recent accomplishments, planned activities, issues and concerns by the Department of Energy; U.S. Geological Survey; Minerals Management Service; Bureau of Land Management; National Oceanic and Atmospheric Administration; Naval Research Laboratory; and National Science Foundation. Discussion of major interagency issues, including activities in other nations, FY2007 budgets, reauthorization, interagency coordination and Interagency Roadmap
- Five minutes will be allowed for questions and comments after each presentation
- BP Project Presentation
- Chevron Project Presentation

*Tuesday, April 25*

- Discussion of Energy Policy Act of 2005 requirements
- Discussion and Recommendations to DOE regarding planning and future activities
- Adjourn

**Public Participation**

The meeting is open to the public. The Chairman of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Edith Allison at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

**Minutes**

The minutes of this meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except federal holidays.

Issued at Washington, DC, on March 21, 2006.

**Carol Matthews,**

*Acting Advisory Committee Management Officer.*

[FR Doc. E6–4394 Filed 3–24–06; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Biomass Research and Development Technical Advisory Committee

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under the Biomass Research and Development Act of 2000. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation.

**DATES:** April 13, 2006 at 8:30 a.m.

**ADDRESSES:** Spring Hill Suites by Marriott,Route 66 Room,15 West 90 North Frontage Road,Burr Ridge, IL 60527.

**FOR FURTHER INFORMATION CONTACT:** Neil Rossmeissl, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–8668 or Harriet Foster at (202) 586–4541; E-mail: *harriet.foster@ee.doe gov.*

**SUPPLEMENTARY INFORMATION:**

**Purpose of Meeting**

To provide advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

**Tentative Agenda**

Agenda will include the following:

- Receive update on collaboration with USDA
- Review status of Roadmap update
- Receive an update on the status of the FY 2006 joint solicitation
- Meet with representatives from Chicago-area biomass interests
- Review status of 2005 Annual Report
- Finalize procedure for acceptance of a minority report
- Discuss Analysis, Policy, and other subcommittee business
- Discuss 2006 annual recommendations
- Discuss 2006 and 2007 meeting schedule
- Discuss Committee public relations efforts

**Public Participation**

In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you should contact Neil Rossmeissl at 202–586–8668 or the Biomass Initiative at 202–586–4541 or *harriet.foster@ee.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chair of the Committee will make every effort to hear the views of all interested parties.

If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Chair will conduct the meeting to facilitate the orderly conduct of business.

**Minutes**

The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on March 21, 2006.

**Carol Matthews,**

*Acting Advisory Committee Management Officer.*

[FR Doc. E6–4393 Filed 3–24–06; 8:45 am]

BILLING CODE 6450–01–P

## FEDERAL RESERVE SYSTEM

### A De Novo Corporation to do Business Under Section 25A of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25A of the Federal Reserve Act ("Edge Corporation") 12 U.S.C. Sec. 611 *et seq.* The factors that are to be considered in acting on the application are set forth in the Board's Regulation K (12 CFR 211.5).

The application listed below is available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 21, 2006.

**A. Federal Reserve Bank of Boston** (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

*1. Investors Bank & Trust Company,* Boston, Massachusetts; to establish an Edge Corporation, Investors International Corporation, Boston, Massachusetts, pursuant to section 25A of the Federal Reserve Act and section 211.5 of Regulation K.

Board of Governors of the Federal Reserve System, March 22, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4361 Filed 3–24–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Change In Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E6-4134) published on page 14530 of the issue for Wednesday, March 22, 2006.

Under the Federal Reserve Bank of San Francisco heading, the entry for John Chung–Yuan Sun, Judy Chen–Mei Sun, Palos Verdes, California, and Jaclyn Chen–Hoa Sun, New York, New York, is revised to read as follows:

**A. Federal Reserve Bank of San Francisco** (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

*1. John Chung–Yuan Sun, Judy Chen–Mei Sun, Rancho Palos Verdes, California, and Jaclyn Chen-Hoa Sun,* New York, New York; to retain voting shares of American Premier Bancorp, Arcadia, California, and thereby indirectly retain voting shares of American Premier Bank, Arcadia, California.

Comments on this application must be received by April 6, 2006.

Board of Governors of the Federal Reserve System, March 22, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4356 Filed 3–24–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 20, 2006.

**A. Federal Reserve Bank of Kansas City** (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*1. Nebraskaland Financial Services, Inc.*, North Platte, Nebraska; to acquire 92.5 percent of the voting shares of Commerce Bank of Wyoming, N.A., Rock Springs, Wyoming (in organization).

Board of Governors of the Federal Reserve System, March 21, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4327 Filed 3–24–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E6-3966) published on page 13976 of the issue for Monday, March 20, 2006.

Under the Federal Reserve Bank of Chicago heading, the entry for Capitol Bancorp, Ltd., Lansing, Michigan, is revised to read as follows:

**A. Federal Reserve Bank of Chicago** (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

*1. Capitol Bancorp, Ltd.*, Lansing, Michigan; to acquire 51 percent of the voting shares of Evansville Commerce Bank, Evansville, Indiana (in organization), and by Capital Development Bancorp Limited IV, Lansing, Michigan; to become a bank

holding company by acquiring 51 percent of the voting shares of Evansville Commerce Bank (in organization), Evansville, Indiana.

Comments on this application must be received by April 13, 2006.

Board of Governors of the Federal Reserve System, March 22, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4353 Filed 3–24–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E6-4063) published on page 14220 of the issue for Tuesday, March 21, 2006.

Under the Federal Reserve Bank of Chicago heading, the entry for Capitol Bancorp, Ltd., Lansing, Michigan, is revised to read as follows:

**A. Federal Reserve Bank of Chicago** (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

*1. Capitol Bancorp, Ltd.*, Lansing, Michigan; to acquire 51 percent of the voting shares of Sunrise Bank of Atlanta, Atlanta, Georgia (in organization), and Capitol Development Bancorp Limited IV, Lansing, Michigan; to become a bank holding company by acquiring 51 percent of the voting shares of Sunrise Bank of Atlanta, Atlanta, Georgia (in organization).

Comments on this application must be received by April 14, 2006.

Board of Governors of the Federal Reserve System, March 22, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4354 Filed 3–24–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 21, 2006.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

*1. FSB Bancorp, Inc.*, Sioux Falls, South Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers State Bank of Turton, Turton, South Dakota.

Board of Governors of the Federal Reserve System, March 22, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4355 Filed 3–24–06; 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 Web site at *http://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 April 10, 2006.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

*1. Vision Bancshares, Inc.*, Saint Louis Park, Minnesota; to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, March 21, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc.E6–4328 Filed 3–24–06; 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 CER 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 Web site at *http://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 April 11, 2006.

**A. Federal Reserve Bank of Chicago** (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

*1. Black Earth Bancshares, Inc.*, Black Earth, Wisconsin; to continue to engage *de novo* in lending activities, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, March 22, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6–4352 Filed 3–24–06; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Sunshine Act; Meeting Notice

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 2 p.m., Thursday, March 30, 2006.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th Street entrance between Constitution Avenue and C Streets, NW., Washington, DC 20551.

**STATUS:** Open.

We ask that you notify us in advance if you plan to attend the open meeting and provide your name, date of birth, and social security number (SSN) or passport number. You may provide this information by calling (202) 452–2474 or you may *register online*. You may pre-register until close of business March 29, 2006. You also will be asked to provide identifying information, including a photo ID, before being admitted to the Board meeting. The Public Affairs Office must approve the use of cameras; please call (202) 452–2955 for further information. If you need an accommodation for a disability, please contact Penelope Beattie on 202–452–3982. For the hearing impaired only, please use the Telecommunication Device for the Deaf (TDD) on 202–263–4869.

*Privacy Act Notice:* Providing the information requested is voluntary; however, failure to provide your name, date of birth, and social security number or passport number may result in denial of entry to the Federal Reserve Board. This information is solicited pursuant to Sections 10 and 11 of the Federal Reserve Act and will be used to facilitate a search of law enforcement databases to confirm that no threat is posed to Board employees or property. It may be disclosed to other persons to evaluate a potential threat. The information also may be provided to law enforcement agencies, courts and others, but only to the extent necessary to investigate or prosecute a violation of law.

**MATTERS TO BE CONSIDERED:**

**Discussion Agenda**

1. Basel II Notice of Proposed Rulemaking.

**Note:** This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling 202–452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**FOR MORE INFORMATION PLEASE CONTACT:** Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202–452–2955.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: March 23, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 06–2990 Filed 3–23–06; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Meeting of the President's Council on Bioethics on April 20–21, 2006

**AGENCY:** The President's Council on Bioethics, HHS.

**ACTION:** Notice.

**SUMMARY:** The President's Council on Bioethics (Edmund D. Pellegrino, MD, Chairman) will hold its twenty-fourth meeting, at which, among other things, it will hear presentations on and discuss issues in two broad areas: (1) Children and clinical research and (2) organ procurement and transplantation.

Subjects discussed at past Council meetings (though not on the agenda for the present one) include: Cloning, assisted reproduction, reproductive genetics, IVF, ICSI, PGD, sex selection, inheritable genetic modification, patentability of human organisms, neuroscience, aging retardation, and lifespan-extension. Publications issued by the Council to date include: *Human Cloning and Human Dignity: An Ethical Inquiry* (July 2002); *Beyond Therapy: Biotechnology and the Pursuit of Happiness* (October 2003); *Being Human: Readings from the President's Council on Bioethics* (December 2003); *Monitoring Stem Cell Research* (January 2004), *Reproduction and Responsibility: The Regulation of New Biotechnologies* (March 2004), *Alternative Sources of Human Pluripotent Stem Cells: A White Paper* (May 2005), and *Taking Care: Ethical Caregiving in Our Aging Society* (September 2005).

**DATES:** The meeting will take place Thursday, April 20, 2006, from 9 a.m. to 5:15 p.m., E.T.; and Friday, April 21, 2006, from 8:30 a.m. to 12 noon, E.T.

**ADDRESSES:** The Madison, 15th and M Streets, NW., Washington, DC 20005. Phone 202–862–1600.

*Agenda:* The meeting agenda will be posted at *http://www.bioethics.gov*.

*Public Comments:* The Council encourages public input, either in person or in writing. At this meeting, interested members of the public may address the Council, beginning at 11:45 a.m., on Friday, April 21. Comments are limited to no more than five minutes per speaker or organization. As a courtesy, please inform Ms. Diane Gianelli, Director of Communications, in advance of your intention to make a public statement, and give your name and affiliation. To submit a written statement, mail or e-mail it to Ms. Gianelli at one of the addresses given below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane Gianelli, Director of Communications, The President's Council on Bioethics, Suite 700, 1801 Pennsylvania Avenue, NW., Washington, DC 20006. Telephone: 202/296–4669. E-mail: *info@bioethics.gov*. Web site: *http://www.bioethics.gov*.

Dated: March 15, 2006.

**F. Daniel Davis,**

*Executive Director, The President's Council on Bioethics.*

[FR Doc. E6–4389 Filed 3–24–06; 8:45 am]

BILLING CODE 4154–06–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–06–06AX]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Written comments should be received within 60 days of this notice.

**Proposed Project**

Risk Perception, Worry, and Use of Ovarian Cancer Screening among Women at High, Elevated, and Average Risk of Ovarian Cancer—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

Accounting for an estimated 22,220 cases and 16,210 deaths in 2005, ovarian cancer is the most frequent cause of death from gynecologic malignancy in the United States. In over 80 percent of patients, ovarian cancer presents at a late clinical stage, affording a five-year survival rate of only 35 percent. For cases where ovarian cancer is identified in Stage I, however, the five-year survival rate exceeds 90 percent.

Identifying a woman's risk of ovarian cancer plays a large role in determining the appropriateness of having her undergo screening. It is only for women with a strong family history of ovarian and/or breast cancer or women with a hereditary genetic risk for ovarian cancer that the currently available screening modalities of CA 125 and transvaginal ultrasound are recommended.

Statements from the scientific and medical community regarding recommendations for ovarian cancer screening play only a partial role in a woman's decision to undergo screening exams. Numerous psychological and sociological factors can affect this decision as well, including a woman's knowledge, attitudes, beliefs, and experiences. For instance, a woman's experience of cancer within her family or experience with a friend who has had cancer may influence a woman's screening decisions.

The literature also notes that women with a family history of ovarian cancer report increased worry and high levels of perceived risk. A positive association has also been shown between screening behavior and family history. Recent studies indicate, however, that screening is not occurring in proportion to women's levels of risk. These findings underscore the need for a better understanding of how perceived risk of ovarian cancer may influence worry about cancer and ultimately screening behavior.

To address these issues, the Division of Cancer Prevention and Control (DCPC), at the National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, is conducting a study to examine the effects of family history of cancer, knowledge about ovarian cancer, worry and/or anxiety, and perceived risk of cancer on the likelihood of a woman undergoing screening for ovarian cancer. By also examining other psycho-social factors such as a woman's closeness to a relative or friend with cancer, coping style, cancer worry, use of other cancer screening tests, social support, and provider's recommendations, the study will elucidate the causal pathway leading from actual risk (as measured by family history) through perceived risk to intent to undergo screening and actual screening behavior.

The proposed study will consist of two tasks:

Task 1, a brief eligibility screener (5 minutes) preceding a baseline survey administered through a computer-assisted telephone interview (CATI) program. Approximately 2000 women will be asked a series of questions over a 35-minute time period. Questions will cover key variables related to ovarian cancer screening including coping, anxiety, perceived risk, worry, personal cancer history, family cancer history, closeness with family or friends who have had cancer, screening behavior, and knowledge of ovarian cancer.

Task 2, a follow-up questionnaire will be administered, also using a CATI program, to approximately 1800 of the women included in the baseline questionnaire. Each of the women will be contacted one year after they complete the baseline survey. The researchers anticipate a 10 percent attrition of the sample between baseline and follow-up. In the follow-up, women will be asked a series of questions over a 15-minute time period. The purpose of this data collection effort is to determine if risk perception has changed and to ask about screening for ovarian cancer, since the baseline questionnaire was administered. All data will be collected over a three-year time period. There are no costs to respondents except their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN TABLE

| Respondents | No. of Respondents | No. of Responses per respondent | Average burden per response (in hrs.) | Total burden (in hours) |
|---|---|---|---|---|
| Telephone Screener | 10667 | 1 | 5/60 | 889 |
| Baseline Survey (women 30 or older) | 667 | 1 | 35/60 | 389 |
| Follow-up Survey (completed Baseline Survey) | 600 | 1 | 15/60 | 150 |
| Total | | | | 1428 |

Dated: March 20, 2006.

**Joan F. Karr,**

*Acting Reports Clearance Officer, Centers for Disease Control and Prevention.*

[FR Doc. 06–2934 Filed 3–24–06; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Decision to Evaluate a Petition to Designate a Class of Employees at Blockson Chemical Company, Joliet, Illinois, To Be Included in the Special Exposure Cohort

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at the Blockson Chemical Company, in Joliet, Illinois, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Blockson Chemical Company.

Location: Building 55.

Job Titles and/or Job Duties: Utility Engineer, Laborer, Research Chemist, Relief Operator, Plant Operator, Maintenance and Pipefitter, Lead Mixer, Operator, and Supervisor HF Acid.

Period of Employment: October 10, 1952 through December 31, 1962.

**FOR FURTHER INFORMATION CONTACT:** Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: March 21, 2006.

**John Howard,**

*Director, National Institute for Occupational Safety and Health Centers for Disease Control and Prevention.*

[FR Doc. E6–4388 Filed 3–24–06; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[FDA 225–06–8001]**

### Memorandum of Understanding Between the Food and Drug Administration, Department of Health and Human Services, of the United States of America and the Certification and Accreditation Administration of the People's Republic of China Covering Ceramicware Intended for Use in the Preparation, Serving or Storage of Food or Drink and Offered for Export to the United States of America

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the Food and Drug Administration, Department of Health and Human Services, of the United States of America and the Certification and Accreditation Administration of the People's Republic of China (CNCA).

The purpose of this MOU is to establish a certification system that increases the likelihood that daily-use ceramicware manufactured in the People's Republic of China (China) and offered for import into the United States complies with U.S. law. To that end, this MOU sets forth the criteria for certification of ceramicware to be exported directly from China to the United States and intended for use in the preparation, serving, or storage of food, and for certification of firms in China that are manufacturing such ceramicware. These certifications will enable FDA to reduce the frequency of its sampling of daily-use ceramicware from factories in China certified by CNCA/China Entry-Exit Inspection and Quarantine Bureaus (CIQs) and offered for import into the United States, in accordance with FDA's confidence in the effectiveness of the CNCA/CIQ factory certification system.

**DATES:** The agreement became effective January 26, 2006 (last signature date of the Chinese version of the MOU).

**FOR FURTHER INFORMATION CONTACT:** Matthew E. Eckel, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville MD, 20857, 301–827–4480, FAX: 301–480–0716.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 20.108(c), which states that all written agreements and understandings between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: March 17, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

BILLING CODE 4160–01–S

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OF THE UNITED STATES OF AMERICA

AND THE

CERTIFICATION AND ACCREDITATION ADMINISTRATION
OF THE PEOPLE'S REPUBLIC OF CHINA

COVERING CERAMICWARE INTENDED FOR USE IN THE PREPARATION, SERVING OR STORAGE OF FOOD OR DRINK AND OFFERED FOR EXPORT TO THE UNITED STATES OF AMERICA

**PREAMBLE**

The Participants of this Memorandum of Understanding (MOU), the Food and Drug Administration (FDA), Department of Health and Human Services of the United States of America, and the Certification and Accreditation Administration of the People's Republic of China (CNCA), hereinafter referred to as the "Participants,"

**RECOGNIZING** that the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) is the governmental body in charge of the import and export commodity inspection of the People's Republic of China and that CNCA is the administrative body authorized by the State Council to take charge of daily-use ceramicware intended for export to the United States,

**RECOGNIZING** that the China Entry-Exit Inspection and Quarantine Bureaus (CIQs), under the authority of AQSIQ, are authorized by AQSIQ/CNCA to conduct the inspections, and collect and examine representative samples of all exports of ceramicware from China to ensure that qualified daily-use ceramicware from CNCA/CIQ certified factories intended for export to the United States is safe for use in the preparation, serving, or storage of food or drink, and

**RECOGNIZING** that FDA is charged with the enforcement of, among other laws, the Federal Food, Drug, and Cosmetic Act, and the Fair Packaging and Labeling Act,

**Have reached the following understanding:**

## I. PURPOSE

The mutual goals of FDA and CNCA, in entering into this MOU, are to:

**A.** Establish a certification system that increases the likelihood that daily-use ceramicware manufactured in the People's Republic of China and offered for import into the United States complies with United States law. To that end, this MOU sets forth the Criteria for Certification (the Criteria) of: 1) ceramicware to be exported directly from the People's Republic of China or from the People's Republic of China via Hong Kong to the United States, as indicated by those involved in the trade (ceramicware manufacturers or importers/exporters), and intended for use in the preparation, serving, or storage of food; and 2) firms in the People's Republic of China manufacturing such ceramicware.

**B.** Enable the FDA to reduce the frequency of its sampling of daily-use ceramicware from factories in the People's Republic of China certified by CNCA/CIQ and offered for import into the United States, in accordance with FDA's confidence in the effectiveness of the CNCA/CIQ factory certification system.

**C.** Provide for the cooperative exchange of scientific and regulatory information, technical assistance, and research to help ensure the safety, quality, and proper labeling of ceramicware exported from the People's Republic of China and offered for entry into the United States, under the terms of this MOU.

## II. DEFINITIONS

For the purposes of this MOU, the Participants set out the following definitions:

**A.** Action Level - means the concentration of an adulterant in or on a commodity at which FDA may take regulatory action against the commodity. The action level is non-discriminatory, applies without distinction to domestic and imported products, and reflects FDA's current thinking on the concentration of the adulterant in or on the commodity at which regulatory action is appropriate.

**B.** Audit Sample - means a sample collected to verify analytical results provided through a certification system or private laboratory analysis that purports to show that a product complies with the Federal Food, Drug, and Cosmetic Act and/or FDA regulations.

**C.** Certified Delivery Lot - means a quantity of ceramicware offered for entry into the United States at one time, that is produced by a factory certified by a CNCA/CIQ, and is

in compliance with the CRITERIA FOR CERTIFICATION FOR EXPORT OF CERAMICWARE set forth in Attachment B of this MOU (Criteria). A certified delivery lot may consist of one or more factory lots or production lots. All shipping cartons and retail cartons in the lot are identified by a CIQ sticker/logo that is imprinted with the standardized factory code of the CNCA/CIQ-certified factory.

**D.** Daily Use Ceramicware - means ceramic dinnerware intended for use in the preparation, serving, or storage of food or drink that usually are inexpensive, more durable items that have the expectation of being commonly used by the consumer.

**E.** Detention Without Physical Examination - means FDA's administrative act of detaining an import entry of a specified article without physical examination on the basis of information regarding its past history of violation of the Federal Food, Drug, and Cosmetic Act or other information giving rise to an appearance that the product may be violative.

**F.** Electronic Entry Processing System - means an automated FDA import entry processing system which allows for a pre-determined percentage of import entries to be cleared by electronic means for entry into commerce in the United States. The pre-determined percentage of such cleared entries, referred to as a "may proceed rate," depends upon, among other things, the demonstrated degree of compliance of the commodity/country/firm combination with the laws enforced by FDA and their implementing regulations, and FDA's level of confidence that the commodity/country/firm combination complies with such laws and regulations.

**G.** Factory Code - means an alpha-numeric code consisting of three parts with a total of six characters (five figures and one letter) for a particular plant. The first two figures represent the province or city, followed by the letter "T" for ceramicware, and followed by a set of three figures that CNCA/CIQ uses to designate the factory number within each province or city.

**H.** Factory Lot or Production Lot - means a unit of ceramicware that is uniform and that represents ceramicware from no more than one homogeneously milled slip from the same materials. The factory lot or production lot must be uniform in the time and temperature of firing and the composition and application of the decorations and glazes.

**I.** Factory Lot Number or Production Lot Number - means a number assigned by the factory that relates to both the date and period of manufacture and denotes a distinct group of conditions (manufacturing date, kiln conditions, materials, patterns, etc.) that may affect the quality of the ceramicware.

**J.** Flatware - means ceramic articles that have an internal depth, as measured from the lowest point to the horizontal plane passing through the upper rim, that does not exceed 25 millimeters.

K. Hollowware - means ceramic articles having an internal depth, as measured from the lowest point to the horizontal plane passing through the upper rim, greater than 25 millimeters. The two categories of hollowware and their sub-categories are:

1. Large hollowware - Ceramic articles with a capacity of 1.1 liter or more.

   a. Pitchers - Large ceramic hollowware vessels (sometimes known as jugs) commonly used for storage and dispensing of fruit and vegetable juices or other acidic beverages at or below room temperature. Pitchers are generally manufactured without a lid but with a handle and lip spout. Creamers, coffeepots and teapots are not considered to be pitchers. Depending upon capacity, creamers, coffeepots and teapots may be considered small or large hollowware.

   b. Other (not including pitchers) - Ceramic vessels with a capacity of 1.1 liter or more. (Note that different action levels apply to pitchers than to large hollowware other than pitchers under the Criteria.)

2. Small hollowware - Ceramic articles with a capacity of less than 1.1 liter.

   a. Cups and Mugs - Small ceramic hollowware vessels commonly used for consumption of beverages, for example, coffee or tea, at or above room temperature. Cups and mugs usually, but not exclusively, have a capacity of about 240 milliliters (240 ml) or 8 fluid ounces (8 fl. oz.) and are manufactured with a handle. Cups generally have a base and curved sides while a mug has cylindrical sides.

   b. Other (not including cups and mugs) - Ceramic vessels with a capacity of less than 1.1 liter. (Note that different action levels apply to cups and mugs than to small hollowware other than cups and mugs under the Criteria.)

L. May Proceed Rate - means the rate of import entries entered into domestic commerce without FDA physical examination or sampling that varies from a high near 100% for commodity/country/firm combinations for which FDA has a high confidence of compliance (e.g., particular firms have demonstrated a good compliance history and are certified by a foreign government), to a low of at or near 0% for commodity/country/firm combinations for which FDA has a low confidence of compliance (e.g., firms with a history of noncompliance with the Federal Food, Drug, and Cosmetic Act).

M. Sample - means portion of a certified delivery lot being offered for entry into the United States that is intended to be representative of that lot. It consists of a number of units or subsamples, collected as specified in Article V, governing SAMPLE COLLECTION.

N. Shipping Carton - means a box that contains one or more retail cartons of daily-use ceramicware produced by a CNCA/CIQ-certified factory, has the CIQ sticker/logo with

the CNCA/CIQ factory code imprinted on it, and has the factory name and code, the year of production of the factory lot and the factory lot number printed on its exterior surface.

O. Traditional Ceramicware - means the ceramic dinnerware, spoons and other ware that might be used to contain or store foods and beverages. Such items are usually porcelain items, hand-painted with soft lead-containing enamels, and highly decorated with vivid colors and intricate patterns, which have been found to leach unacceptable levels of lead. The patterns are of red, yellow, and green, and referred to as "Longevity," "Flowers on Black," and "One Thousand Flowers," for example.

## III. BASIC OBLIGATIONS

A. THE CNCA

CNCA intends to ensure that daily-use ceramicware products that are intended for export to the United States comply with the provisions of this MOU. CNCA should direct the CIQs to inspect and certify factories, and inspect and analyze samples, to ensure that ceramicware intended to be exported to the United States complies with these requirements and provisions.

To carry out its responsibilities, CNCA intends to:

1. Implement and oversee a daily-use ceramicware factory certification system;

2.

a. Provide, on a continuing basis, FDA's Center for Food Safety and Applied Nutrition with a nationally standardized listing of factory names, addresses and codes of CNCA/CIQ-certified daily-use ceramicware factories that export such daily-use ceramicware to the United States;

b. Authorize the export of qualified daily-use ceramicware to the United States only from CNCA/CIQ-certified factories;

3.

a. Affix to each shipping carton and retail carton containing daily-use ceramicware that meets the Criteria a CIQ "H" (for Health) sticker/logo that is imprinted with the factory code of the CIQ-certified factory;

b. Require that the factory lot or production lot number be on each shipping cartón of the daily-use ceramicware that is to be exported to the United States;

4. Inspect and analyze factory lots or production lots of daily-use ceramicware to be exported to the United States at a rate commensurate with the compliance

history of the CNCA/CIQ-certified factory and sufficient to provide a high degree of confidence that the daily-use ceramicware exported to the United States is in compliance with the Criteria;

5. Ensure that the CIQ laboratories that test daily-use ceramicware to determine its compliance with the Criteria follow the analytical procedures as described in the ANALYTICAL METHODOLOGY set forth in Attachment A;

6. Authorize the export of and issue export certificates for daily-use ceramicware intended for export to the United States, either directly or transshipped through Hong Kong or other countries, as indicated either by the manufacturer or by the importer/exporter, only for those delivery lots that are in compliance with the Criteria;

7. Require that all shipments of daily-use ceramicware intended to be exported to the United States via Hong Kong or other countries, as indicated by either the daily use ceramicware manufacturer or the importer/exporter, be sealed by the CIQs in such a way as to help prevent opening during transit;

8.

   a. Work with manufacturers and CIQs to find solutions to any problems found when daily-use ceramicware from a CNCA/CIQ-certified factory and covered by this MOU are determined by FDA not to meet the Criteria;

   b. Conduct an investigation if a daily-use ceramicware product from a CNCA/CIQ certified factory is detained by FDA because of an analytical finding of excessive levels of leachable lead or cadmium, to determine the cause of the technical defect that led to the violation and how it was remedied. CNCA should provide FDA with a full report, in English, within three months of notification, on the findings of the investigation and the corrective measures taken to ensure future compliance;

9. Furnish FDA, upon request, with a copy, in both Chinese and English, of the current procedures and regulations relevant to daily-use ceramicware production/export and of the procedures/quality control plans used to ensure that each production lot of daily-use ceramicware is in compliance with FDA requirements;

10. Encourage the development and use of lead-free and cadmium-free decals, glazes and pigments in daily-use ceramicware and Chinese traditional ceramicware production; and,

11. Prevent, to the extent practicable, the export to the United States of ceramicware which is not produced in a CNCA/CIQ-certified factory, such as Chinese traditional ceramicware.

**B.** THE FDA

FDA intends to:

1. Sample and analyze certified delivery lots of daily-use ceramicware produced in CNCA/CIQ-certified factories, and offered for import into the United States to ensure that such lots exported from the People's Republic of China and offered for import into the United States comply with the laws of the United States administered by the FDA;

2. Adjust its electronic entry processing system and conduct surveillance monitoring of daily-use ceramicware from CNCA/CIQ-certified factories at a rate consistent with the Agency's confidence in the effectiveness of the CNCA/CIQ factory certification system, so that the may proceed rate can be higher for daily-use ceramicware firms identified/certified by CNCA/CIQ as consistently producing and exporting daily-use ceramicware in accordance with this MOU than the may proceed rate for other Chinese daily-use ceramicware firms not so identified and certified;

3. Sample and analyze delivery lots of daily-use ceramicware from manufacturers not on the list of factories certified by the CNCA/CIQ at a relatively high review and sampling rate consistent with the FDA's concern about possible lead and cadmium contamination of daily-use ceramicware from these uncertified factories, and place such firms on detention without physical examination when it appears that the firms do not meet FDA's requirements;

4. Detain, at FDA discretion, without physical examination, subsequent delivery lots of daily-use ceramicware from a CNCA/CIQ-certified factory whose products appear to be, through previous analysis, in violation of the United States laws administered by the FDA. All daily-use ceramicware from a CNCA/CIQ-certified factory that produces violative daily-use ceramicware may remain subject to detention without physical examination until such time as the CNCA provides assurance to FDA's satisfaction that appropriate corrective actions have been implemented, and that future daily-use ceramicware products from that factory complies with the Criteria. This assurance includes the report of Section III., A., 8., b., above. FDA may then resume review of ceramicware from the CNCA/CIQ-certified factory, consistent with the provisions in III.B.2, above;

5. Promptly notify CNCA and the First Secretary (Commercial) of the Embassy of the People's Republic of China in the United States of any delivery lot or portion thereof of ceramicware covered by this MOU that is detained by FDA. This notification, by the International Affairs Staff of FDA's Center for Food Safety and Applied Nutrition, should include:
   a. The CNCA/CIQ-certified factory number;
   b. A copy of the accompanying CIQ certificate or certificate number;
   c. Production Lot number;
   d. Quantity of daily-use ceramicware detained;
   e. Commodity or the name of the product and the style number or pattern name;
   f. FDA's sample number;
   g. Date sample collected;
   h. Reason for detention, including the technical defect, e.g., defective color in decal, if known;
   i. Date of detention;
   j. FDA's District Office that detained the product and Port of Entry;
   k. Manufacturer/shipper name (Factory code, name and address); and
6. Provide advice to CNCA concerning approaches or actions that may be taken by the manufacturer/shipper of the detained product to help ensure that subsequent shipments are not detained.
7. On an annual basis, provide CNCA with results of any FDA analyses of daily-use and other ceramicware offered for import into the United States from the People's Republic of China.

## IV. TECHNICAL INFORMATION EXCHANGE

The Participants intend to share expertise, provide assistance, and exchange information. Such mutual cooperation may include, but is not be limited to:

A. Sharing current, new, and improved methods of sampling and testing of daily-use ceramicware for lead and cadmium;

B. Sharing current, proposed, or modified regulations or legislation related to daily-use ceramicware;

C. As resources permit, the exchange of administrative, regulatory, and scientific personnel knowledgeable about daily-use ceramicware;

D. The exchange of information about daily-use ceramicware quality control operations, plans, and procedures, including summaries of inspections, samples and analytical results; and

E. The exchange of data and research related to major food-caused health concerns that may be attributed to lead and cadmium.

Where appropriate, electronic records and handwritten signatures executed on electronic records satisfy and can replace paper records associated with this MOU.

## V. SAMPLE COLLECTION

Whenever practicable, FDA intends to use the same representative sample to determine conformance with the Criteria. A representative sample generally consists of: Six (6) units of identical size, shape, color, decoration, and glaze collected from each sampled delivery lot.

## VI. ADMINISTRATIVE PROCEDURES

The Participants intend to mutually establish the ways and means of giving instruction and guidance for the practical implementation and application of this MOU. All travel and per diem expenses incurred by one of the Participants in the course of providing technical assistance or other non-regulatory activities requested by the other Participant in accordance with this MOU are to be borne by the requesting Participant, upon receipt from the providing Participant of an itemized statement of account.

The Participants are expected to designate points of contact under this MOU. The Participants are expected to notify each other or the points of contact by letter.

All activities undertaken pursuant to this MOU are to be conducted in accordance with the laws and regulations of the United States of America and the People's Republic of China and are subject to the availability of personnel, resources, and appropriated funds. This MOU is not intended to create any obligations under international or other law.

Nothing in this MOU will in any way abrogate the responsibility or authority of the U.S. Food and Drug Administration under section 801 of the Federal Food, Drug and Cosmetic Act to examine any food product being offered for import into the United States or under any other law administered by FDA.

## VII. PERIOD OF UNDERSTANDING

This MOU takes effect upon signature by both Participants and will continue for five (5) years. The Participants intend to evaluate the MOU during the five-year period. It may be extended or amended by written consent of the Participants. It may be terminated by either Participant upon 30-days written notice to the other.

Signed at Rockville and Beijing in the English and Chinese Languages.

FOR THE U.S. FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES OF THE UNITED STATES OF AMERICA

Andrew C. von Eschenbach, M.D.
Acting Commissioner of Food and Drugs

29 November 2005
Date

FOR THE CERTIFICATION AND ACCREDITATION ADMINISTRATION OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. Sun Da Wei
Chief Administrator

12/12/2005
Date

**ATTACHMENT A**

ANALYTICAL METHODOLOGY

Compliance with the Criteria in Attachment B is determined by using analytical methods described in the latest edition of *Annual Book of ASTM Standards,* of the American Society for Testing and Materials (ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959), currently volume 15.02 (2005), Standard Test Method for Lead and Cadmium Extracted from Glazed Ceramic Surfaces, C738-94, or Standard Test Method for Graphite Furnace Atomic Absorption Spectrometric Determination of Lead and Cadmium Extracted from Ceramic Foodware, C1466-00.

The method also appears in the 17th Edition of *Official Methods of Analysis* (AOAC International, 481 N. Frederick Avenue, Suite 500, Gaithersburg, MD 20877-2417). Method 973.32 is used for high levels, Method 973.82 is used for low levels, and Method 999.17 is an alternate graphite furnace atomic absorption spectrometric procedure for low levels.

The levels of lead and cadmium are to be determined by analyzing each unit at the same time, individually, according to the above-cited method.

**ATTACHMENT B**

CRITERIA FOR CERTIFICATION FOR EXPORT OF DAILY-USE CERAMICWARE

CNCA intends not to certify ceramicware factories that produce daily-use ceramicware for export to the United States that contain levels of lead or cadmium that exceed the following United States Food and Drug Administration guidance that is non-discriminatory, and applies without distinction to domestic and imported products:

A. LEAD

| *Category* | **Action Basis** | Maximum Level* Micrograms/mL |
|---|---|---|
| Flatware | Average of 6 units | 3.0 |
| Small Hollowware other than cups, mugs and pitchers | Any one of 6 Units | 2.0 |
| Cups and mugs | Any one of 6 units | 0.5 |
| Large Hollowware other than pitchers | Any one of 6 units | 1.0 |
| Pitchers | Any one of 6 units | 0.5 |

B. CADMIUM

| **Category** | **Action Basis** | Maximum Level* Micrograms/mL |
|---|---|---|
| Flatware | Average of 6 units | 0.5 |
| Small Hollowware | Any one of 6 units | 0.5 |
| Large Hollowware | Any one of 6 units | 0.25 |

* Micrograms of element per milliliter of four percent (4%) acetic acid leaching solution as per cited analytical method.

FDA 225-06-8001

# 中华人民共和国国家认证认可监督管理局
# 与
# 美利坚合众国卫生和人类服务部食品药物管理局
# 关于对美出口的调制、盛放或贮存食品和饮料的
# 陶瓷器皿问题
# 谅解备忘录

## 序言

备忘录的参与方为中华人民共和国国家认证认可监督管理局(CNCA)，美利坚合众国卫生和人类服务部食品药物管理局（FDA），此后统称为"参与方"。

认识到中华人民共和国国家质量监督检验检疫总局（AQSIQ）是中华人民共和国负责统一监督管理全国进出口商品检验工作的政府机构，中国人民共和国国家认证认可监督管理局(CNCA)是中国国务院授权、负责输美日用陶瓷器皿的行政管理机构。

认识到AQSIQ所属的中国出入境检验检疫局（CIQ）经AQSIQ/CNCA授权负责从事中华人民共和国各种出口陶瓷的检验、有代表性的试样抽取和检测工作以确保来自CNCA / CIQ认证工厂的对美出口的合格日用陶瓷安全地用于调制、盛放或贮存食品和饮料。

认识到FDA负责执行《联邦食品、药品和化妆品法》、《良好包装和标签法》以及美国其他相关法规。双方达成如下协议：

## 一、目的

中华人民共和国国家认证认可监督管理局(CNCA)和美利坚合众国卫生和人类服务部食品药物管理局（FDA），达成本《谅解备忘录》的共同目的是：

A：建立认证体系以便增加在中华人民共和国制造的准备进入美国的日用陶瓷完全符合美国法律的可能性。为此，本备忘录阐明“认证准则”（以下简称“准则”），用于：1）直接从中华人民共和国出口到美国或者贸易关系人（陶瓷生产厂或者进／出口商）声明经香港转运出口到美国供调制、盛放或贮存食品的陶瓷器皿，以及2）中华人民共和国生产这些陶瓷器皿的加工厂。

B：根据FDA对CNCA／CIQ工厂认证体系的有效性的信任，使FDA减少其对来自经（CNCA／CIQ）认证的中华人民共和国内工厂的输美日用陶瓷器皿的抽查频率。

C：在本备忘录项下，对科学与管理规章信息、技术协助及研究方面的合作交流做出规定，以确保中华人民共和国出口到美国的陶瓷器皿的安全、优质和标识正确无误。

## 二、定义

双方同意本备忘录如下定义：

A、行动水平：系指某商品中或商品上污染物的浓度所处的、食品药物管理局可按规章对该商品采取行动的水平。行动水平是非歧视性的，无差别地适用于国内产品和进口产品，反映了FDA对该商品中或该商品上污染物浓度目前的规定，处于该限量水平时即可按规章采取行动。

B、审查样品：系指为核实由某认证体系或私人实验室所提供、号称显示一个产品符合《联邦食品、药品和化妆品法》和(或)法规的分析结果属实而抽取的样品。

C、认证交货批：系指经CNCA／CIQ认证的工厂生产的、符合本备忘录附件B《出口陶瓷认证准则》的、一次出口至美国的陶瓷器皿的数量单位。一个认证交货批可以由单一或多工厂批或生产批组成。该交货批的每一运输纸箱和零售纸箱均用CIQ的标签／标识加以识别，其上印有CNCA／CIQ认证工厂的标准化的厂代号。

D、日用陶瓷：系指用于调制、盛放或贮存食品或饮料的陶瓷餐具，通常是廉价的、较为耐用的、有望为消费者普遍使用的陶瓷餐具。

E、不经实际检验即行扣留：系指食品物药物管理局无需实际检验，凭某一进口商品以往有违反《联邦食品、药品和化妆品法》的前科或者有显现该产品可能违章的其他信息即可对其实行扣留的管理行为。

F、电子报关处理系统：系指自动的 FDA 进口报关处理系统。该系统以电子手段按进口报关的预定百分率结关，以便进入美国市场。除了其他因素，自动结关的预定百分率，即"可通关率"取决于该商品 / 国家 / 企业的综合因素与 FDA 强制执行的法律及其实施细则相符合的表现的优劣以及 FDA 对该商品 / 国家 / 企业的综合因素同这些法律法规符合的信任程度。

G、工厂代号：系指某一特定工厂的由三部分共 6 个字符（5 个数字和一个字母）所组成的一组字母数字代码。前 2 位数字代表所在省市，字母"T"代表陶瓷器皿，最后 3 位数字是 CNCA / CIQ 用以表示各省市内的工厂的代码。

H、工厂批或生产批：系指统一的、由均匀研磨而成的同一种泥釉制作的陶瓷器皿的数量单位。同一工厂批或生产批在烧制时间和温度、成分、装饰花型、瓷釉等方面必须一致。

I、工厂批号或生产批号：系指工厂指定的既与生产日、生产期间有关，又指示出可能会影响陶瓷器皿质量的一组特定条件（生产日期、窑的条件、材料、图案等）的号码。

J、扁平器皿：系指从最低点至口边缘水平面之间的内深不超过 25 毫米的陶瓷器皿。

K、空心器皿：系指从最低点至口边缘水平面之间的内深大于 25 毫米的陶瓷器皿。空心器皿的两大分类及其子分类是：

1、大空心器皿：容量大于或等于 1.1 升的陶瓷器皿。

a、罐：大陶瓷空心器皿（有时称作壶），通常用于在室温或室温以下贮存、倾倒果蔬汁或其他酸性饮料。罐一般没有盖子，但有手柄和唇状嘴。奶杯、咖啡壶、茶壶不视为罐类。奶杯、咖啡壶、茶壶依其容量可视为小空心器皿或大空心器皿。

b、其他大空心器皿（不包括罐）：容量大于或等于 1.1 升的陶瓷器皿。

注：在准则中，用于罐类的行动水平与除了罐类外的其他空心器皿不同。

2、小空心器皿：容量小于 1.1 升的陶瓷器皿。

a、杯和大杯：小陶瓷空心器皿通常用于在室温或室温以上饮用饮料，如咖啡或茶。杯和大杯的容量通常为（但不全是）240 毫升或 8 液盎司，带有把柄。杯通常有底座和弯曲的侧面，而大杯则是圆柱形的侧面。

b、其他小空心器皿（不包括杯和大杯）：容量小于 1.1 升的小陶瓷空心器皿。

注：在准则中，用于杯和大杯的行动水平与除了杯和大杯外的其他小空心器皿不同。

L、可通关率：系指进口报关未经 FDA 实际检查或取样就进入美国国内市场的比率。可通关率的高低视情况而定，对 FDA 符合信任程度高的商品 / 企业 / 国家 / 来说（例如，对记录表明好的符合要求的历史并获得外国政府认证的特定企业），可通关率可高达近 100%；对 FDA 符合信任程度低的商品 / 企业 / 国家 / 来说（例如，对有不符合食品、药物和化妆品法前科的企业），可通关率可低至 0%。

M、样品：拟用来代表输美认证交货批的部分产品，由按第五章“取样”条款来采取的几组样品单元或子样组成。

N、运输包装箱：系指盛放经 CNCA / CIQ 认证的工厂生产的日用陶瓷的箱子，里面可能有一个或多个零售包装箱，其上贴着印有 CNCA / CIQ 工厂代号的 CIQ 标签 / 标识，印有工厂名称和代号，该工厂批的生产年份和工厂批号。

O、传统陶瓷：系指那些有可能用于盛装或存放食品和饮料的陶瓷餐具和汤匙器皿，通常为瓷器，用含铅软釉料手绘，用鲜艳的彩色和复杂的图案来装饰，已经发现其可溶出铅含量达到了难以接受水平。例如，红、黄、绿颜色的“万寿无疆”、“黑地万花”、“万花”等图案。

## 三、基本义务

A、中华人民共和国国家认证认可监督管理局

CNCA 保证出口到美国的日用陶瓷产品符合本备忘录之规定。CNCA 将指导 CIQ 对工厂进行检查和认证，并对样品进行检验和分析，以保证输美陶瓷器皿符合上述要求和规定。

CNCA 为履行其职责，拟：

1、实施和监督日用陶瓷厂认证体系。

2. a. 连续地向 FDA 的食品安全和应用营养中心提供 CNCA / CIQ 认证的输美日用陶瓷工厂的名称、地址和代号的国家标准化清单；

b. 只批准经 CNCA / CIQ 认证工厂生产的合格日用陶瓷器皿输往美国。

3. a. 对装有符合准则的日用陶瓷器皿的每一运输包装箱和零售包装箱，均要加贴印有 CIQ 认证工厂代号的 CIQ “H”（卫生）标签/标识。

b. 要求输美日用陶瓷器皿的每一运输包装箱上均要有工厂批号或生产批号。

4、按与 CNCA / CIQ 认证工厂以往遵规情况相称的且足以提供高度相信该输美日用陶瓷是符合准则的比例去检测和分析输美日用陶瓷的工厂批或生产批。

5、确保 CIQ 实验室在对日用陶瓷进行检测、以确定其符合准则时一定要遵守本备忘录附件 A《分析方法》中所描述的分析程序。

6、只批准符合准则的日用陶瓷交货批出口到美国并出具出口证书，无论该交货批是直接出口还是厂商或是进 / 出口商声明经香港或其他国家转运到美国。

7、要求所有由陶瓷生产厂或由进 / 出口商声明经香港或其他国家转运到美国的日用陶瓷货物都要由 CIQ 加以封识，以帮助于防止在转运中开箱。

8. a. 如 FDA 认定来自 CNCA / CIQ 认证工厂的并为本备忘录涵盖的日用陶瓷器皿不符合准则，与生产厂和 CIQ 一同寻求解决问题的办法；

b、若来自 CNCA / CIQ 认证工厂的日用陶瓷产品经分析发现其铅 / 镉溶出量过高而被 FDA 扣留，则进行调查，以确定导致问题发生的技术缺陷的原因和缺陷的补救办法，CNCA 应在扣留通知后三个月内向 FDA 提交一份有关调查结果和为保证以后符合规定准则所采取的纠偏措施的英文报告。

9、一经 FDA 要求，则向 FDA 提供有关日用陶瓷生产 / 出口现行程序和规定的中英文本和用以保证每一日用陶瓷生产批都符合美国 FDA 要求的程序 / 质量控制计划的中英文本。

10、鼓励在日用陶瓷和中国传统瓷生产中开发和采用无铅无镉移画印花纸、釉料和颜料。

11、在可行的范围内，防止非 CNCA / CIQ 认证工厂生产的陶瓷器皿，如“传统陶瓷”，出口到美国。

B、美利坚合众国食品药物管理局

FDA 拟：

1、对 CNCA / CIQ 认证工厂生产的输美陶瓷交货批抽取样品，并加以分析以确保已获 CIQ 认证厂生产的中华人民共和国出口到美国的日用陶瓷交货批符合 FDA 负责执行的美国法律要求。

2、调整其电子报关处理系统并对来自 CNCA / CIQ 认证工厂日用陶瓷进行监督检查。调整和监督检查的比例将与该机构对 CNCA/CIQ 工厂认证体系的有效性的信任程序相一致。这样，经 CNCA/CIQ 认定/认证为符合本备忘录要求、前后一贯地生产并向美国出口日用陶瓷企业的“可通关率”很有可能大大高于未获得此种认定/认证的中国日用陶瓷企业的“可通关率”。

3、对未列入 CNCA / CIQ 认证工厂名单的生产厂的日用陶瓷交货批以相对较高的比例进行审查和取样，该比例与 FDA 对来自这些非认证工厂日用陶瓷铅镉污染物关注的程度相一致，如发现这些企业不符合 FDA 的要求，不经实际检验即将这些企业列入自动扣留。

4、对某一 CNCA / CIQ 认证工厂的日用陶瓷交货批，若此前经分析表明，该厂产品曾违反 FDA 执行的美国法律的话，由 FDA 判断，不经实际检验即可随意扣留。凡来自曾生产过违法日用陶瓷的 CNCA / CIQ 认证工厂的所有日用陶瓷器皿均维持自动扣留，直至 CNCA 提供已采取了相应的整改措施及今后来自该 CNCA / CIQ 认证工厂的日用陶瓷产品将符合准则的令 FDA 满意的保证时为止。该保证包括前面第三章 A 款第 8 条 b 项的报告内容，而后 FDA 方可恢复对来自该 CNCA / CIQ 认证工厂的陶瓷器皿的正常检查，与前面第三章 B 款第 2 条的规定相一致。

5、本备忘录所涉及陶瓷器的任何交货批或其中一部分，因不符合美国法律而一经被扣

留，将立即通知 CNCA 和中华人民共和国驻美国大使馆一等秘书（商务）。由 FDA 食品安全和应用营养中心国际事务部发出的这份通知内容应包括：

a. CNCA / CIQ 认证工厂代号；

b. 随附的 CIQ 检验证书复印件或证书编号；

c. 生产批号；

d. 被扣日用陶瓷器皿数量；

e. 商品或产品名称以及式样号或型号；

f. FDA 的样品号；

g. 取样日期；

h. 扣留原因，包括技术缺陷，如移画印花的颜色缺陷，如果知道的话；

i. 扣留日期；

j. 扣留产品的 FDA 地区机构和进口港；

k. 生产厂 / 发货人名称（工厂代号、名称和地址）；

6、就有关被扣产品的生产厂 / 发货人可以采取的方法和措施等向 CNCA 提供建议，以有助于保证今后货物不被扣留。

7、将 FDA 对中华人民共和国输美日用的和其他陶瓷的分析结果逐年提供给 CNCA。

## 四、技术信息交流

参与双方同意分享专有技术、提供协作、交流信息。这种互相合作可以包括，但不限于：

A、分享现行的、新的和改进的日用陶瓷铅镉取样和测定方法；

B、分享现行的、提议的或修订的有关日用陶瓷器皿的规定或法规；

C、当财力允许时，进行有关日用陶瓷管理人员、规章制定人员和学有专长的科技人员的交流；

D、有关日用陶瓷质量控制操作、计划和程序，包括检验、取样和分析结果摘要方面的

信息交流；

E、交换有关可能由铅镉造成的由食品引起的重大健康问题的数据和研究结果。

适当时，电子记录和在电子记录上的签字可代替或等效于与备忘录有关的纸质记录。

## 五、取样

只要可能，FDA 准备使用同一的代表性样品来判定是否符合《准则》。代表性样品通常包含：从每一个被抽样的交货批中抽取的尺寸、形状、颜色、装饰和釉面完全相同的六件产品。

## 六、管理程序

参与双方须共同商定为实施和适用本备忘录而发布指令和指南的方式方法。协议参与一方根据本备忘录所要求另一方提供的技术协作或其他非监管活动所产生的全部旅费和出差津贴均应由请求方负担，提供帮助的参与一方须提交逐项花费的收据。

参与双方将在本备忘录下指定联络点，并通过信函通知对方。

根据备忘录开展的活动都应遵守美利坚合众国和中华人民共和国的法律、法规，并且受限于可利用的人力、资源和拨下的预算。本备忘录将不会造成涉及国际法或其他法律下的任何新的义务。

本备忘录将不会免除FDA根据《联邦食品、药品和化妆品法》的第801节规定或者其他法律对出口到美国的任何食品进行检查责任或者权力。

## 七、协议期限和文本

本备忘录的各项条款经双方签字后生效，有效期 5 年。参与双方同意在 5 年有效期内对本备忘录进行评价。经书面协商同意可延长或修改本备忘录。参与一方可提前 30 天书面通知对方终止本备忘录。

双方分别在诺克维尔和北京用英文和中文签署。

**中华人民共和国**
**国家认证认可监督管理局**

国家认证认可监督管理局局长

孙大伟

2005年12月12日

**美利坚合众国卫生和人类**
**服务部食品药品管理局**

食品药品管理局局长

Andrew C. von Eschenbach, M.D.

2006年01月26日

附件A：

## 分析方法

为确定铅、镉溶出量符合附件B准则规定的限量，采用的分析方法为：美国试验与材料协会（ASTM，位于100BARR HARBOR DRIVE，WEST CONSHOHOCKEN，PA19428－2959）之最新版《ASTM标准年鉴》现行15.02（2005）卷中所述的“上釉陶瓷表面溶出的铅、镉标准测定方法，C738－94”，或者“陶瓷食品器皿铅、镉溶出量石墨炉原子吸收准则测定方法，C1466-00。”

该方法另见于“官方分析方法”第17版（AOAC INTERNATIONAL，481N FREDERICK AVENUE，SUITE 500，GAITHERSBURG，MD 20877－2417）。973.32用于高的水平（含量），973.82用于低的水平（含量）。方法999.17是一个替代测定低水平的石墨炉原子吸收光谱分析程序。

铅、镉溶出量是按上述方法对每一样品分别同时进行分析来确定的。

附件 B:

## 出口日用陶瓷认证准则

CNCA 同意输美陶瓷铅或镉溶出量超过下述美国食品药物管理局规定限量的陶瓷工厂不予认证。该限定限量是非歧视性的，无差别地适用于国内产品和进口产品：

A. 铅

| 类型 | 行动基数 | 最高限量*（微克/毫升） |
|---|---|---|
| 扁平器皿 | 六件平均 | 3.0 |
| 除杯、大杯和罐以外的小空心器皿 | 六件中的任何一件 | 2.0 |
| 杯和大杯 | 六件中的任何一件 | 0.5 |
| 除罐以外的大空心器皿 | 六件中的任何一件 | 1.0 |
| 罐 | 六件中的任何一件 | 0.5 |

B. 镉

| 类型 | 行动基数 | 最高限量*（微克/毫升） |
|---|---|---|
| 扁平器皿 | 六件平均 | 0.5 |
| 小空心器皿 | 六件中的任何一件 | 0.5 |
| 大空心器皿 | 六件中的任何一件 | 0.25 |

● 按引用分析方法，每毫升 4%醋酸溶出液中含该元素的微克数。

[FR Doc. 06–2894 Filed 3–24–06; 8:45 am]
BILLING CODE 4160–01–C

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5037–N–14]**

### Notice of Submission of Proposed Information Collection to OMB; Hispanic-Serving Institutions Assisting Communities

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Grants to assist Hispanic-serving institutions expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing and economic development.

**DATES:** *Comments Due Date:* April 26, 2006.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0198) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** Lillian Deitzer, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number.

Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* Hispanic-Serving Institutions Assisting Communities.

*OMB Approval Number:* 2528–0198.

*Form Numbers:* SF–424, SF–424–Supplement, HUD–424–CB, SFLLL, HUD–27300, HUD–2880, HUD–2990, HUD–2991, HUD–2993, HUD–2994–A, HUD–96010, and HUD–96011.

*Description of the Need for the Information and Its Proposed Use:* Grants to assist Hispanic-serving institutions expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing and economic development.

*Frequency of Submission:* On occasion, Semi-Annually, Other Final Report.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden | 40 | 2.5 | | 27.5 | | 2,750 |

*Total Estimated Burden Hours:* 2,750.

*Status:* Extension of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 21, 2006.

**Lillian L. Deitzer,**

*Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.*

[FR Doc. E6–4414 Filed 3–24–06; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4950–FA–34]**

### Announcement of Funding Awards for the Rural Housing and Economic Development Program; Fiscal Year 2005

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Rural Housing and Economic Development Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

**FOR FURTHER INFORMATION CONTACT:** Jackie L. Williams, Ph.D., Director, Office of Rural Housing and Economic Development, Office of Community Planning and Development, 451 Seventh Street, SW., Room 7137, Washington, DC 20410–7000; telephone (202) 708–2290 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339. For general information on this and other HUD programs, call Community Connections at (800) 998–9999 or visit the HUD Web site at *http://www.hud.gov.*

**SUPPLEMENTARY INFORMATION:** The Rural Housing and Economic Development program was authorized by the Department of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Act of 1999. The competition was announced in the NOFA published March 21, 2005 (70 FR 14012).

Applications were rated and selected for funding on the basis of selection criteria contained in that notice.

The Catalog of Federal Domestic Assistance number for this program is 14.250.

The Rural Housing and Economic Development Program is designed to build capacity at the State and local level for rural housing and economic development and to support innovative housing and economic development activities in rural areas. Eligible applicants are local rural nonprofit organizations, community development corporations, federally recognized Indian tribes, State housing finance agencies, and state community and/or economic development agencies. The funds made available under this program were awarded competitively, through a selection process conducted by HUD.

For the Fiscal Year 2005 competition, a total of $23.7 million was awarded to 103 projects nationwide.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A to this document.

Dated: March 14, 2006.

**Pamela H. Patenaude,**

*Assistant Secretary for Community Planning and Development.*

APPENDIX A—FISCAL YEAR 2005 FUNDING AWARDS FOR RURAL HOUSING AND ECONOMIC DEVELOPMENT PROGRAM

| Recipient | State | Amount |
|---|---|---|
| Chilkoot Indian Association | AK | $150,000.00 |
| The Hale Empowerment and Revitalization Organization (HERO) | AL | $149,963.13 |
| Health Services Center, Inc | AL | $150,000.00 |
| Arkansas Land and Farm Development Corporation | AR | $134,321.42 |
| Lee County Community Development Corporation Inc | AR | $146,000.00 |
| Arkansas Development Finance Authority | AR | $400,000.00 |
| Four Corners Enterprise Community, Inc | AZ | $150,000.00 |
| San Carlos Housing Authority | AZ | $140,973.00 |
| Moenkopi Developers Corporation, Inc | AZ | $146,936.00 |
| White Mountain Apache Housing Authority | AZ | $400,000.00 |
| International Sonoran Desert Alliance | AZ | $400,000.00 |
| Nogales Community Development Corp | AZ | $400,000.00 |
| Comite de Bien Estar, Inc | AZ | $400,000.00 |
| Big Pine Indian Reservation | CA | $129,453.00 |
| Timbisha Shoshone Tribe | CA | $149,112.00 |
| California Coalition for Rural Housing | CA | $150,000.00 |
| California Human Development Corp | CA | $150,000.00 |
| Walking Shield American Indian Society | CA | $400,000.00 |
| Bear River Band of Rohnerville Rancheria | CA | $400,000.00 |
| Los Caminos Antiguos Scenic and Historic Byways Association, Inc. | CO | $150,000.00 |
| Central Florida Community Development Corporation | FL | $150,000.00 |
| Community Development Corporation of Southwest Georgia | GA | $150,000.00 |
| Sapelo Island Cultural and Revitalization Society, Inc | GA | $149,875.00 |
| Southwest Georgia United Empowerment Zone, Inc. | GA | $400,000.00 |
| Heritage Ranch, Inc | HI | $400,000.00 |
| Bethany Village | IL | $100,000.00 |
| Hazard-Perry County Housing Development Alliance, Inc. | KY | $150,000.00 |
| McCreary County Community Housing Development | KY | $150,000.00 |
| Homeless and Housing Coalition of Kentucky | KY | $150,000.00 |
| Kentucky Highlands Investment Corporation | KY | $400,000.00 |
| People's Self-Help Housing, Inc | KY | $400,000.00 |
| Kentucky Housing Corporation | KY | $400,000.00 |
| Macon Ridge Community Development | LA | $300,000.00 |
| Microenterprise Council of Maryland (MCM) | MD | $150,000.00 |
| Maine Development Foundation | ME | $150,000.00 |
| Four Directions Development Corp. | ME | $398,824.00 |
| Northern Homes Community Development Corporation | MI | $150,000.00 |
| Sault Ste. Marie Tribe of Chippewa Indians | MI | $150,000.00 |
| Huron Potawatomi, Inc | MI | $149,997.00 |
| Keweenaw Bay Indian Community | MI | $400,000.00 |
| Midwest Minnesota Community Development Corp | MN | $362,500.00 |
| Top of the Ozarks Resource Conservation & Development Inc | MO | $360,898.00 |
| Pinebelt Community Services | MS | $150,000.00 |
| Mississippi Action for Commuity Education, Inc. | MS | $400,000.00 |
| County Housing Education and Community Services, Inc | MS | $399,098.00 |
| Gateway Economic Development District | MT | $150,000.00 |
| Lake County Community Development Corp | MT | $150,000.00 |
| Browning Community Development Corporation | MT | $150,000.00 |
| Native American CDFI Coalition | MT | $150,000.00 |
| Hays Community Economic Development Corp. | MT | $150,000.00 |
| Blackfeet Housing | MT | $400,000.00 |
| The Affordable Housing Group of North Carolina, Inc | NC | $149,382.00 |
| Design Corps | NC | $150,000.00 |
| Northwestern Housing Enterprises, Inc | NC | $150,000.00 |
| Olive Hill Community Economic Development Corp. Inc | NC | $81,000.00 |
| Hollister R.E.A.C.H., Inc | NC | $149,560.00 |
| Nebraska Housing Developers Association | NE | $149,996.00 |

APPENDIX A—FISCAL YEAR 2005 FUNDING AWARDS FOR RURAL HOUSING AND ECONOMIC DEVELOPMENT PROGRAM—Continued

| Recipient | State | Amount |
|---|---|---|
| Ho-Chunk Community Development Corporation | NE | $147,210.00 |
| New Mexico Rural Development Response Council | NM | $150,000.00 |
| Cuatro Puertas | NM | $149,858.00 |
| Dona Ana County Colonias Development Council | NM | $150,000.00 |
| Mexicano Land Education and Conservation Trust | NM | $139,000.00 |
| Southeast NM Community Action Corporation | NM | $150,000.00 |
| Pueblo of Picuris | NM | $400,000.00 |
| New Mexico Mortgage Finance Authority | NM | $400,000.00 |
| Pyramid Lake Paiute Tribe | NV | $100,000.00 |
| Cooperative Ext. Assoc. of Albany County | NY | $200,000.00 |
| Ohio Valley Regional Development Commission | OH | $105,000.00 |
| Sojourners Care Network | OH | $150,000.00 |
| Delaware Nation | OK | $150,000.00 |
| Little Dixie Community Action Agency, Inc | OK | $150,000.00 |
| Oregon Corporation for Affordable Housing | OR | $100,000.00 |
| Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians | OR | $149,984.00 |
| Umatilla Reservation Housing Authority | OR | $400,000.00 |
| Central Pennsylvania Community Action, Inc | PA | $150,000.00 |
| Southwestern Pennsylvania Legal Services, Inc | PA | $150,000.00 |
| Mennonite Economic Development Associates | PA | $150,000.00 |
| Corporación de Desarrollo Económico de Ceiba, CD | PR | $400,000.00 |
| Community Development Corporation of Marlboro County | SC | $205,000.00 |
| Planning & Development District III | SD | $150,000.00 |
| Northeast South Dakota Community Action Program (NESDCAP) | SD | $150,000.00 |
| Four Bands Community Fund Inc | SD | $380,000.00 |
| Volunteer Housing Development Corp | TN | $119,758.00 |
| Volunteer Housing Management Corp | TN | $100,000.00 |
| Clinch-Powell Resource Conservation and Development Area | TN | $148,101.56 |
| Eastern Eight Community Development Corp | TN | $150,000.00 |
| Carey Counseling Center, Inc | TN | $380,988.00 |
| West Tennessee Legal Services | TN | $400,000.00 |
| Buffalo Valley, Inc. | TN | $400,000.00 |
| Walker Montgomery Community Development Corp | TX | $150,000.00 |
| El Paso Community Action Program, Project Bravo, Inc | TX | $149,212.00 |
| Southwest Community Investment Corporation | TX | $150,000.00 |
| Proyecto Azteca | TX | $400,000.00 |
| El Paso Empowerment Zone Corp | TX | $400,000.00 |
| Texas RioGrande Legal Aid, Inc | TX | $400,000.00 |
| ACCION Texas | TX | $400,000.00 |
| Azteca Community Loan Fund | TX | $400,000.00 |
| Northwestern Band of Shoshone Nation | UT | $150,000.00 |
| Aneth Chapter Community Development Corporation | UT | $400,000.00 |
| Lower Elwha Housing Authority | WA | $150,000.00 |
| Neighborhood Housing Services of Richland County | WI | $150,000.00 |
| Woodlands Development Group | WV | $400,000.00 |
| Wind River Development Fund | WY | $155,000.00 |
| Total | | $23,677,000.11 |

[FR Doc. E6–4347 Filed 3–24–06; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Availability of a Proposed Safe Harbor Agreement for the Valley Elderberry Longhorn Beetle for Landowners Restoring Riparian Habitat in the Lower Mokelumne River Watershed in San Joaquin County, California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; receipt of application

**SUMMARY:** This notice advises the public that the California Association of Resource Conservation Districts (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service for the threatened valley elderberry longhorn beetle (VELB) (*Desmocerus californicus dimorphus*). The Agreement and permit application are available for public comment.

**DATES:** Written comments should be received on or before April 26, 2006.

**ADDRESSES:** Comments should be addressed to Shannon Holbrook, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Written comments may be sent by facsimile to (916) 414–6711.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shannon Holbrook, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414–6600.

**SUPPLEMENTARY INFORMATION:**

**Availability of Documents**

You may obtain copies of the documents for review by contacting the individual named above. You may also make an appointment to view the documents at the above address during normal business hours.

**Background**

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act. Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to Section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

We have worked with the Applicant to develop this proposed Agreement for the conservation of the VELB on private properties in the lower Mokelumne River watershed in San Joaquin County, California. For purposes of the Agreement, the lower Mokelumne River watershed extends from the confluence with the Cosumnes River, upstream to the Camanche Dam, exclusive of lands within the watershed of Dry Creek upstream of its crossing with Highway 99.

This Agreement provides for the creation of a Program in which private landowners (Program Participants), who enter into written cooperative agreements with the Applicant pursuant to the terms of the Agreement, will restore, enhance, and maintain riparian habitat suitable for the VELB. Such cooperative agreements will be for a term of at least 10 years. The proposed duration of the Agreement is 50 years, and the proposed term of the enhancement of survival permit is 52 years. The permit would run the additional two years following a determination by the Service that the actions identified in the Agreement were implemented prior to the Agreement's expiration. The Agreement fully describes the proposed Program, management activities to be undertaken by Program Participants, and the conservation benefits expected to be gained for the VELB.

Upon approval of this Agreement, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the Applicants authorizing take of VELB incidental to the implementation of the management activities specified in the cooperative agreements, incidental to other lawful uses of the properties including normal, routine land management activities, or to return to pre-Agreement conditions.

To benefit the VELB, Program Participants will agree to undertake management activities specified in their written cooperative agreements with the Applicant. Such management activities include the planting of elderberry (*Sambucus* sp.) bushes; the planting of other native species typical of the canopy, subcanopy, shrub, and herbaceous layers found in Valley Foothill Riparian habitats, as defined in the California Department of Fish and Game's "California Wildlife Habitat Relationships System," and certain limitations on the use of pesticides or herbicides in or near restored areas. In addition, cooperative agreements may include certain additional management activities, such as removing non-native invasive species, implementing prescribed burns, and special monitoring activities. Take of VELB incidental to the aforementioned activities is unlikely, however, it is possible that in the course of such activities, a Program Participant could incidentally take a VELB, thereby necessitating take authority under the permit.

Elderberry bushes are the exclusive host plants for the larval VELB, which develops inside the stems of the bush. Pre-Agreement conditions (baseline), consisting of the number of elderberry bushes having one or more stems that are one-inch or greater in diameter at the base, shall be determined for each enrolled property as provided in the Agreement. In order to receive the above assurances regarding incidental take of VELB, a Program Participant must maintain baseline conditions on the enrolled property. The Agreement and requested enhancement of survival permit will allow each Program Participant to return to baseline conditions after the end of the term of the 10-year cooperative agreement and prior to the expiration of the 52-year permit, if so desired by the Applicants.

Consistent with the Service's Safe Harbor Policy (64 FR 32717 *et seq.*), the proposed Agreement and requested permit also extend certain assurances to those lands that are immediately adjacent to lands on which restoration activities occur. To receive such assurances, a neighboring landowner must enter into a written agreement with the Service that specifies the baseline conditions on the property. This written agreement remains in effect until the expiration of the 50-year Agreement between the Applicant and the Service and requires the neighboring landowner to maintain the baseline conditions established at the start of the agreement.

**Public Review and Comments**

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement, which is also available for public review.

Individuals wishing copies of the permit application, copies of our preliminary Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

If you wish to comment on the permit application or the Agreement, you may submit your comments to the address listed in the **ADDRESSES** section of this document. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, pursuant to section 10(c) of the Act. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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, are available for public inspection in their entirety.

We will evaluate this permit application, associated documents, and comments submitted thereon to

determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If we determine that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicants for take of the VELB incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: March 21, 2006.

**Susan Moore,**

*Acting Field Supervisor, Sacramento Fish and Wildlife Office,Sacramento, California.*

[FR Doc. E6–4384 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of Applications for Endangered Species Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The public is invited to comment on the following applications to conduct certain activities with endangered species.

**DATES:** We must receive written data or comments on these applications at the address given below, by April 26, 2006.

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist).

**FOR FURTHER INFORMATION CONTACT:** Victoria Davis, telephone 404/679–4176; facsimile 404/679–7081.

**SUPPLEMENTARY INFORMATION:** The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species. This notice is provided under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Service's Regional Office (see **ADDRESSES** section) or via electronic mail (e-mail) to *victoria_davis@fws.gov*. Please include your name and return address in your e-mail message. If you do not receive a confirmation from the Service that we have received your e-mail message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT** section). Finally, you may hand deliver comments to the Service office listed above (see **ADDRESSES** section).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. 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.

**Applicant: Round Mountain Biological & Environmental Studies, Inc., Peggy A. Measel, TE121059–0**

The applicant requests authorization to take (capture, exam, release) the Indiana bat (*Myotis sodalis*) and gray bat (*Myotis grisescens*) while conducting presence/absence surveys for coal-related and other industries. The proposed activities would occur in the State of Tennessee.

**Applicant: Christopher E. Skelton, Athens, Georgia, TE121073–0**

The applicant requests authorization to take (capture, identify, release) the following species: Shortnose sturgeon (*Acipenser brevirostrum*), blue shiner (*Cyprinella caerulea*), Etowah darter (*Etheostoma etowahae*), Cherokee darter (*Etheostoma scotti*), amber darter (*Percina antesella*), goldline darter (*Percina aurolineata*), Conasauga logperch (*Percina jenkinisi*), snail darter (*Percina tanasi*), fat threeridge (*Amblema neislerii*), purple bankclimber (*Elliptoideus sloatianus*), upland combshell (*Epioblasma metastriata*), southern acornshell (*Epioblasma othcaloogensis*), southern combshell (*Epioblasma penita*), fine-lined pocketbook (*Lampsilis altilis*), orange-nacre mucket (*Lampsilis perovalis*), shinyrayed pocketbook (*Lampsilis subangulata*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema georgianum*), ovate clubshell (*Pleurobema perovatum*), oval pigtoe (*Pleurobema pyriforme*), and triangular kidneyshell (*Ptychobranchus greenii*). The species would be taken while conducting presence/absence surveys throughout the state of Georgia.

**Applicant: Benjamin Robert Laseter, Fish and Wildlife Associates, Inc., TE121142–0**

The applicant requests authorization to take (capture, identify, release) the Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*) while conducting presence/absence surveys. The proposed activities would occur on tribal lands of the Eastern Band of Cherokee Indians, Swain and Jackson Counties, North Carolina.

**Applicant: University of Southern Mississippi, Carl P. Qualls, TE120013–0**

The applicant requests authorization to take (capture, measure, mark, tag, collect egg masses, translocate, hold temporarily) the Mississippi gopher frog (*Rana capito sevosa* (*R. sevosa*)) while conducting presence/absence surveys and research studies. The proposed activities would occur at Glen's Pond (Harrison County, Mississippi. DeSoto Ranger Distist, DeSoto Ranger District, DeSoto National Forest), Mike's Pond (Jackson County, Mississippi), McCoy's Pond (Jackson County, Mississippi, section 16 public land south of Hurley), TNC Pond (Jackson County, Mississippi, Old Fort Bayou Mitigation Bank, north of Ocean Springs).

**Applicant: Timothy W. Savidge, The Catena Group, Inc., Raleigh, North Carolina, TE121698–0**

The applicant requests authorization to take (capture, identify, release, collect relict shells) the James spinymussel (*Pleurobema collina*), dwarf wedge mussel (*Alasmidonta heterodon*), Tar River spinymussel (*Elliptio steinstansana*), Chipola slabshell

(*Elliptio chipolaensis*), Gulf moccasinshell (*Medionidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsoniaus*), oval pigtoe (*Pleurobema pyriforme*), shinyrayed pocketbook (*Lampsilis subangulata*), fat three-ridged (*Amblema neislerii*), purple bankclimber (*Elliptoideus sloatianus*), Carolina heelsplitter (*Lasmigona decorata*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medionidus parvulus*), finelined pocketbook (*Lampsilis altillis*), ovate clubshell (*Pleurobema perovatum*), southern acornshell (*Epioblasma othcaloogensis*), southern clubshell (*Pleurobema decisum*), southern pigtoe (*Pleurobema geogianum*), trianglar kidneyshell (*Ptychobranchus greenii*), Appalachian elktoe (*Alasmidonta raveneliana*), Cumberland bean (*Villosa trabalis*), little-wing pearlymussel (*Pegias.fabula*), oyster mussel (*Epioblasma capsaeformis*), tan riffleshell (*Epioblasma florentina walkeri*), upland combshell (*Epioblasma metastriata*), snail darter (*Percina tanasi*), spotfin chub (*Cyprinella monacha*), yellowfin madtom (*Noturus flavipinnis*), amber darter (*Percina antesella*), Conasauga logperch (*Percina jenkinsi*), Etowah darter (*Etheostoma etowahae*), blue shiner (*Cyprinella caerulea*), Cherokee darter (*Etheostoma scotti*), goldline darter (*Percina aurolineata*), Cape Fear shiner (*Notropis mekistocholas*), and Waccamaw silverside (*Menidia extensa*) while conducting presence/absence studies. The proposed activities would occur in Alabama, Georgia, North Carolina, and South Carolina.

Dated: March 14, 2006.

**Cynthia K. Dohner,**

*Acting Regional Director.*

[FR Doc. E6–4387 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of Application of Endangered Species Recovery Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and receipt of applications.

**SUMMARY:** We announce our receipt of applications to conduct certain activities pertaining to enhancement of survival of endangered species.

**DATES:** Written comments on this request for a permit must be received by April 26, 2006.

**ADDRESSES:** Written data or comments should be submitted to the Assistant Regional Director-Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225–0486; facsimile 303–236–0027. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act [5 U.S.C. 552A] and Freedom of Information Act [5 U.S.C. 552], by any party who submits a request for a copy of such documents within 20 days of the date of publication of this notice to Kris Olsen, by mail or by telephone at 303–236–4256. All comments received from individuals become part of the official public record.

**SUPPLEMENTARY INFORMATION:** The following applicants have requested issuance of enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

*Applicant:* U.S. Geological Survey, Northern Prairie Wildlife Research Center, Jamestown, North Dakota, TE–121914. The applicant requests a permit to take interior least terns (*Sterna antillarum athalassos*) and piping plovers (*Charadrius melodus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* University of Nebraska, Department of Entomology, Lincoln, Nebraska, TE–121912. The applicant requests a permit to take Salt Creek tiger beetles (*Cicindela nevadica lincolniana*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* Bureau of Land Management, White River Resource Area, Meeker, Colorado, TE–121911. The applicant requests a permit to take black-footed ferrets (*Mustela nigripes*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* Steven Wall, Volga, South Dakota, TE–121908. The applicant requests a permit to take Topeka shiner (*Notropis topeka*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* Yankton Sioux Tribe, Marty, South Dakota, TE–121905. The applicant requests a permit to take interior least terns (*Sterna antillarum athalassos*) and piping plovers (*Charadrius melodus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* Saskatoon Forestry Farm park and Zoo, Saskatchewan, Canada, TE–121906. The applicant requests a permit to possess black-footed ferrets (*Mustela nigripes*) for public display and propagation in conjunction with recovery activities for the purpose of enhancing their survival and recovery.

*Applicant:* Colorado Division of Wildlife, Grand Junction, Colorado, TE–080990. The applicant requests a permit amendment to add surveys for black-footed ferrets (*Mustela nigripes*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

*Applicant:* National Park Service, Southeast Utah Group, Moab, Utah, TE–047808. The applicant requests a renewed permit to take Southwestern willow flycatchers (*Empidonax traillii extimus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* Bureau of Land Management, Grand Staircase-Escalante National Monument, TE–057401. The applicant requests a permit amendment to add surveys for Shivwitz milk-vetch (*Astragalus ampullarioides*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

*Applicant:* U.S. Geological Survey, South Dakota Coop Unit, Brookings, South Dakota, TE–047249. The applicant requests a renewed permit to take Topeka shiners (*Notropis topeka*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing their survival and recovery.

*Applicant:* Texas Zoo, Victoria, Texas, TE–051840. The applicant requests a renewed permit to possess black-footed ferrets (*Mustela nigripes*) for public display and propagation in conjunction with recovery activities for the purpose of enhancing their survival and recovery.

Dated: March 15, 2006.

**Casey Stemler,**

*Regional Director, Denver, Colorado.*

[FR Doc. E6–4410 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Submission of Information Collection to the Office of Management and Budget for Review Under the Paperwork Reduction Act

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act, this notice announces that the Bureau of Indian Affairs is submitting an information collection to the Office of Management and Budget for reinstatement. This collection expired during the renewal process. The collection concerns the implementation of the requirements of Indian Reservation Roads program allocation of funds. We are requesting a reinstatement of clearance and requesting comments on this information collection.

**DATES:** Written comments must be submitted on or before April 26, 2006.

**ADDRESSES:** You are requested to send any comments to the Desk Officer for the Department of the Interior at OMB–OIRA via facsimile (202) 395–6566 or by e-mail at *OIRA_DOCKET@omb.eop.gov.*

Please send a copy of any comments to LeRoy Gishi, Chief, Division of Transportation, 1951 Constitution Avenue, NW, Mail Stop Room 320–SIB, Washington, DC 20240; or faxed to (202) 208–6486.

**FOR FURTHER INFORMATION CONTACT:** LeRoy Gishi, (202) 513–7711.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

This information collection is necessary to allow federally-recognized tribal governments to participate in the Indian Reservation Roads (IRR) Program as defined in 23 U.S.C. 204(a)(1). Some of the information collected determines the allocation of IRR program funds to Indian tribes as described in 23 U.S.C. 202(d)(2)(A).

#### II. Request for Comments

A notice announcing the proposed renewal appeared in the **Federal Register** on September 12, 2005 (70 FR 53809). There were 24 comments received on the notice. The majority of the comments were based on: (1) The road inventory process as defined in the regulations; (2) the software used for input of data into the national database; (3) the estimated cost and burden hours to perform road inventory updates do not reflect the "in the field" efforts; and (4) policies and procedures surrounding the evaluation of required documents for inclusion of roads into the national Indian Reservation Road inventory.

There are current efforts on the part of the agency to further improve the road inventory process. Those comments on assuring that only the required information is collected and not duplicative will be reviewed and will be forthcoming in a policy update regarding the minimum requirements for attachments. The attachments are those stated in 25 CFR part 170.

The agency is updating the software (exclusively used by the agency and not the public) to reflect only the required information found in regulatory language. There is currently a court order prohibiting access by the public to systems administered by the Bureau of Indian Affairs, Department of the Interior. This prohibition extends to the software used to update the national road inventory database. Although it is not anticipated that this will change at any time in the near future, if it does, specific procedures on how the public may utilize the update software will be provided through program guidance and policies.

Based on the comments, a number of tribal transportation planners, BIA staff and consultants performing work for the tribes and the BIA were queried for an estimate of cost and burden hours to perform the inventory update for their average type of submission. One consultant estimated that the cost and time of updating the inventory for tribes located in rural areas of Montana, New Mexico, and Oklahoma was on the average of about $200/mile and about 60 days per 100 miles. This translates to about $14/hour and 14.4 hours per mile of update. Primary factors affecting this estimate are number of bridges, number of city streets and number of sections that are inventoried. Another tribal consultant working with tribes in 7 of the 12 BIA regions estimated the average cost at $413/mile. This ranges from a low of $85/mile to a high of $1,612/mile. Primary factors affecting this estimate are roadway surface type, class of road, location, terrain, and average daily traffic (ADT). A tribal engineer working in an urban setting in California estimated the cost at $60/hour and the time as 22 hours per submission (average of ½ mile) or a total cost of $1,320/mile. Primary factors affecting this estimate are the number of jurisdictions or facility ownerships that require coordination. This translates to time and effort of determining construction and maintenance responsibilities, getting tribal resolutions and formal acknowledgement from the various jurisdictions (including tribal governments). We accepted these comments and revised our burden estimates accordingly.

Most of the comments centered on the regulatory requirements of 25 CFR part 170. These comments will be considered as part of the regulatory update for 25 CFR part 170, Indian Reservation Roads Program, when they are published to include the recent statutory changes in Title 23 U.S.C., as a result of the Safe Accountable Flexible Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), Public Law 109–59, August 10, 2005. This update of the regulations will be coordinated with the Federal Highway Administration as required in statute (23 U.S.C. 204(f)).

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used;

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

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

*Burden* means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

We will not request nor sponsor a collection of information, and you need not respond to such a request, if there is no valid Office of Management and Budget Control Number.

#### III. Data

*Title:* 25 CFR part 170, Indian Reservation Roads.

*OMB control number:* 1076–0161.

*Type of Review:* Reinstatement.

*Description:* This is a request for reinstatement of information collection requirements of 25 CFR part 170, Roads of the Bureau of Indian Affairs. Part 170 implements 23 U.S.C. 202(d) and sets policies and procedures governing the Indian Reservation Roads (IRR) Program. This information collection is necessary to implement the requirements of the law which allocates funding provided from the highway trust fund to Indian tribal governments.

*Respondents:* Respondents include federally-recognized Indian tribal governments who have transportation needs associated with the IRR Program as described in 25 CFR 170.

*Total Number of Respondents:* 562.

*Estimated Time per Response:* The reports require from 5 hours to 40 hours to complete. An average would be 16 hours.

*Frequency of Response:* Annually or on an as needed basis.

*Total Number of Annual Responses:* 5,620.

*Total Annual Burden Hours:* 191,496.

Dated: March 17, 2006.

**Michael D. Olsen,**

*Acting Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. E6–4324 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–LY–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CA–310–0777–XG]**

### Notice of Public Meeting: Northwest California Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

**DATES:** The meeting will be held Thursday and Friday, May 25 and 26, 2006, in Calistoga, California. On May 25, the council members will convene at 10 a.m. at the Calistoga Spa Hot Springs, 1006 Washington St., Calistoga, and depart immediately for a field tour of geothermal energy facilities operated in the Geysers area. Members of the public are welcome. They must provide their own transportation and lunch. On May 26, the business meeting convenes at 8 a.m. in the Conference Room of the Calistoga Spa Hot Springs. Public comments will be heard at 1 p.m.

**FOR FURTHER INFORMATION CONTACT:** Rich Burns, BLM Ukiah Field Office manager, (707) 468–4000; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

**SUPPLEMENTARY INFORMATION:** The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics will include a discussion about recreation fee cost recovery, management of the Sacramento River Bend area near Redding, a briefing on the BLM's Ukiah Resource Management Plan, a status report on the Salmon Creek Resources land exchange, a briefing on the Western Utility Corridor Study and a report on formation of Recreation Resource Advisory Councils. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: March 20, 2006.

**Joseph J. Fontana,**

*Public Affairs Officer.*

[FR Doc. E6–4329 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–40–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WY–957–06–1420–BJ]**

### Notice of Filing of Plats of Survey, WY

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Filing of Plats of Survey, Wyoming.

**SUMMARY:** The Bureau of Land Management (BLM) has filed the plats of survey of the lands described below in the BLM Wyoming State Office, Cheyenne, Wyoming, on February 3, 2006.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

**SUPPLEMENTARY INFORMATION:** These surveys were executed at the request of the Bureau of Land Management, and are necessary for the management of resources. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the north boundary, and a portion of the subdivisional lines, and the subdivision of certain sections, Township 26 North, Range 84 West, Sixth Principal Meridian, Wyoming, was accepted February 3, 2006.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 32 and 33, Township 27 North, Range 84 West, Sixth Principal Meridian, Wyoming, was accepted February 3, 2006.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 14, Township 19 North, Range 94 West, Sixth Principal Meridian, Wyoming, was accepted February 3, 2006.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 10, Township 15 North, Range 83 West, Sixth Principal Meridian, Wyoming, was accepted February 3, 2006.

The plat representing the dependent resurvey of a portion of the Twelfth Standard Parallel North, through Range 78 West, the east, west, and north boundaries, and portions of the subdivisional lines, Township 49 North, Range 78 West, Sixth Principal Meridian, Wyoming, was accepted February 3, 2006.

Copies of the preceding described plats and field notes are available to the public at a cost of $1.10 per page.

Dated: March 17, 2006.

**John P. Lee,**

*Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. E6–4366 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–22–P

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open SystemC Initiative

Notice is hereby given that, on February 27, 2006, pursuant to section

6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open SystemC Initiative ("OSCI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bluespec. Inc., Waltham, MA; Canon Inc., Tokyo, Japan; Carbon Design Systems, Waltham, MA; Doulos Ltd., Ringwood, Hampshire, United Kingdom, GreenSocs Ltd., Cambridge, United Kingdom; Jeda Technologies, Inc., Los Altos, CA; and Tenison Technology EDA Ltd., Cambridge, United Kingdom have been added as parties to this venture. Also, NEC Electronics, Inc., Santa Clara, CA; Panasonic, Secaucus, NJ; and Verisity Design, Inc., Mountain View, CA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OSCI intends to file additional written notification disclosing all changes in membership.

On October 9, 2001, OSCI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 3, 2002 (67 FR 350).

The last notification was filed with the Department on May 9, 2005. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 3, 2005 (70 FR 32654).

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 06–2925 Filed 3–24–06; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 10, 2005, Organichem Corporation, 33 Riverside Avenue, Rensselaer, New York 12144, made application by renewal, and by letter on December 12, 2005, requesting the addition of Marihuana (7360) to their registration with the Drug Enforcement Administration (DEA) as a bulk manufacturer of the basic classes of controlled substances listed in Schedule I and II:

| Drug | Schedule |
|---|---|
| Marihuana (7360) | I |
| Tetrahydrocannabinols (7370) | I |
| Amphetamine (1100) | II |
| Methylphenidate (1724) | II |
| Pentobarbital (2270) | II |
| Hydrocodone (9193) | II |
| Meperidine(9230) | II |
| Dextropropoxyphene (9273) | II |
| Fentanyl (9801) | II |

The company plans to manufacture bulk controlled substances for use in product development and for distribution to its customers. In reference to drug code 7360 (Marihuana), the company plans to bulk manufacture cannabindiol as a synthetic intermediate. This controlled substance will be further synthesized to bulk manufacture a synthetic THC (7370). No other activity for this drug code is authorized for this registration.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR § 1301.33(a).

Any such written comments or objections being sent via regular mail may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative, Liaison and Policy Section (ODL); or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than May 1, 2006.

Dated: March 20, 2006.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. E6–4351 Filed 3–24–06; 8:45 am]

BILLING CODE 4410–09–P

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

*Name:* Advisory Committee for Environmental Research and education (9487).

*Dates:* April 12, 2006, 8:30 a.m.–5 p.m. and April 13, 2006, 8:30 a.m.–3:30 p.m.

*Place:* Stafford I, Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

*Type of Meeting:* Open.

*Contact Person:* Melissa Lane, Directorate for Geosciences, National Science Foundation, Suite 705, 4201 Wilson Blvd, Arlington, Virginia 22230. Phone 703–292–8500.

*Minutes:* May be obtained from the contact person listed above.

*Purpose of Meeting:* To provide advice, recommendations, and oversight concerning support for environmental research and education.

*Agenda*

*April 12*

Update on recent NSF environmental activities.
Discussion of Observatory Workshop Report.
Report by Director of OCI on Environmental Cyberinfrastructure.
Report on NSF Strategic Plan Development.
AC–ERE task group meetings.
Presentation on the NAS International Human Dimensions of Global Change committee.

*April 13*

AC–ERE task group reports.
AC–ERE Advice on Development of Water Initiative.
International Polar Year Update.
Future of Dynamics of Coupled Natural and Human System Program.
Discussion of Engineering themes on environment and sustainability.
Meeting with the Director.

Dated: March 21, 2006.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 06–2897 Filed 3–24–06; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

*Name:* Proposal Review Panel for Materials Research (DMR) #1203

*Dates & Times:* May 16, 2006; 7:30 a.m.–9 p.m.; May 17, 2006; 8 a.m.–4p.m.

*Place:* University of Nebraska, Lincoln, NE.

*Type of Meeting:* Part-Open.

*Contact Person:* Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

*Purpose of Meeting:* To provide advice and recommendations concerning further support of the Materials Research Science and Engineering Center (MRSE).

*Agenda: Tuesday, May 16, 2006*

7:45 a.m.–8:45 a.m.
Closed—Executive Session.

8:45 a.m.–4:30 p.m.
Open—Review of the Materials Research. Science and Engineering Center at the University of Nebraska.

4:30 p.m.–5:45 p.m.
Closed—Executive Session.

7 p.m.–9 p.m.
Open—Dinner.

*Wednesday, May 17, 2006*

8 a.m.–9 a.m.
Closed—Executive Session.

9 a.m.–9:45 a.m.
Open—Review of the Materials Research. Science and Engineering Center at the University of Nebraska.

9:45 a.m.–3 p.m.
Closed—Executive Session, Draft and Review Report.

*Reason for Closing:* The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. these matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 21, 2006

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 06–2898 Filed 3–24–06; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL SCIENCE BOARD

### Notice of Meeting; Sunshine Act

**AGENCY:** National Science Board, National Science Foundation.

**ACTION:** Correction to notice of public meeting.

**SUMMARY:** This document contains a correction to a notice of a public meeting that was published in the **Federal Register** on Wednesday, March 22, 2006 (71 FR 14553) relating to a meeting of the National Science Board.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Webber, (703) 292–7000 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Government in the Sunshine Act (5 U.S.C. 552b) requires the National Science Board publish notice of its meetings in the **Federal Register**.

**Need for Correction**

As published, the agenda National Science Board's March 29–30, 2006 meeting contains an error that may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the publication of the National Science Board's March 29–30, 2006 agenda is corrected as follows:

On page 14553, column 2, immediately below the section caption *Matters to be Considered*, the text is corrected to read as follows:

*Matters to be Considered:* Wednesday, March 29, 2006.

**Russell Moy,**

*Attorney-Advisor, National Science Board Office.*

[FR Doc. 06–2953 Filed 3–22–06; 4:55 pm]

BILLING CODE 7555–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–271]**

### Entergy Nuclear Operations, Inc., Vermont Yankee Nuclear Power Station; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. DPR–28 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating License No. DPR–28, which authorizes Entergy Nuclear Operations, Inc., to operate the Vermont Yankee Nuclear Power Station at 1912 megawatts (MWt) thermal. The renewed license would authorize the applicant to operate the Vermont Yankee Nuclear Power Station for an additional 20 years beyond the period specified in the current license. The current operating license for the Vermont Yankee Nuclear Power Station expires on March 21, 2012.

The Commission's staff received the application dated January 25, 2006, as supplemented by letter dated March 15, 2006, from Entergy Nuclear Operations, Inc., pursuant to 10 CFR Part 54, to renew the Operating License No. DPR–28 for Vermont Yankee Nuclear Power Station. A Notice of Receipt and Availability of the license renewal application, "Entergy Nuclear Operations, Inc. Notice of Receipt and Availability of Application for Renewal of Vermont Yankee Nuclear Power Station Facility Operating License No. DPR–28 for an Additional 20-Year Period," was published in the **Federal Register** on February 6, 2006 (71 FR 6102).

The Commission's staff has determined that Entergy Nuclear Operations, Inc. has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c), and the application is acceptable for docketing. The current Docket No. 50–271 for Operating License No. DPR–28 will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant?s CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be the subject of a separate **Federal Register** notice.

Within 60 days after the date of publication of this **Federal Register**

Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at *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's PDR reference staff by telephone at 1–800–397–4209, or by e-mail at *pdr@nrc.gov*. If a request for a hearing/petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request/petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing/petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR Parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301–415–1101, verification number is 301–415–1966.[2] A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the applicant, Mr. Terrence A. Burke, Entergy Nuclear, 1340 Echelon Parkway, mail stop M–ECN–62, Jackson, MS 39213.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating license for Vermont Yankee Nuclear Power Station, are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738, and at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, the NRC's Web site while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public

[1] To the extent that the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

[2] If the request/petition is filed by e-mail or facsimile, an original and two copies of the document must be mailed within 2 (two) business days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555–0001; Attention: Rulemaking and Adjudications Staff.

documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Number ML060300085. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

The staff has verified that a copy of the license renewal application is also available to local residents near the Vermont Yankee Nuclear Power Station at the Vernon Free Library, 567 Governor Hunt Road, Vernon, VT 05354; Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301; Hinsdale Public Library, 122 Brattleboro Road, Hinsdale, NH 03451; and Dickinson Memorial Library, 115 Main Street, Northfield, MA 01360.

Dated at Rockville, Maryland, this 21st day of March, 2006.

For the Nuclear Regulatory Commission.

**Frank P. Gillespie,**

*Director, Division of License Renewal, Office of Nuclear Reactor Regulation.*

[FR Doc. E6–4381 Filed 3–24–06; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–293]**

### Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License No. DPR–35 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating License No. DPR–35, which authorizes Entergy Nuclear Operations, Inc., to operate the Pilgrim Nuclear Power Station at 2028 megawatts (MWt) thermal. The renewed license would authorize the applicant to operate the Pilgrim Nuclear Power Station for an additional 20 years beyond the period specified in the current license. The current operating license for the Pilgrim Nuclear Power Station expires on June 8, 2012.

The Commission's staff received the application dated January 25, 2006, from Entergy Nuclear Operations, Inc., pursuant to 10 CFR Part 54, to renew the Operating License No. DPR–35 for Pilgrim Nuclear Power Station. A Notice of Receipt and Availability of the license renewal application, "Entergy Nuclear Operations, Inc., Notice of Receipt and Availability of Application for Renewal of Pilgrim Nuclear Power Station Facility Operating License No. PR–35 for an Additional 20-Year Period," was published in the **Federal Register** on February 6, 2006 (71 FR 6101).

The Commission's staff has determined that Entergy Nuclear Operations, Inc., has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) and the application is acceptable for docketing. The current Docket No. 50–293 for Operating License No. DPR–35 will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be the subject of a separate **Federal Register** notice.

Within 60 days after the date of publication of this **Federal Register** Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, first floor, Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at *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's PDR reference staff by telephone at 1–800–397–4209, or by e-mail at *pdr@nrc.gov*. If a request for a hearing/petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request/petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing/petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR Parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The

petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301–415–1101, verification number is 301–415–1966.[2] A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission. Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the applicant, Mr. Terence A. Burke, Entergy Nuclear, 1340 Echelon Parkway, Mail Stop M–ECH–62, Jackson, MS 39213.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at *http://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's Web site. Copies of the application to renew the operating license for Pilgrim Nuclear Power Station, are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike, first floor, Rockville, Maryland 20852–2738, and at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*, the NRC's Web site while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Number ML060300024. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

The staff has verified that a copy of the license renewal application is also available to local residents near the Pilgrim Nuclear Power Station at the Plymouth Public Library, 132 South Street, Plymouth, MA 02360, and The Duxbury Free Library, 77 Alden Street, Duxbury, MA 02332.

Dated at Rockville, Maryland, this 21st day of March, 2006.

For the Nuclear Regulatory Commission.

**Frank P. Gillespie,**

*Director, Division of License Renewal, Office of Nuclear Reactor Regulation.*

[FR Doc. E6–4382 Filed 3–24–06; 8:45 am]

BILLING CODE 7590–01–P

[1] To the extent that the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

[2] If the request/petition is filed by e-mail or facsimile, an original and two copies of the document must be mailed within 2 (two) business days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; Attention: Rulemaking and Adjudications Staff.

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–321 and 50–366]**

## Southern Nuclear Operating Company, Inc., Georgia Power Company,Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–57 and NPF–5, issued to Southern Nuclear Operating Company, Inc. (SNC, the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, located in Appling County, Georgia.

The proposed amendment would add a license condition to Section 2.C of the Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Operating Licenses. This license condition will authorize the licensee to credit administering potassium iodide (KI) to reduce the 30-day post-accident thyroid radiological dose to the operators in the main control room (MCR) for an interim period of approximately 4 years. In addition, the design-basis accident (DBA) analysis section of the Updated Final Safety Analysis Reports will be updated to reflect crediting of KI.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), § 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

This proposed change will authorize SNC to credit KI for an interim period in the DBA radiological consequences analyses to address the impact of MCR unfiltered inleakage. This proposed change does not result in any functional or operational change to any systems, structures, or components and has no impact on any assumed initiator of any analyzed accident. Therefore, the proposed change does not result in an increase in the probability of an accident previously evaluated.

This proposed change introduces an additional method of mitigating the thyroid dose to MCR occupants in the event of a loss-of-coolant accident (LOCA). The updated LOCA MCR radiological dose, considering 110 [cubic feet/minute] cfm unfiltered inleakage and crediting KI, continues to meet [General Design Criterion] GDC 19 acceptance limits. In the context of the current licensing basis with MCR unfiltered inleakage considered, LOCA continues to be the limiting event for radiological exposures to the operators in the MCR. Radiological doses to MCR occupants are within the regulatory limits of GDC 19 with MCR unfiltered inleakages of up to 1000 cfm without the crediting of KI for the main steam line break accident (MSLB), control rod drop accident (CRDA), and fuel handling accident (FHA). Therefore, the proposed change does not result in a significant increase in the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

This proposed change will authorize SNC to credit KI for an interim period in the [Design Basis Accident] DBA radiological consequences analyses to address the impact of MCR unfiltered inleakage. This proposed change does not result in any functional or operational change to any systems, structures, or components. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant decrease in the margin of safety?

This proposed change will authorize SNC to credit KI for an interim period in the DBA radiological consequences analyses to address the impact of MCR unfiltered inleakage. This proposed change does not result in any functional or operational change to any systems, structures, or components. This proposed change introduces an additional method of mitigating the thyroid dose to MCR occupants in the event of a LOCA. The updated LOCA MCR radiological dose, considering 110 cfm unfiltered inleakage and crediting KI, continues to meet GDC 19 acceptance limits. In the context of the current licensing basis with MCR unfiltered inleakage considered, LOCA continues to be the limiting event for radiological exposures to the operators in the MCR. Radiological doses to MCR occupants are within the regulatory limits of GDC 19 with MCR unfiltered inleakages of up to 1000 cfm without the crediting of KI for the main steam line break accident (MSLB), control rod drop accident (CRDA), and fuel handling accident (FHA). Therefore, the proposed change does not involve a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. 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.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of

the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated March 17, 2006, which is available for public inspection at the Commission's 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 from the Agencywide Documents Access and Management System's (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, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 22nd day of March, 2006.

For the Nuclear Regulatory Commission.

**Robert E. Martin,**

*Senior Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. E6–4372 Filed 3–24–06; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. (as shown in Attachment 1); License Nos. (as shown in Attachment 1); EA–06–037]**

### In the Matter of Operating Power Reactor Licensees Identified in Attachment 1; Order Modifying Licenses (Effective Immediately)

I.

The licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing operation of nuclear power plants in accordance with the Atomic Energy Act of 1954 and Title 10 of the Code of Federal Regulations (10 CFR) part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 CFR part 73, Appendix C. Specific safeguards requirements for reactors are contained in 10 CFR 73.55.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, and eventually Orders to selected licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On April 29, 2003, the Commission issued an Order to all operating power reactor licensees that enhanced the design basis threat (DBT) specified in 10 CFR 73.1.

As a result of the Commission's continued assessment of threat information, the Commission has determined that a revision to one of the

specific adversary characteristics set forth in the April 29, 2003, DBT Order needs to be updated and enhanced. The update to the adversary characteristic is set forth in Attachment 2[1] of this Order. Each licensee must amend its site security plans to address the new adversary characteristic in its protective strategy.

Any needed changes to the physical security plan, safeguards contingency plan, or guard training and qualification plan required by 10 CFR 50.34(c), 50.34(d), and 73.55(b)(4)(ii), respectively, shall be completed and implemented within 60 days of the date of this Order.

Pursuant to 10 CFR 2.202, I find that in the circumstances described above, the public health, safety, and interest and the common defense and security require that this Order be immediately effective.

**III.**

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 50 and 73, it is hereby ordered, effective immediately, that all licenses identified in Attachment 1 to this order are modified as follows:

A.1. Each licensee shall revise its physical security plan and safeguards contingency plan, prepared pursuant to 10 CFR 50.34(c) and 50.34(d), to provide protection against the updated adversary characteristic set forth in Attachment 2 to this Order. In addition, each licensee shall revise its training and qualification plan, required by 10 CFR 73.55(b)(4)(ii), to implement the updated adversary characteristic set forth in Attachment 2 to this Order.

2. Each licensee shall implement necessary changes to its physical security plan, safeguards contingency plan, and guard training and qualification plan no later than 60 days from the date of this Order.

B.1. Each licensee shall, within twenty-one (21) days of the date of this Order, notify the Commission: (1) If the licensee is unable to comply with any requirement of this Order, (2) if compliance with any requirement of this Order is unnecessary in the licensee's specific circumstances, or (3) if implementation of any requirement of this Order would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from, or variation of, any specific requirement.

2. Any licensee that considers that implementation of any of the requirements of this Order would adversely impact safe operation of the facility must notify the Commission, within twenty-one (21) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives of this Order, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B.1. of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C. Each licensee shall report to the Commission, in writing, when it has fully implemented this Order. The notification shall be made no later than 60 days from the date of the Order and include substitute security plan pages that reflect any changes made to implement the Order.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise, except that the licensee may change its revised physical security plans, safeguards contingency plans, and guard training and qualification plans if authorized by 10 CFR 50.54(p).

Licensee responses to Conditions A.1, B.1, B.2, and C above, shall be submitted in accordance with 10 CFR 50.4. In addition, licensee submittals that contain safeguards information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

**IV.**

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty-one (21) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for an extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific facility; and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter.gov*. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty-one (21) days from the date of this Order

[1] Attachment 2 contains Safeguards Information and will not be publicly disclosed.

without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 20th day of March 2006.

**J.E. Dyer,**

*Director, Office of Nuclear Reactor Regulation.*

**Attachment 1—List of Addressees; Power Plants—Senior Executive/Security Contacts**

Mr. William Levis
Senior Vice President & Chief Nuclear Officer
PSEG Nuclear LLC–N09
Salem Nuclear Generating Station, Units 1 & 2
Docket Nos. 50–272 & 50–311
License Nos. DPR–70 & DPR–75
End of Buttonwood Road
Hancocks Bridge, NJ 08038

Mr. William Levis
Senior Vice President & Chief Nuclear Officer
PSEG Nuclear LLC–X15
Hope Creek Generating Station, Unit 1
Docket No. 50–354
License No. NPF–57
End of Buttonwood Road
Hancocks Bridge, NJ 08038

Mr. Michael Kansler
President
Entergy Nuclear Operations, Inc.
Pilgrim Nuclear Power Station, Unit 1
Docket No. 50–293
License No. DPR–35
440 Hamilton Avenue
White Plains, NY 10601

Mr. Michael Kansler
President
Entergy Nuclear Operations, Inc.
Vermont Yankee Nuclear Power Station
Docket No. 50–271
License No. DPR–28
440 Hamilton Avenue
White Plains, NY 10601

Mr. Michael Kansler
President
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
Docket No. 50–333
License No. DPR–59
440 Hamilton Avenue
White Plains, NY 10601

Mr. Michael Kansler
President
Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Station, Units 2 & 3
Docket Nos. 50–247 & 50–286
License Nos. DPR–26 & DPR–64
440 Hamilton Avenue
White Plains, NY 10601

Mr. Gene St. Pierre
Site Vice President
FPL Energy
Seabrook Station, Unit 1
Docket No. 50–443
License No. NPF–86
Central Receiving, Lafayette Road
Seabrook, NH 03874

Mr. James H. Lash
Vice President
FirstEnergy Nuclear Operating Company
Beaver Valley Power Station, Units 1 & 2
Docket Nos. 50–334 & 50–412
License Nos. DPR–66 & NPF–73
Route 168
Shippingport, PA 15077

Mr. James A. Spina
Vice President
Calvert Cliffs Nuclear Power Plant, Inc.
Calvert Cliffs Nuclear Power Plant, Units 1 & 2
Docket Nos. 50–317 & 50–318
License Nos. DPR–53 & DPR–69
1650 Calvert Cliffs Parkway
Lusby, MD 20657–4702

Mrs. Mary G. Korsnick
Vice President
R. E. Ginna Nuclear Power Plant, LLC
Docket No. 50–244
License No. DPR–18
1503 Lake Road
Ontario, NY 14519–9364

Mr. Timothy J. O'Connor
Vice President
Nine Mile Point Nuclear Station, LLC
Nine Mile Point Nuclear Station, Units 1 & 2
Docket Nos. 50–220 & 50–410
License Nos. DPR–63 & NPF–69
348 Lake Road
Oswego, NY 13126

Mr. Britt T. McKinney
Sr. Vice President & Chief Nuclear Officer
PPL Susquehanna, LLC
Susquehanna Steam Electric Station, Units 1 & 2
Docket Nos. 50–387 & 50–388
License Nos. NPF–14 & NPF–22
769 Salem Boulevard, NUCSB3
Berwick, PA 18603–0467

Mr. David A. Christian
Sr. Vice President & Chief Nuclear Officer
Dominion Nuclear Connecticut, Inc.
Millstone Power Station, Units 2 & 3
Docket Nos. 50–336 & 50–423
License Nos. DPR–65 & NPF–49
Innsbrook Technical Center, 5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. David A. Christian
Sr. Vice President & Chief Nuclear Officer
Virginia Electric and Power Company
North Anna Power Station, Units 1 & 2
Docket Nos. 50–338 & 50–339
License Nos. NPF–4 & NPF–7
Innsbrook Technical Center, 5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. David A. Christian
Sr. Vice President & Chief Nuclear Officer
Virginia Electric and Power Company
Surry Power Station, Units 1 & 2
Docket Nos. 50–280 & 50–281
License Nos. DPR–32 & DPR–37
Innsbrook Technical Center, 5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. David A. Christian
Sr. Vice President & Chief Nuclear Officer
Dominion Energy Kewaunee, Inc.
Kewaunee Nuclear Power Plant
Docket No. 50–305
License No. DPR–43
Innsbrook Technical Center 5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. Dhiaa M. Jamil
Vice President
Duke Energy Corporation
Catawba Nuclear Station, Units 1 & 2
Docket Nos. 50–413 & 50–414
License Nos. NPF–35 & NPF–52
4800 Concord Road
York, SC 29745

Mr. L. M. Stinson
Vice President—Farley Project
Southern Nuclear Operating Company, Inc.
Joseph M. Farley Nuclear Plant, Units 1& 2
Docket Nos. 50–348 & 50–364
License Nos. NPF–2 & NPF–8
40 Inverness Center Parkway
Birmingham, AL 35242

Mr. H. L. Sumner, Jr.
Vice President—Nuclear, Hatch Project
Southern Nuclear Operating Company, Inc.
Edwin I. Hatch Nuclear Plant, Units 1 & 2
Docket Nos. 50–321 & 50–366
License Nos. DPR–57 & NPF–5
40 Inverness Center Parkway
Birmingham, AL 35242

Mr. G. R. Peterson
Vice President
Duke Energy Corporation
William B. McGuire Nuclear Station, Units 1 & 2
Docket Nos. 50–369 & 50–370
License Nos. NPF–9 & NPF–17
12700 Hagers Ferry Road
Huntersville, NC 28078

Mr. Bruce H. Hamilton
Vice President, Oconee Site
Duke Energy Corporation
Oconee Nuclear Station, Units 1, 2 & 3
Docket Nos. 50–269, 50–270 & 50–287
License Nos. DPR–38, DPR–47 & DPR–55
7800 Rochester Highway
Seneca, SC 29672

Mr. Don E. Grissette
Vice President
Southern Nuclear Operating Company, Inc.
Vogtle Electric Generating Plant, Units 1 & 2
Docket Nos. 50–424 & 50–425
License Nos. NPF–68 & NPF–81
40 Inverness Center Parkway
Birmingham, AL 35242

Mr. James Scarola
Vice President
Carolina Power & Light Company
Progress Energy, Inc.
Brunswick Steam Electric Plant, Units 1 & 2
Docket Nos. 50–325 & 50–324
License Nos. DPR–71 & DPR–62
Hwy 87, 2.5 Miles North
Southport, NC 28461

Mr. C.J. Gannon
Vice President
Carolina Power & Light Company
Shearon Harris Nuclear Power Plant, Unit 1
Docket No. 50–400
License No. NPF–63
5413 Shearon Harris Road
New Hill, NC 27562–0165

Mr. Dale E. Young
Vice President

Supervisor, Licensing & Regulatory Programs
Florida Power Corporation
Crystal River Nuclear Generating Plant, Unit 3
Docket No. 50–302
License No. DPR–72
15760 W. Power Line Street
Crystal River, FL 34428–6708

Mr. J. W. Moyer
Vice President Carolina Power & Light Company
Progress Energy
H. B. Robinson Steam Electric Plant, Unit 2
Docket No. 50–261
License No. DPR–23
3581 West Entrance Road
Hartsville, SC 29550

Mr. Brian J. O'Grady
Site Vice President
Browns Ferry Nuclear Plant, Units 1, 2 & 3
Tennessee Valley Authority
Docket Nos. 50–259, 50–260 & 50–296
License Nos. DPR–33, DPR–52 & DPR–68
10835 Shaw Rd.
Athens, AL 35611

Mr. Michael Skaggs
Site Vice President
Watts Bar Nuclear Plant, Unit 1
Tennessee Valley Authority
Docket No. 50–390
License No. NPF–90
Highway 68 Near Spring City
Spring City, TN 37381

Mr. Randy Douet
Site Vice President
Sequoyah Nuclear Plant, Units 1 & 2
Tennessee Valley Authority
Docket Nos. 50–327 & 50–328
License Nos. DPR–77 & DPR–79
2000 Igou Ferry Road
Soddy Daisy, TN 37379

Mr. J. A. Stall
Senior Vice President, Nuclear & Chief Nuclear Officer
Florida Power and Light Company
St. Lucie, Units 1 & 2
Docket Nos. 50–335 & 50–389
License Nos. DPR–67 & NPF–16
700 Universe Boulevard
Juno Beach, FL 33408–0420

Mr. J. A. Stall
Senior Vice President, Nuclear and Chief Nuclear Officer
Florida Power and Light Company
Turkey Point Nuclear Generating Station, Units 3 and 4
Docket Nos. 50–250 & 50–251
License Nos. DPR–31 & DPR–41
700 Universe Boulevard
Juno Beach, FL 33408–0420

Mr. Mano K. Nazar
Senior Vice President & Chief Nuclear Officer
Indiana Michigan Power Company
Nuclear Generation Group
Donald C. Cook Nuclear Plant, Units 1 and 2
Docket Nos. 50–315 & 50–316
License Nos. DPR–58 & DPR–74
One Cook Place
Bridgman, MI 49106

Mr. Gary Van Middlesworth
Site Vice President
FLP Energy
Duane Arnold Energy Center
Docket No. 50–331
License No. DPR–49
3277 DAEC Road
Palo, IA 52324–9785

Mr. Donald K. Cobb
Assistant Vice President—Nuclear Generation
Detroit Edison Company
Fermi, Unit 2
Docket No. 50–341
License No. NPF–43
6400 North Dixie Highway
Newport, MI 48166

Mr. John Conway
Site Vice President
Nuclear Management Company, LLC
Monticello Nuclear Generating Plant
Docket No. 50–263
License No. DPR–22
2807 West County Road 75
Monticello, MN 55362–9637

Paul A. Harden
Site Vice President
Nuclear Management Company, LLC
Palisades Nuclear Plant
Docket No. 50–255
License No.DPR–20
27780 Blue Star Memorial Highway
Covert, MI 49043–9530

Mr. Dennis L. Koehl
Site Vice President
Nuclear Management Company, LLC
Point Beach Nuclear Plant, Units 1 & 2
Docket Nos. 50–266 & 50–301
License Nos. DPR–24 & DPR–27
6590 Nuclear Road
Two Rivers, WI 54241–9516

Mr. Thomas J. Palmisano
Site Vice President
Nuclear Management Company, LLC
Prairie Island Nuclear Generating Plant, Units 1 & 2
Docket Nos. 50–282 & 50–306
License Nos. DPR–42 & DPR–60
1717 Wakonade Drive East
Welch, MN 55089

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
Braidwood Station, Units 1 & 2
Docket Nos. 50–456 & 50–457
License Nos. NPF–72 & NPF–77
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
Byron Station, Units 1 & 2
Docket Nos. 50–454 & 50–455
License Nos. NPF–37 & NPF–66
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
Dresden Nuclear Power Station, Units 2 & 3
Docket Nos. 50–237 & 50–249
License Nos. DPR–19 & DPR–25
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
LaSalle County Station, Units 1 & 2
Docket Nos. 50–373 & 50–374
License Nos. NPF–11 & NPF–18
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
Quad Cities Nuclear Power Station, Units 1 & 2
Docket Nos. 50–254 & 50–265
License Nos. DPR–29 & DPR–30
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
Limerick Generating Station, Units 1 & 2
Docket Nos. 50–352 & 50–353
License Nos. NPF–39 & NPF–85
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
Exelon Generation Company, LLC
Peach Bottom Atomic Power Station, Units 2 & 3
Docket Nos. 50–277 & 50–278
License Nos. DPR–44 & DPR–56
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
AmerGen Energy Company, LLC
Oyster Creek Nuclear Generating Station
Docket No. 50–219
License No. DPR–16
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
AmerGen Energy Company, LLC
Clinton Power Station
Docket No. 50–461
License No. NPF–62
4300 Winfield Road
Warrenville, IL 60555

Mr. Christopher M. Crane
President & Chief Nuclear Officer
AmerGen Energy Company, LLC
Three Mile Island Nuclear Station, Unit 1
Docket No. 50–289
License No. DPR–50
4300 Winfield Road
Warrenville, IL 60555

Mr. Mark Bezilla
Vice President, Davis-Besse
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
Docket No. 50–346
License No. NPF–3
5501 North State Route 2
Oak Harbor, OH 43449–9760

Mr. L.W. Pearce
Vice President—Nuclear, Acting
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant, Unit 1
Docket No. 50–440
License No. NPF–58
10 North Center Street
Perry, OH 44081

Mr. Jeffrey S. Forbes
Site Vice President
Entergy Operations, Inc.
Arkansas Nuclear One, Units 1 & 2
Docket Nos. 50–313 & 50–368

License Nos. DPR–51 & NPF–6
1448 S. R. 333
Russellville, AR 72802

M. R. Blevins
Senior Vice President and Chief Nuclear Officer
TXU Generation Company, LP
Comanche Peak Steam Electric Station, Units 1 & 2
Docket Nos. 50–445 & 50–446
License Nos. NPF–87 & NPF–89
5 Miles North of Glen Rose
Glen Rose, TX 76043

Mr. Randall K. Edington
Vice President—Nuclear and CNO
Nebraska Public Power District
Cooper Nuclear Station
Docket No. 50–298
License No. DPR–46
1200 Prospect Road
Brownville, NE 68321

Mr. George A. Williams
GGNS Vice President, Operations
Entergy Operations, Inc.
Grand Gulf Nuclear Station, Unit 1
Docket No. 50–416
License No. NPF–29
7003 Bald Hill Road-Waterloo Road
Port Gibson, MS 39150

Mr. Paul D. Hinnenkamp
Vice President—Operations
Entergy Operations, Inc.
River Bend Station, Unit 1
Docket No. 50–458
License No. NPF–47
5485 U.S. Highway 61N
St. Francisville, LA 70775

Mr. James J. Sheppard
President & Chief Executive Officer
South Texas Nuclear Operating Company
South Texas Project, Units 1 & 2
Docket Nos. 50–498 & 50–499
License Nos. NPF–76 & NPF–80
8 Miles West of Wadsworth, on FM 521
Wadsworth, TX 77483

Mr. Joseph E. Venable
Vice President Operations
Entergy Operations, Inc.
Waterford Steam Electric Generating Station, Unit 3
Docket No. 50–382
License No. NPF–38
17265 River Road
Killona, LA 70057–3093

Mr. Charles D. Naslund
Senior Vice President & Chief Nuclear Officer
Union Electric Company
Callaway Plant, Unit 1
Docket No. 50–483
License No. NPF–30
Junction Hwy CC & Hwy O: 5 Miles North of Hwy 94
Portland, MO 65067

Mr. John S. Keenan
Senior Vice President, Generation and Chief Nuclear Officer
Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant, Units 1 & 2
Docket Nos. 50–275 & 50–323
License Nos. DPR–80 & DPR–82
77 Beale Street, Mail Code B32
San Francisco, CA 94105

Mr. R. T. Ridenoure
Vice President—Chief Nuclear Officer
Omaha Public Power District
Fort Calhoun Station, Unit 1
Docket No. 50–285
License No. DPR–40
Fort Calhoun Station Administration Building 9750 Power Lane
Blair, NE 68008

Mr. James M. Levine
Executive Vice President, Generation
Arizona Public Service Company
Palo Verde Nuclear Generating Station, Units 1, 2 and 3
Docket Nos. 50–528, 50–529 & 50–530
License Nos. NPF–41, NPF–51 & NPF–74
5801 S. Wintersburg Road
Tonopah, AZ 85354–7529

Mr. Richard M. Rosenblum
Chief Nuclear Officer
Southern California Edison Company
San Onofre Nuclear Station, Units 2 & 3
Docket Nos. 50–361 & 50–362
License Nos. NPF–10 & NPF–15
5000 Pacific Coast Highway
San Clemente, CA 92674

Mr. J. V. Parrish
Chief Executive Officer
Energy Northwest
Columbia Generating Station
Docket No. 50–397
License No. NPF–21
Snake River Warehouse
North Power Plant Loop
Richland, WA 99352

Mr. Rick A. Muench
President & Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
Wolf Creek Generating Station, Unit 1
Docket No. 50–482
License No. NPF–42
1550 Oxen Lane, NE
Burlington, KS 66839

Mr. Jeffrey B. Archie
Vice President, Nuclear Operations
South Carolina Electric and Gas Company
Virgil C. Summer Nuclear Station
Docket No. 50–395
License No. NPF–12
Hwy 215N at O.S. Bradham Boulevard
Jenkinsville, SC 29065

[FR Doc. E6–4371 Filed 3–24–06; 8:45 am]
BILLING CODE 7590–01–P

## POSTAL RATE COMMISSION

### Sunshine Act; Notice of Meetings

**NAME OF AGENCY:** Postal Rate Commission.

**TIME AND DATE:** 10 a.m., Tuesday, March 28, 2006.

**PLACE:** Commission conference room, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Personnel issues.

**FOR FURTHER INFORMATION CONTACT:** Steven W. Williams, Secretary, 202–789–6842.

Dated: March 23, 2006.
**Steven W. Williams,**
*Secretary.*
[FR Doc. 06–2963 Filed 3–23–06; 11:06 am]
BILLING CODE 7710–FW–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53519; File No. SR–Amex–2006–26]**

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of Time for Exercising Expiring Options and Submitting Contrary Exercise Advices

March 20, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 14, 2006, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Amex filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Amex, pursuant to section 19(b)(1) of the Act[5] and Rule 19b–4 thereunder,[6] proposes to amend Amex Rule 980 "Exercise of Options Contracts" to add two additional minutes to the time frame within which one may make a final decision to exercise or not exercise an option, or to deliver a contrary exercise advice ("CEA")[7] to the Exchange. The proposal

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78s(b)(3)(A).
[4] 17 CFR 240.19b-4(f)(6).
[5] 15 U.S.C. 78s(b)(1).
[6] 17 CFR 240.19b–4.
[7] Amex Rule 980(b)(ii) defines a CEA as a communication either: (A) To not exercise an option that would be automatically exercised under the Options Clearing Corporation's ("OCC") Ex-by-Ex procedure, or (B) to exercise an option that would not be automatically exercised under the OCC's Ex-by-Ex procedure.

is intended to conform Amex Rule 980 to the recent industry-wide change in the close of trading for equity options and narrow-based index options from 4:02 p.m. to 4 p.m. (EST).[8] The Exchange further proposes to amend the text of Amex Rule 980 to correspond to the more appropriate classification of Eastern Time ("ET") rather than New York Time ("NY Time"). The text of the proposed rule change is available on the Amex's Web site at (*http://www.amex.com*), at the Amex's principal office, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Amex Rule 980 to add two additional minutes to the time frame within which one may make a final decision to exercise or not exercise an option, or to deliver a CEA to the Exchange. This proposal is intended to conform Amex Rule 980 to the recent industry-wide change to the close of trading for equity and narrow-based index options from 4:02 p.m. to 4 p.m. (ET). The Exchange further proposes to amend the text of Amex Rule 980 to correspond to the more appropriate classification of ET rather than NY Time.

Currently, Amex Rule 980(c) establishes that on the business day immediately prior to an expiration date, option holders may make final decisions to exercise or not exercise options, and members and member organizations may accept exercise instructions and submit a CEA to the Exchange as late as 5:30 p.m. or 6:30 p.m. NY Time, pursuant to the circumstances set forth in Rule 980(c). Amex Rule 980(g) establishes that where, on the last business day before the day of expiration, the Exchange provides advance notice of a modified time for the close of trading in equity options, the deadline to make a final decision to exercise or not exercise an expiring option and to deliver a CEA to the Exchange will be 1 hour 28 minutes or 2 hours 28 minutes after the announced modified closing time, instead of the 5:30 p.m. or 6:30 p.m. (ET). The Exchange proposes to add two minutes to each of these timeframes to correspond to the two-minute difference in trading time created by the change in the close of trading time from 4:02 p.m. to 4 p.m. (ET).

This proposal seeks only to change the exercise timeframes for equity options, not index options, because Amex Rule 980C governing index options does not have pre-set times.[9] According to the Exchange, the proposed rule change is based on similar rule changes submitted by the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., the International Securities Exchange, Inc., and the Chicago Board Options Exchange, Incorporated.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[11] in general, and furthers the objectives of section 6(b)(5) of the Act[12] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Amex has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30-days after the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30-days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Amex has asked the Commission to waive the 30-day operative delay and the 5-day pre-filing requirement. The Commission believes that waiving the 30-day operative delay and the 5-day pre-filing requirement is consistent with the protection of investors and the public interest because such waiver will allow the Amex to immediately clarify its rule and conform it to the industry-wide close of trading times now in effect. Accelerating the operative date will allow for a more efficient and effective market operation by offering clarity and internal consistency with existing Amex rules. For these reasons, the Commission designates the proposed rule change as effective and operative immediately upon filing with the Commission.[16]

At any time within 60-days after the filing of the proposed rule change, the Commission may summarily abrogate

[8] *See* Securities Exchange Act Release No. 53244 (February 7, 2006), 71 FR 8008 (February 15, 2006) (approving SR–Amex–2006–003, which amended Amex Rules 1,918—ANTE, 936C—ANTE and 903C to adjust the close of normal trading hours in equity options and narrow-based index options from 4:02 p.m. to 4:02 p.m. (ET)).

[9] Amex Rule 980C provides that a memorandum to exercise any American-style index option must be received or prepared by the member organization no later than five (5) minutes after the close of trading on that day and must be time stamped at the time it is received or prepared.

[10] *See* Securities Exchange Act Release Nos. 53249 (February 7, 2006), 71 FR 8035 (February 15, 2006) (SR–PCX–2005–138); 53407 (March 3, 2006), 71 FR 12764 (March 13, 2006) (SR–Phlx–2006–12); 53439 (March 7, 2006), 71 FR 13643 (March 16, 2006) (SR–ISE–2006–11); 53438 (March 7, 2006), 71 FR 13641 (March 16, 2006) (SR–CBOE–2006–19).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] *Id.*

[16] For the purposes only of waiving the 30-day operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

the 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–Amex–2006–26 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–26. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–26 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4343 Filed 3–24–06; 8:45 am]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53525; File No. SR–Amex–2005–117]**

## Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Amendments to the Amex Membership Corporation's Certificate of Incorporation

March 21, 2006.

**I. Introduction**

On November 23, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] andRule 19b–4 thereunder,[2] a proposed rule change to amend the Amex Membership Corporation's ("AMC")[3] Restated Certificate of Incorporation ("AMC Certificate") and AMC Constitution. On January 24, 2006, Amex filed Amendment No. 1 to the proposed rule change.[4] On February 1, 2006, Amex filed Amendment No. 2 to the proposed rule change.[5] The proposed rule change, as amended, was published for comment in the **Federal Register** on February 16, 2006.[6] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

**II. Description and Discussion**

Currently, section 6 of the AMC Certificate provides that AMC shall make available one Regular Trading Right for each Regular Member and one Options Principal Trading Right for each Options Principal Member and that such trading rights shall not be transferred or leased apart from those memberships. In addition, section 7(a)(ii) of the AMC Certificate requires the consent of the AMC members (*i.e.*, the Amex members) to authorize, grant, or issue trading rights other than Regular Trading Rights, Options Principal Trading Rights, or Limited Trading Permits.

The proposed rule change would amend the AMC Certificate to: (i) Eliminate the reference in section 6 to one trading right, thus allowing the issuance of more than one right to Regular Members and Options Principal Members; (ii) eliminate the prohibition in section 6 on such trading rights being transferred or leased apart from Regular and Options Principal Memberships; and (iii) eliminate the requirement that a vote of the membership is required for the authorization, grant, or issuance of trading rights as described in section 7(a)(ii).[7] The AMC Board determined to make these changes to give flexibility to Amex to take prompt action to implement new forms of trading rights designed to enhance Amex's position in an increasingly competitive and fast moving marketplace. AMC membership's consent will still be required for any action taken to increase the number of memberships issued by AMC. The proposed rule change, as amended, also makes other non-substantive changes to the AMC Certificate and the Amex Constitution.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of section 6 of the Act,[8] and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that Amex will still need to obtain AMC Board approval for

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] AMC is the sole owner of the Exchange. Amex members (Regular and Options Principal Members) are members of AMC. *See* Securities Exchange Act Release No. 50927 (December 23, 2004), 69 FR 78486 (December 30, 2004).

[4] Amendment No. 1 replaced the original filing in its entirety.

[5] *See* Partial Amendment No. 2.

[6] *See* Securities Exchange Act Release No. 53264 (February 9, 2006), 71 FR 8320.

[7] Amex will still need to obtain the consent of the AMC Board to authorize, grant, or issue new trading rights. *See* Amex Constitution Article 11, section 8.

[8] 15 U.S.C. 78f(b).

[9] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

the issuance of new trading rights.[11] The AMC Board can, if it so chooses, seek the consent of its full membership for any proposal calling for the issuance of new trading rights. Further, any new trading rights would be subject to approval by the Commission pursuant to the rule filing process of section 19 of the Act. The Commission also notes that the AMC membership's consent will be required for any action taken by Amex to increase the number of memberships issued by AMC.[12] In addition, these changes to the AMC Certificate shall provide Amex with more flexibility to take prompt action to implement new forms of trading rights.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Amex–2005–117), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4368 Filed 3–24–06; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53516; File No. SR–BSE–2006–14]**

## Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to Information Contained in a Directed Order on the Boston Options Exchange

March 20, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 14, 2006, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the BSE. On March 16, 2006, the BSE filed Amendment No. 1 to the proposed rule change.[3] On March 17, 2006, the BSE filed Amendment No. 2 to the proposed rule change.[4] The BSE filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act[5] and Rule 19b–4(f)(6) thereunder,[6] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Boston Stock Exchange, Inc. ("BSE" or "Exchange") is proposing to amend its rules governing its Directed Order process on the Boston Options Exchange ("BOX"). The Exchange is proposing to clearly state that the BOX Trading Host identifies to an Executing Participant ("EP")[7] the identity of the firm entering a Directed Order. This rule will be effective until June 30, 2006, while the Commission considers a corresponding Exchange proposal[8] to amend its rules to permit EPs to choose the firms from whom they will accept Directed Orders, while providing complete anonymity of the firm entering a Directed Order.[9] In addition, the Exchange commits that it will cease to provide the identity of order entry firms prior to June 30, 2006, if the Commission staff prohibits all options exchanges from disclosing the identity of order entry firms in their Directed Order systems.

### 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 BSE 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 BSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

BSE seeks to amend its rules to clearly state that the BOX Trading Host identifies to an EP the identity of the firm entering a Directed Order. Market Makers are able to handle orders on an agency basis directed to them by Order Flow Providers ("OFPs"). In Section 1, Chapter I of the BOX Rules, a Directed Order is defined as a Customer Order directed to a Market Maker by an OFP. An OFP sends a Directed Order to BOX with a designation of the Market Maker to whom the order is to be directed. BOX then routes the Directed Order to the appropriate Market Maker. Under Chapter VI, Section 5(c)(ii) of the BOX Rules, a Market Maker only has two choices when he receives a Directed Order: (1) Submit the order to the PIP process; or (2) send the order back to BOX for placement onto the BOX Book.

The BSE proposes to amend Chapter VI, Section 5(c)(i) of the BOX Rules to clarify that unlike all other orders submitted to the BOX Trading Host, Directed Orders are not anonymous. The Options Participant identification number ("Participant ID") of the OFP sending the Directed Order will be revealed to the Market Maker recipient. The Market Maker must submit this Participant ID to BOX whenever the Market Maker chooses to submit the Directed Order and his Primary Improvement Order to the PIP process. However, once the Directed Order is submitted to the PIP process or the BOX Book, the Participant ID is not shown to any market participant and the identity of the OFP will be anonymous pursuant to Chapter V, Section 14(e) of the BOX Rules.

Chapter VI, Section 5(c)(i) of the BOX Rules prohibits a Market Maker from rejecting a Directed Order. The BSE wishes to clarify that upon systematically indicating its desire to accept Directed Orders, a Market Maker that receives a Directed Order is not, under any circumstances, to reject the receipt of the Directed Order from the BOX Trading Host nor reject the Directed Order back to the OFP who

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[11] *See* Amex Constitution Article II, section 8. The AMC Nominating Committee nominates director candidates for the AMC board of directors, and AMC members have the right to put up their own nominees by petition. The AMC board is then elected by the members of AMC. *See* Amended and Restated By-Laws of The Amex Membership Corporation Sections 1.10, 1.13 and 3.03.

[12] *See* AMC Certificate section 7(a)(ii); Amex Constitutcn Article II, section 8; and Amex Constitution Article IV, section 1(a)(1) and section 1(b)(1).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which supersedes and replaces the original filing in its entirety, the BSE changed the statutory basis of the filing.

[4] In Amendment No. 2, which supersedes and replaces the original filing and Amendment No. 1 in its entirety, the BSE changed the statutory basis of the filing.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6).

[7] BSE proposes that a Market Maker who desires to accept Directed Orders must systemically indicate that it is an EP whenever the Market Maker wishes to receive Directed Orders.

[8] *See* Securities Exchange Act Release No. 53357 (February 23, 2006), 71 FR 10730 (March 2, 2006) (SR–BSE–2005–52).

[9] In the event that the issue of anonymity in the Directed Order process is not resolved by June 30, 2006, the Exchange intends to submit another filing under Rule 19b–4(f)(1) under the Act extending this rule and system process.

sent it. A Market Maker who desires to accept Directed Orders must systemically indicate that it is an EP whenever the Market Maker wishes to receive Directed Orders from the BOX Trading Host. If a Market Maker does not systemically indicate that it is an EP, then the BOX Trading Host will not forward any Directed Orders to that Market Maker. In such a case, the BOX Trading Host will send the order directly to the BOX Book.

Other Clarifying Rule Change Relating to Directed Orders

Currently, Chapter V, Section 14(e) of the BOX Rules states that the identity of Options Participants who submit orders to the Trading Host will remain anonymous to market participants at all times, except during error resolution or through the normal clearing process as set forth in Chapter V, Section 16(a)(vi) of the BOX Rules. Proposed Chapter V, Section 14(e) of the BOX Rules and the Supplementary Material thereto, would clarify that the Participant ID of an OFP who submits orders to the Trading Host for use in the Directed Order process will be revealed to the EP who receives such Directed Orders as set forth in Chapter VI, Section 5(c) of the BOX Rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is designed to clarify the information contained in a Directed Order. This clarification will allow Options Participants to make better informed decisions in determining when and how to use the Directed Order process. Accordingly, the Exchange believes that the proposal is consistent with the requirements of section 6(b) of the Act,[10] in general, and section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

*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 comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A)[12] of the Act and Rule 19b–4(f)(6) thereunder.[13]

The BSE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[14] and designate the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would immediately conform the BOX rules with BOX's current practice and clarify that Directed Orders on BOX are not anonymous.[15]

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.[16]

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). Rule 19b–4(f)(6)(iii) under the Act requires the self-regulatory organization to provide the Commission written notice of its intent to file the proposed rule change at least five business days (or such shorter time as designated by the Commission) before doing so. The BSE has requested that the Commission waive the five-day pre-filing notice requirement. The Commission granted BSE's request.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] The effective date of the original proposed rule is March 14, 2006. The effective date of Amendment No. 1 is March 16, 2006. The effective date of Amendment No. 2 is March 17, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on March 17, 2006, the date on which the BSE submitted Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

[17] 17 CFR 200.30–3(a)(12).

**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 No. SR–BSE–2006–14 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2006–14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2006–14 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4339 Filed 3–24–06; 8:45 am]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53511; File No. SR–CBOE–2006–23]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Its Marketing Fee Program

March 17, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2006, 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 the Exchange. On March 16, 2006, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CBOE under Section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal, as amended, 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

The CBOE proposes to amend its Fees Schedule and its marketing fee program. Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in [brackets].

**Chicago Board Options Exchange, Inc.—Fees Schedule**

March 1, 2006

1. No Change.
2. Marketing Fee (6)(16)—$.65
3.–4. No Change.

Footnotes:

(1)–(5) No Change.

(6) [Commencing on December 12, 2005, t]*T*he Marketing Fee will be assessed only on transactions of Market-Makers, RMMs, e-DPMs, DPMs, and LMMs resulting from orders for less than 1,000 contracts (i) from payment accepting firms, or (ii) that have designated a "Preferred Market-Maker" under CBOE Rule 8.13 at the rate of $.65 per contract on all classes of equity options, options on HOLDRs, options on SPDRs, and options on DIA. The fee will not apply to: Market-Maker-to-Market-Maker transactions *including transactions resulting from orders from non-member market-makers;* [or] transactions resulting from P/A orders; *transactions resulting from accommodation liquidations (cabinet trades); and transactions resulting from dividend strategies, merger strategies, and short stock interest strategies as defined in footnote 13 of this Fees Schedule.* This fee shall not apply to index options and options on ETFs (other than options on SPDRs and options on DIA). A Preferred Market-Maker will only be given access to the marketing fee funds generated from a Preferred order if the Preferred Market-Maker has an appointment in the class in which the Preferred order is received and executed. If less than 80% of the marketing fee funds are paid out by the DPM/LMM or Preferred Market-Maker in a given month, then the Exchange would refund such surplus at the end of the month on a pro rata basis based upon contributions made by the Market-Makers, RMMs, e-DPMs, DPMs and LMMs. However, if 80% or more of the accumulated funds in a given month are paid out by the DPM/LMM or Preferred Market-Maker, there will not be a rebate for that month and the funds will carry over and will be included in the pool of funds to be used by the DPM/LMM or Preferred Market-Maker the following month. At the end of each quarter, the Exchange would then refund any surplus, if any, on a pro rata basis based upon contributions made by the Market-Makers, RMMs, DPMs, e-DPMs and LMMs. CBOE's marketing fee program as described above will be in effect until June 2, 2006.

Remainder of Fees Schedule—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 Exchange included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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, the Proposed Rule Change*

1. Purpose

Effective December 12, 2005, CBOE amended its marketing fee program in a number of respects.[6] CBOE states that, as amended, the fee is assessed upon DPMs, LMMs, e-DPMs, RMMs, and Market-Makers at the rate of $.65 per contract on transactions of Market-Makers, RMMs, e-DPMs, DPMs, and LMMs resulting from orders for less than 1,000 contracts (i) from payment accepting firms ("PAFs"), or (ii) that have designated a "Preferred Market-Maker" under CBOE Rule 8.13. CBOE notes that the fee does not apply to Market-Maker-to-Market-Maker transactions (which includes all transactions between any combination of DPMs, e-DPMs, RMMs, LMMs, and Market-Makers), or transactions of Market-Makers, RMMs, e-DPMs, DPMs, and LMMs resulting from inbound P/A orders. CBOE states that the marketing fee is assessed in all equity option classes and options on HOLDRs®, options on SPDRs® and options on DIA.

CBOE proposes to amend its marketing fee program to provide that CBOE Market-Makers, RMMs, e-DPMs, DPMs, and LMMs would not be assessed the marketing fee on transactions resulting from orders from non-member market-makers, which orders may be submitted to CBOE from PAFs. CBOE believes that this would be consistent with CBOE's existing marketing fee program which expressly provides that the fee does not apply to CBOE Market-Maker-to-Market-Maker transactions.

Additionally, CBOE proposes to amend its marketing fee program to provide that the fee would not apply to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 ("Amendment No. 1") makes a minor, technical clarification in the rule text of footnote 6 to CBOE's Fees Schedule.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] *See* Securities Exchange Act Release No. 53016 (December 22, 2005), 70 FR 77209 (December 29, 2005) (SR–CBOE–2005–107).

transactions resulting from dividend strategies, merger strategies, and short stock interest strategies, as defined in Footnote 13 of this Fees Schedule,[7] [8] or cabinet trades (*see* CBOE Rule 6.54—*Accommodation Liquidations*).

CBOE states that it is not amending its marketing fee program in any other respects.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, 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 designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change, as amended, has been designated as a fee change 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. Accordingly, the proposal, as amended, will take effect upon filing with the Commission. 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.[13]

**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–CBOE–2006–23 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CBOE–2006–23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the 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–2006–23 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4340 Filed 3–24–06; 8:45 am]

BILLING CODE 8010–01–P

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[7] CBOE notes that, as set forth in Footnote 13 of its Fees Schedule, a dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale, and exercise of in-the-money options of the same class, executed prior to the date on which the underlying stock goes ex-dividend. CBOE states that a merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale, and exercise of options of the same class and expiration date, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, *i.e.*, cash or stock. A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale, and exercise of in-the-money options of the same class.

[8] CBOE notes that the fees currently assessed on transactions resulting from dividend strategies, merger strategies, and short stock interest strategies, as defined in Footnote 13 of its Fees Schedule, are part of a pilot program that will expire on September 1, 2006. *See* Securities Exchange Act Release No. 53412 (March 3, 2006), 71 FR 12752 (March 13, 2006) (SR–CBOE–2006–20). Telephone conversation between Patrick Sexton, Associate General Counsel, Exchange, and David Liu and Michou Nguyen, Attorneys, Division of Market Regulation, Commission, on March 7, 2006.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] The effective date of the original proposed rule change is March 1, 2006, and the effective date of Amendment No. 1 is March 16, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, the Commission considers the period to commence on March 16, 2006, the date on which the Exchange submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[14] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53524; File No. SR–CBOE–2006–22]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Duration of CBOE Rule 6.45A(b) Pertaining to Orders Represented in Open Outcry

March 21, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934(the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 8, 2006, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission.[5] The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has asked the Commission to waive the 30-day operative delay required by Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii). See discussion *infra* Section III.

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 CBOE proposes to extend the duration of CBOE Rule 6.45A(b) (the "Rule"), which relates to the allocation of orders represented in open outcry in equity option classes designated by the Exchange to be traded on the CBOE Hybrid Trading System ("Hybrid") through July 14, 2006. No other substantive changes are being made to the Rule. The text of the proposed rule change is available on the CBOE's Internet Web site (*http://www.cboe.com*), at the CBOE's principal office, and at the Commission's Public Reference Room.

**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 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

In March 2005, the Commission approved revisions to CBOE Rule 6.45A related to the introduction of Remote Market-Makers.[6] Among other things, the Rule, pertaining to the allocation of orders represented in open outcry in equity options classes traded on Hybrid, was amended to clarify that only in-crowd market participants would be eligible to participate in open outcry trade allocations. In addition, the Rule was amended to limit its duration until September 14, 2005, unless otherwise extended. The duration of the Rule was thereafter extended through December 14, 2005 and again through March 14, 2006.[7] As the duration period expired on March 14, 2006, the Exchange proposes to extend the effectiveness of the Rule through July 14, 2006.[8]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE 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 neither solicited nor received comments on the proposal.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.[13]

A proposed rule change filed under Commission Rule 19b–4(f)(6)[14] normally does not become operative prior to thirty days after the date of filing. The CBOE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii), and designate the proposed rule change to become operative immediately to allow the Exchange to continue to operate under the existing allocation parameters for orders represented in open outcry in Hybrid on an uninterrupted basis. The Commission hereby grants the request. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the CBOE to continue to operate under the Rule without interruption. For these reasons, the Commission designates the proposed rule change as effective and operative upon filing.[15]

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 the 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:

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[6] *See* Securities Exchange Act Release No. 51366 (March 14, 2005), 70 FR 13217 (March 18, 2005) (SR–CBOE–2004–75).

[7] *See* Securities Exchange Act Release Nos. 52423 (September 14, 2005), 70 FR 55194 (September 20, 2005) (extending the duration of the Rule through December 14, 2005) and 52957 (December 15, 2005), 70 FR 76085 (December 22, 2005) (extending the Rule through March 14, 2006).

[8] In order to effect proprietary transactions on the floor of the Exchange, in addition to complying with the requirements of the Rule, members are also required to comply with the requirements of Section 11(a)(1) of the Act, 15 U.S.C. 78k(a)(1), or qualify for an exemption. Section 11(a)(1) restricts securities transactions of a member of any national securities exchange effected on that exchange for (i) the member's own account, (ii) the account of a person associated with the member, or (iii) an account over which the member or a person associated with the member exercises discretion, unless a specific exemption is available. The Exchange issued a regulatory circular to members informing them of the applicability of these Section 11(a)(1) requirements when the duration of the Rule was extended until December 14, 2005 and again when the duration of the Rule was extended until March 14, 2006. *See* CBOE Regulatory Circulars RG05–103 (November 2, 2005) and RG06–001 (January 3, 2006). The Exchange represents that it expects to issue a similar regulatory circular to members reminding them of the applicability of the section 11(a)(1) requirements with respect to the proposed rule change. Telephone conversation between Jennifer Lamie, Managing Senior Attorney, CBOE, and Ronesha A. Butler, Special Counsel, Division of Market Regulation, Commission (March 14, 2006).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] Pursuant to Rule 19b–4(f)(6)(iii), the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change. *See* 17 CFR 240.19b–4(f)(6)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

*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 No. SR–CBOE–2006–22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2006–22. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the 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–2006–22 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4367 Filed 3–24–06; 8:45 am]

**BILLING CODE 8010–01–P**

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53503; SR–DTC–2006–01]**

## Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Participant Exchange System

March 16, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 19, 2006, The Depository Trust Company ("DTC") 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 primarily by DTC. 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

Under the proposed rule change, DTC will disable its Participant Exchange ("PEX") buy-in functionality for the National Securities Clearing Corporation's ("NSCC") Continuous Net Settlement ("CNS") buy-ins on or about February 10, 2006.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

Between 2003 and 2005, DTC made several rule filings to establish and enhance its SMART/Track service.[2] In rule filing SR–DTC–2005–19, DTC added the SMART/Track for Buy-Ins service that provides automated communication, warehousing, and tracking of various types of buy-in related notices.[3] As part of that filing, DTC announced that the SMART/Track for Buy-Ins service would replace the buy-in functionality of DTC's PEX platform.

Under this proposed rule change, DTC will disable the PEX functionality for NSCC's CNS buy-ins on or about February 10, 2006.[4] Accordingly, DTC participants and NSCC CNS users must register for the SMART/Track for Buy-Ins service. DTC has been assisting its participants and CNS users in this regard.

The PEX buy-in functionality for buy-ins other than NSCC CNS buy-ins (*i.e.* NYSE, AMEX, NASD, and NSCC Balance Order buy-ins) and for Municipal Securities Rulemaking Board closeouts will remain active until the final phase of SMART/Track for Buy-Ins is implemented, which is currently anticipated to happen in June 2006. When that happens, all PEX buy-in functionality will be disabled pursuant to a rule filing that DTC will file at that time.[5] DTC and NSCC will notify their participants of the exact date of such termination through Important Notices.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder because it is consistent with DTC's obligation to safeguard securities and funds in its custody or control.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

DTC has not solicited or received written comments relating to the proposed rule change. DTC will notify the Commission of any written comments it receives.

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release Nos. 50029 (July 15, 2004), 69 FR 43870 (July 22, 2004) (Universal Hub, Stock Loan notification service); 50887 (Dec. 20, 2004), 69 FR 77802 (Dec. 28, 2004) (Corporate Action Liability Notification Service); 52104 (July 21, 2005), 70 FR 43730 (July 28, 2005) (SMART/Track for Agency Lending Disclosure); and 53032 (Dec. 28, 2005), 71 FR 1457 (Jan. 9, 2006) (SMART/Track for Buy-Ins) [SR–DTC–2005–19].

[3] Securities Exchange Act Release No. 53032 *supra* note 2.

[4] DTC and NSCC have notified their respective participants of this action. DTC Important Notice B#9049–06 (Jan. 19, 2006) available online at *http://www.dtc.org/impNtc/ope/ope_9049-06.pdf*; NSCC Important Notice A#6189 (Jan. 19, 2006), available online at *http://www.nscc.com/impnot/notices/notice2006/a6189.pdf*.

[5] PEX will remain a DTC service for other functions not related to buy-ins.

[6] 15 U.S.C. 78q–1.

**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)(iii)[7] of the Act and Rule 19b–4(f)(4)[8] thereunder because it effects a change in an existing service of DTC that does not adversely affect the safeguarding of securities or funds in DTC's control or for which DTC is responsible and does not significantly affect DTC's or its participants' respective rights or obligations. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**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 No. SR–DTC–2006–01 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–DTC–2006–01. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at DTC's principal office and on DTC's Web site at <*http://www.dtc.org/impNtc/mor/index.html*>. 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 No. SR–DTC–2006–01 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4345 Filed 3–24–06; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(4).

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53509; File No. SR–NASD–2006–036]**

## Self Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Certification by the Chief Executive Officer Under NASD Interpretive Material 3013

March 17, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 7, 2006, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. In addition, the Commission is granting accelerated approval of the proposed rule change for the reasons discussed below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

NASD is proposing to amend NASD Interpretive Material 3013 ("IM–3013") to clearly establish the timing with respect to the requirement to submit to the member's board of directors and audit committee a report that evidences certain processes that form the basis of a certification by the Chief Executive Officer ("CEO") under Rule 3013. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

**3000. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS, EMPLOYEES, AND OTHERS' EMPLOYEES**

* * * * *

**IM–3013. Annual Compliance and Supervision Certification**

* * * * *

**Annual Compliance and Supervision Certification**

The undersigned is the chief executive officer (or equivalent officer) of [name of member corporation/partnership/sole proprietorship] (the "Member"). As required by NASD Rule 3013(b), the undersigned makes the following certification:

1. through 2. No change.

3. The Member's processes, with respect to paragraph 1 above, are evidenced in a report reviewed by the chief executive officer (or equivalent officer), chief compliance officer, and such other officers as the Member may deem necessary to make this certification[[, and]]. *The final report has been* submitted to the Member's board of directors and audit committee *or will be submitted to the Member's board of directors and audit committee (or equivalent bodies) at the earlier of their next scheduled meetings or within 45 days of the date of execution of this certification.*

4. No change.

* * * * *

The report required in paragraph 3 of the certification must document the member's processes for establishing, maintaining, reviewing, testing and modifying compliance policies, that are reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and federal securities laws and regulations, and any principal designated by the member may prepare the report. The report must be produced prior to execution of the certification and be reviewed by the chief executive

officer (or equivalent officer), chief compliance officer and any other officers the member deems necessary to make the certification and must be provided to the member's board of directors and audit committee *in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification.* The report should include the manner and frequency in which the processes are administered, as well as the identification of officers and supervisors who have responsibility for such administration. The report need not contain any conclusions produced as a result of following the processes set forth therein. The report may be combined with any other compliance report or other similar report required by any other self-regulatory organization provided that (1) such report is clearly titled in a manner indicating that it is responsive to the requirements of the certification and this Interpretive Material; (2) a member that submits a report for review in response to an NASD request must submit the report in its entirety; and (3) the member makes such report in a timely manner, i.e., annually.

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

NASD Rule 3013 requires each member's CEO or equivalent officer to certify annually that the member has in place processes to establish, maintain, review, modify, and test policies and procedures reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and the federal securities laws and regulations. The rule is accompanied by IM–3013, which sets forth the actual certification language and provides additional guidance about the requirements of the rule and sets forth certain limitations to its scope. On October 14, 2005, NASD filed for immediate effectiveness amendments to Rule 3013 to extend until April 1, 2006, the date by which members must execute their first annual certification pursuant to Rule 3013 and IM–3013.[3]

The certification consists of four attestations, each set forth in a separate numbered paragraph within IM–3013. In paragraph 3 of the certification, the CEO attests that the member's processes are "evidenced in a report reviewed by the chief executive officer (or equivalent officer), chief compliance officer, and such other officers as the Member may deem necessary to make this certification, and submitted to the Member's board of directors and audit committee."

IM–3013 does not clearly specify whether a member may submit the report to its board of directors and audit committee[4] after the CEO makes the certification, and NASD has interpreted the certification language to require a member to submit the report to those entities prior to certification. However, it was not NASD's intent to require the board of directors or audit committee to review or consider the report as a condition to the CEO executing the certification. Rather, the requirement that the report be submitted to the member's board of directors and audit committee was intended to ensure that those governing bodies remain informed of this aspect of the member's compliance system in the context of their overall responsibility for governance and internal controls of the member for which they serve. Accordingly, NASD sees no compelling reason to mandate that the report be submitted to the board of directors and audit committee prior to the CEO executing the certification, and therefore the proposed rule change would permit submission of the final report to these governing bodies to take place either before or after the execution of the certification, provided that the board of directors and audit committee receive the report at the earlier of their next scheduled meeting or within 45 days after execution of the certification.[5] Importantly, the board of directors and audit committee must receive the report in its final form regardless of whether the member elects to submit it to them before or after certification by the CEO.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[6] in general, and Section 15A(b)(6) of the Act,[7] in particular, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will further the investor protection goals of the CEO certification requirement by ensuring timely receipt of the Rule 3013 report by a member's board of directors and audit committee and by providing further clarity to the application of the Rule 3013 in its accompanying interpretive material.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

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[3] Securities Exchange Act Release No. 52727 (Nov. 3, 2005); 70 FR 68122 (Nov. 9, 2005) (SR–NASD–2005–121).

[4] IM–3013 requires that members that do not utilize a board of directors or audit committee in the conduct of their business must, as a part of their process, have the report reviewed by their governing bodies and committees that serve similar functions.

[5] New York Stock Exchange ("NYSE") Rule 342.30 also requires that each member (or member organization) file by April 1 of each year a report that addresses the member organization's supervision and compliance efforts during the preceding calendar year, as well as ongoing compliance processes and procedures. NYSE Rule 342.30. The report must include, among other things, a certification by the member or its Chief Executive Officer (or equivalent officer) that the member has processes in place, among other things, to establish and maintain policies and procedures reasonably designed to achieve compliance with applicable Exchange rules and federal securities laws and regulations. NYSE Rule 342.30(e). This certification must be submitted to the member's board of directors and audit committee (if such a committee exists). NYSE Rule 342.30(e)(iii).

The NYSE interprets the certification delivery requirement of Rule 342.30 more restrictively than NASD has proposed to interpret the comparable requirement in NASD Rule 3013. Specifically, Rule 342.30 requires the submittal of the report to the board and the audit committee prior to certification. NYSE Information Memo 06–08 (March 13, 2006). Firms that are dual members of NASD and the NYSE are subject to both NASD 3013 and NYSE Rule 342.30 and must, therefore, comply with the more restrictive requirements of NYSE Rule 342.30. Telephone conversation between Patrice Gliniecki, Deputy General Counsel, NASD, and Richard Strasser, Acting Assistant Director, Market Regulation, Commission (March 16, 2006).

[6] 15 U.S.C. 78*o*–3.

[7] 15 U.S.C. 78*o*–3(b)(6).

### III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–036 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–036. 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR–NASD–2006–036 and should be submitted on or before April 17, 2006.

### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[8] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[9] which requires, among other things, that the rules of a national securities association must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission finds that the proposed rule change is consistent with the Act and, in particular, with Section 15A(b)(6) of the Act because the proposal should help to provide clarity with respect to the timing for the delivery of the report required by Rule 3013 while ensuring that the report is delivered to the member's board of directors and audit committee (or their equivalents) in a timely manner.

NASD has requested that the Commission find good cause for approving the proposed rule change prior to the 30th day after publication of notice thereof in the **Federal Register**. The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[10] for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register** because it believes accelerated approval will reduce the burden of members that are currently in the process of taking the necessary steps to execute the first CEO certification, which is required to be made by April 1, 2006.[11] Moreover, the Commission does not believe that the proposal will reduce the investor protections that the certification requirement is intended to promote.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–NASD–2006–036), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Nancy M. Morris,**

*Secretary.*

[FR Doc. E6–4346 Filed 3–24–06; 8:45 am]

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[8] *See supra* note 6. In approving this proposal, the Commission has considered its impact on efficeincy, competition, and capital formation. 15 U.S.C. 78c(f).

[9] *See supra* note 7.

[10] 15 U.S.C. 78s(b)(2).

[11] *See* Exchange Act Release No. 52727 (Nov. 3, 2005), 70 FR 68122 (Nov. 9, 2005) (SR–NASD–2005–121) (which, among other things, extended until April 1, 2006 the date by which members must execute their first annual certification pursuant to Rule 3013 and IM–3013).

[12] *See supra* note 10.

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–53514; File No. SR–Phlx–2005–80]**

## Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Automated Delivery and Handling of Stop and Stop-Limit Orders

March 17, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2005, 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. Phlx filed Amendment No. 1 with the Commission on March 6, 2006.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to amend Phlx Rules 1066(c)(1) and 1080(b)(i)(A) and (C), and to delete Options Floor Procedure Advices ("OFPAs") A–5 and A–6, to permit customer and off-floor broker-dealer stop[4] and stop-limit[5] orders in options to be delivered via the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1, which replaced the original filing in its entirety, adds clarifying language to the description of the proposed rule change and adopts a definition of "agency order" in Phlx Rule 1080(b)(i)(A).

[4] A stop order is a contingency order to buy or sell when the market for a particular option contract reaches a specified price. A stop order to buy becomes a market order when the option contract trades or is bid at or above the stop price. A stop order to sell becomes a market order when the option contract trades or is offered at or below the stop price. See Phlx Rule 1066(c)(1).

[5] A stop-limit order is a contingency order to buy or sell at a limited price when the market for a particular option contract reaches a specified price. A stop limit order to buy becomes a limit order executable at the limit price or better when the option contract trades or is bid at or above the stop-limit price. A stop limit order to sell becomes a limit order executable at the limit price or better when the option contract trades or is offered at or below the stop limit price. *See id.*

Exchange's Automated Options Market ("AUTOM") System [6] and to be handled electronically. The Exchange also proposes to amend Phlx Rule 1080(b)(i)(A) to include the definition of "agency order" in the rule. The text of the proposed rule change is set forth below. Proposed new language is in *italics;* deletions are in [brackets].

* * * * *

**Rule 1066. Certain Types of Orders Defined**

(a)–(b) No change.

(c) Contingency Order. A contingency order is a limit or market order to buy or sell that is contingent upon a condition being satisfied while the order is at the post.

(1) Stop-Limit Order. A stop-limit order is a contingency order to buy or sell at a limited price when [the market] *a trade or quote on the Exchange* for a particular option contract reaches a specified price. A stop-limit order to buy becomes a limit order executable at the limit price or better when the option contract trades or is bid *on the Exchange* at or above the stop-limit price[, after the offer is represented in the trading crowd]. A stop-limit order to sell becomes a limit order executable at the limit price or better when the option contract trades or is offered *on the Exchange* at or below the stop-limit price[, after the order is represented in the trading crowd].

Stop (stop-loss) Order. A stop order is a contingency order to buy or sell when [the market] *a trade or quote on the Exchange* for a particular option contract reaches a specified price. A stop order to buy becomes a market order when the option contract trades or is bid *on the Exchange* at or above the stop price[, after the order is represented in the trading crowd]. A stop order to sell becomes a market order when the option contract trades or is offered *on the Exchange* at or below the stop price[, after the order is represented in the trading crowd].

*Notwithstanding the foregoing, a stop or stop-limit order shall not be elected by a trade that is reported late or out of sequence.*

[Stop and stop-limit orders elected by a quotation must be given floor official approval prior to execution or, if circumstances make it impractical for prior approval, promptly following the execution. The facts surrounding each instance when retroactive approval is requested must be documented in writing, signed by the specialist and floor official, and submitted to the Surveillance Department on the day of the trade.]

(2)–(7) No change.

(d)–(g) No change.

Commentary: No change.

* * * * *

**Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)**

(a) No change.

(b) Eligible Orders

(i) The following types of orders are eligible for entry into AUTOM:

(A) Agency orders may be entered. The following types of agency orders are eligible for AUTOM; day, GTC, Immediate or Cancel ("IOC"), market, limit, *stop, stop-limit,* all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, and possible duplicate orders. *For purposes of Exchange options trading, an agency order is any order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest.*

(B) No change.

(C) Off-floor broker-dealer limit orders, subject to the restrictions on order entry set forth in Commentary .05 of this Rule, may be entered. The following types of broker-dealer limit orders are eligible for AUTOM: Day, GTC, IOC, *stop, stop-limit,* simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order. For purposes of this Rule 1080, the term "off-floor broker-dealer" means a broker-dealer that delivers orders from off the floor of the Exchange for the proprietary account(s) of such broker-dealer, including a market maker located on an exchange or trading floor other than the Exchange's trading floor who elects to deliver orders via AUTOM for the proprietary account(s) of such market maker.

(ii)–(iii) No change.

(c)–(k) No change.

(l) Directed Orders. For a one-year pilot period, beginning on the date of approval of this Rule by the Securities and Exchange Commission, respecting Streaming Quote Options traded on Phlx XL, specialists, RSQTs and SQTs may receive Directed Orders (as defined in this Rule) in accordance with the provisions of this Rule 1080(l).

(i)(A) The term "Directed Order" means any customer order (*other than a stop or stop-limit order as defined in Rule 1066*) to buy or sell which has been directed to a particular specialist, RSQT, or SQT by an Order Flow Provider, as defined below. To qualify as a Directed Order, an order must be delivered to the Exchange via AUTOM.

(B)–(C) No change.

(ii)–(iv) No change.

Commentary: No change.

* * * * *

**A–5 *RESERVED* [Execution of Stop and Stop Limit Orders**

Stop and stop-limit orders are contingency orders to buy or sell when the market for a particular option reaches a specified price.

Stop and stop-limit orders to buy become eligible for execution when the option trades at or above the stop price or when the bid price for the option is at or above the stop price. Stop and stop-limit orders to sell become eligible for execution when the option trades at or below the stop price or when the offer price for the option is at or below the stop price. A stop or stop-limit order which will be made eligible by an opening sale should be executed as the opening trade or included with the opening trade.

Stop and stop-limit orders elected by a quotation must be given Floor Official approval prior to execution or, if circumstances make it impractical for prior approval, promptly following the execution. The facts surrounding each instance where retroactive approval is requested must be documented in writing, signed by the Specialist and Floor Official, and submitted to the Surveillance Department on the day of the trade.

A Specialist may refuse to accept stop and/or stop limit orders on the book if he has received the approval of one Floor Official no later than 30 minutes before the opening, or such orders shall be accepted throughout the day. Notification of such approval will be posted on the Exchange floor one-half hour before the opening. All stop or stop-limit orders which have been entrusted to the Specialist shall be returned to the responsible member immediately upon Floor Official approval for the return of such orders.

*FINE SCHEDULE*

A–5

Fine not applicable]

* * * * *

**A–6 *RESERVED* [Cancel/ Replacement Process**

It is the responsibility of the Specialist to notify the appropriate brokers when orders they placed on the Specialist book become subject to a

[6] *See* Phlx Rule 1080.

cancel/replacement process. This process shall normally be required when: (1) There is a change in the contract terms of an option, (2) there is a transfer of the Specialist book, or (3) in any other instance where two Floor Officials approve a cancel/replacement of orders on the book.

In all instances where a required cancel/replacement of all orders on the book occurs, it is the responsibility of the Specialist to ensure that, to the extent possible, any such replacement order will not incur a loss of the priority it established prior to the cancel/replacement process.

*FINE SCHEDULE (Implemented on a two-year running calendar basis)*

A–6

1st Occurrence: $250.00
2nd Occurrence: $500.00
3rd Occurrence: $1,000.00
4th Occurrence and Thereafter: Sanction is discretionary with Business Conduct Committee]

* * * * *

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposal and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to increase the number of option transactions on the Exchange that are handled automatically by establishing rules that permit the electronic delivery and handling of stop and stop-limit orders on the Exchange, and to delete certain provisions in the Exchange's rules concerning stop and stop-limit orders that are either redundant or no longer practical. Currently, stop and stop-limit orders in options are not deliverable electronically via AUTOM. The proposal would amend the Exchange's rules to permit the electronic delivery of stop and stop-limit orders to the Exchange via AUTOM.

*Election of Stop and Stop-Limit Orders*

Stop orders delivered electronically on the Exchange's AUTOM System would be handled in the system as market orders once elected by a trade or quote on the Exchange.[7] Stop-limit orders delivered electronically to the limit order book would become live limit orders in the system once elected by a trade or quotation on the Exchange, and would be placed on the limit order book[8] in price-time priority as of the time of election.[9]

The proposed rule change would provide that, notwithstanding the foregoing, a stop or stop-limit order would not be elected by a trade that is reported late or out of sequence. The purpose of this provision is to ensure systemically that a stop or stop-limit order would be elected on the Exchange by the execution price at the actual time of the execution, instead of at the time of a late or out-of-sequence report. Absent this provision, it would be possible for a stop or stop-limit order to be elected by a trade that is reported late or out-of-sequence, which could result in such stop or stop-limit order being converted into a market or limit order and, in the case of a stop order, executed at a significantly different price than the election price of the stop order.[10] A stop-limit order that is elected out-of-sequence could be converted incorrectly into a live limit order that has a price that is significantly different than the then-current market price.

*Eligible Order Types*

Phlx Rules 1080(b)(i)(A) and (C) would be amended to include agency[11] and off-floor broker-dealer[12] stop and stop-limit orders as order types that are eligible for electronic delivery on the Exchange's systems.

*Floor Official Approval Requirement*

OFPA A–5 and Phlx Rule 1066(c)(1) currently provide that stop and stop-limit orders elected by a quotation must be given floor official approval prior to execution or, if circumstances make it impractical for prior approval, promptly following the execution. The facts surrounding each instance when retroactive approval is requested must be documented in writing, signed by the specialist and floor official, and submitted to the Surveillance Department on the day of the trade.

Under the instant proposal, stop and stop-limit orders would be entered electronically and executed and handled automatically on the Exchange's electronic trading platform for options, Phlx XL.[13] The Exchange believes that it would be impractical in an electronic trading environment to require Floor Official approval prior to the execution of each stop and stop-limit order that is entered onto the system.

Accordingly, the Exchange proposes to delete the provision from Phlx Rule 1066(c)(1) requiring Floor Official approval prior to the execution of stop and stop-limit orders. The provision would also be deleted from OFPA A–5, which is proposed to be deleted in its entirety, as set forth more fully below.

*In-Crowd Representation Requirement*

Phlx Rule 1066(c)(1) currently provides that stop and stop-limit orders are elected only after the order is represented in the trading crowd. The Exchange believes that, with the advent of Phlx XL and increasingly automated quoting, trading and order handling in options obviates the need for the requirement that a stop order be represented in the crowd prior to execution. A stop order (or a stop-limit order that becomes a marketable limit order) that is elected by a quotation would be executed, reported and allocated automatically by the

[7] A stop or stop-limit order is "elected" when the market (*i.e.*, a trade or quotation) for a particular option contract reaches a specified price. Under the proposal, such orders would be elected when a trade or quote occurs on the Exchange that causes the Exchange's market to reach the specified price of the stop or stop-limit order. See Phlx Rule 1066(c)(1).

[8] *See* Phlx Rule 1080, Commentary .02.

[9] An opening trade or quotation would also elect a stop or stop-limit order. A stop or stop-limit order that is elected by an opening trade or quotation is treated as a market or limit order for purposes of the Exchange's rules concerning openings. *See* Phlx Rule 1017.

[10] For example, if a stop order to sell at $3.00 is elected by a trade reported late or out-of-sequence with an execution price of $3.00 when the actual bid price at the time of the report is $1.00, the stop order would be converted into a market order and executed at $1.00.

[11] The Exchange has defined an agency order as any order entered on behalf of a public customer, excluding any order entered for the account of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. *See* Securities Exchange Act Release Nos. 46763 (November 1, 2002); 67 FR 68898 (November 13, 2002) and 40970 (January 25, 1999), 64 FR 4922 (February 1, 1999). The Exchange proposes to codify this definition in Phlx Rule 1080(b)(i)(A).

[12] The term "off-floor broker-dealer" means a broker-dealer that delivers orders from off the floor of the Exchange for the proprietary account(s) of such broker-dealer, including a market maker located on an exchange or trading floor other than the Exchange's trading floor who elects to deliver orders via the Exchange's electronic order routing, delivery, execution and reporting system, AUTOM, for the proprietary account(s) of such market maker. *See* Phlx Rule 1080(b)(i)(C).

[13] *See* Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 44612 (August 3, 2004).

Exchange's systems. Thus, there could be no "representation in the crowd" prior to such an execution. The Exchange therefore proposes to delete the requirement that such orders be represented in the crowd as a prerequisite to their election.

*Exclusion From the Definition of "Directed Orders"*

In May 2005, the Exchange adopted rules that permit Exchange specialists, Streaming Quote Traders ("SQTs"),[14] and Remote Streaming Quote Traders ("RSQTs")[15] to receive Directed Orders, and to provide a participation guarantee to specialists, SQTs and RSQTs that receive Directed Orders.[16]

Currently, Phlx Rule 1080(l) defines the term "Directed Order" as any customer order to buy or sell that has been directed to a particular specialist, SQT, or RSQT by an order flow provider. The Exchange proposes an amendment to Phlx Rule 1080(l) that would specifically exclude stop and stop-limit orders from the definition of a Directed Order. Directed Orders must be executed and allocated electronically in accordance with the Exchange's rules that provide the participation guarantee described above.[17] A stop or stop-limit order that is elected on the Exchange might not be eligible for automatic execution[18] and instead would be handled manually by the specialist and allocated in accordance with Phlx Rule 1014(g)(v), which governs manual trade allocation and does not provide a participation guarantee to the recipient of a Directed Order. Such a stop or stop-limit order that is allocated manually would not be allocated pursuant to Phlx Rule 1014(g)(viii), the trade allocation algorithm applicable to Directed Orders. Therefore, the Exchange proposes to exclude stop and stop-limit orders from the definition of "Directed Order."

*Deletion of OFPA A–5 in Its Entirety*

OFPA A–5 currently includes a provision that a specialist may refuse to accept stop and/or stop-limit orders on the book if he has received the approval of one Floor Official no later than 30 minutes before the opening. The original purpose of this provision was to allow the specialist to manage his or her risk of missing, or not timely executing, elected stop and stop-limit orders in options that are expected to be volatile during the trading day due to, for example, pending news or other event-driven changes in the market for the particular option. The Exchange believes that, because stop and stop-limit orders would be elected automatically under the proposal, specialists would no longer be subject to such risks. The Exchange therefore proposes to delete the provision permitting specialists to refuse to accept stop and stop-limit orders with the proper Floor Official approval.

The Exchange proposes to delete OFPA A–5 in its entirety. The descriptive language of stop and stop-limit orders contained in OFPA A–5 is currently contained in Phlx Rule 1066, and would remain in Rule 1066. Additionally, the provision that a stop or stop-limit order which will be made eligible by an opening sale should be executed as the opening trade or included with the opening trade is addressed in Phlx Rule 1017, which includes market orders (such as those that are the result of a stop order being elected) and limit orders (such as those resulting from a limit order being elected) that are treated as market orders under that rule, in the opening of trading in a particular series.

The remaining sections of OFPA A–5 regarding the requirement to obtain Floor Official approval prior to election, and permitting specialists to refuse to accept stop and stop-limit orders with prior Floor Official approval, would be deleted for the reasons stated above. In addition, the Exchange historically adopted some OFPAs in order to reprint them in a pocket format; this rationale is outdated and no longer applies.

*Deletion of OFPA A–6 in Its Entirety*

Currently, OFPA A–6, Cancel/Replacement Process, requires the specialist to notify "the appropriate brokers" when orders they placed on the limit order book become subject to a cancel/replacement process. Notification of the cancel/replacement process is now provided systemically, except with respect to stop and stop-limit orders placed with the specialist. Stop and stop-limit orders are the only order types for which the specialist is currently responsible to notify the appropriate Exchange member or member organization when stop and stop-limit orders they placed with the specialist become subject to a cancel/replacement process (due to, for example, a transfer or an adjustment for a dividend). Once stop and stop-limit orders are automated the specialist would no longer be responsible for notification of cancel/replacement activity for any order type. Therefore the OFPA is proposed to be deleted in its entirety.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act[19] in general, and furthers the objectives of section 6(b)(5) of the Act[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by increasing the number of orders handled electronically and establishing rules that permit the electronic delivery and handling of stop and stop-limit orders via the Exchange's AUTOM System.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would 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 neither solicited nor received comments with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

[14] An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. *See* Phlx Rule 1014(b)(ii)(A).

[15] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Phlx Rule 1014(b)(ii)(B).

[16] *See* Securities Exchange Act Release No. 51759 (May 27, 2005); 70 FR 32860 (June 6, 2005). *See also* Phlx Rule 1014(g)(viii) (setting forth the automatic trade allocation algorithm for Directed Orders).

[17] *See* Phlx Rule 1014(g)(viii).

[18] For example, an order is not eligible for automatic execution on the Exchange when the Exchange's bid or offer is not the National Best Bid or Offer. *See* Phlx Rule 1080(c)(iv)(E).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

(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–Phlx–2005–80 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2005–80. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2005–80 and should be submitted on or before April 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Nancy M. Morris,

*Secretary.*

[FR Doc. E6–4342 Filed 3–24–06; 8:45 am]

BILLING CODE 8010–01–P

## DEPARTMENT OF STATE

**[Public Notice 5352]**

## Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Youth Programs Academic Year Disability Component

*Announcement Type:* New Grant.

*Funding Opportunity Number:* ECA/PE/C/PY–06–37.

*Catalog of Federal Domestic Assistance Number:* 00.000.

*Key Dates:* July 2006–June 2007.

*Application Deadline:* May 8, 2006.

*Executive Summary:* The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for the management of the Disability Component for its Academic Year programs. This includes conducting a five-day summer Preparatory Workshop and a three-day spring Leadership and Reentry Workshop for Students with Disabilities from Eurasia participating in the Future Leaders Exchange (FLEX) Program and from countries with significant Muslim populations participating in the Youth Exchange and Study (YES) Program, as well as the provision of support services to these students throughout the year by assisting grantee placement organizations and maintaining regular communication with each student, as needed. Approximately 20–27 high school-aged students will participate in the Disability Component Program.

**I. Funding Opportunity Description**

*Authority:* Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

*Purpose:* It is Bureau policy that recruitment of people with disabilities at every level should be a priority in all sponsored programming. It is ECA's goal to provide each student with disabilities participating in the FLEX or YES Programs with an integrated three-phase program designed to enhance their experience in the U.S. This will include providing a Preparatory Workshop upon the students' arrival in the U.S. and developing an action plan with each student for the coming year. The grantee organization will then continue to support each of these students and work with their placement organizations to assist the students in taking advantage of local opportunities for people with disabilities. Finally, the process will include implementing the Leadership and Reentry Workshop to assist the students in discussing their year's experience and in preparing for their return home as individuals with disabilities.

*Background:* The Future Leaders Exchange (FLEX) and Youth Exchange and Study (YES) programs bring secondary school students from Eurasia and countries with significant Muslim populations to the U.S. for an academic year. During their time in the U.S., these students live with American host families and attend U.S. high schools. (**Note:** For more information on these programs, refer to the Youth Programs Division Web site: *http://exchanges.state.gov/education/citizens/students.*)Since 1995, the FLEX program has included a component for students with disabilities. This has been challenging since individuals with disabilities are treated very differently in Eurasia than they are in the U.S. In Eurasia, most disabled young people attend special schools, largely institutions, and being disabled carries a major stigma. Most young, disabled individuals either are ignored by parents who are ashamed of them or are overprotected by parents who are concerned that they cannot function independently. A similar situation exists in the countries from which the YES students come; and therefore, the disabilities component is being expanded this year to include YES students. The program should be designed to support the following specific activities/components:

*Preparatory Workshop for Students with Disabilities:* Generally, FLEX and YES participants with disabilities adjust well to American life and culture and

[21] 17 CFR 200.30–3(a)(12).

realize the same positive effects as non-disabled participants. The grantee organization will assess the students' abilities and special needs and provide information to placement organizations (POs) on accommodations that each student may require as well as assist each PO in identifying resources to support the student in the host community. The Preparatory Workshop will also introduce and guide students' expectations and skills for the U.S. academic year as individuals with disabilities. The grantee organization will also focus on identifying local activities and resources to prepare each student to incorporate disability related themes into their FLEX or YES program objectives of participation in community service and enhancement activities designed to involve them in civic education, democracy building and mutual understanding. **Please note:** Due to differences in scheduling between the FLEX and YES programs, two separate Preparatory Workshops will be necessary for FLEX and YES program participants respectively.

*Ongoing Support and Academic Year Programming:* Placement organizations have minimal experience working with students with disabilities and often lack resources and counseling expertise. Providing such support services during the year will undoubtedly offer students with disabilities access to opportunities that they may not be aware of as well as enhance their experiences in their American host communities. However, in addition to providing for the physical and emotional support of students with disabilities, POs also need guidance in identifying appropriate disability related local community service and enhancement opportunities to provide for the programmatic aspects of the students' FLEX or YES experience. Your organization's expertise and knowledge of resources around the country will provide valuable assistance to POs in planning meaningful activities that can expand the students' knowledge and self-awareness of disability issues. This will enhance their stay as well as their ability to become agents of change in their home countries on matters concerning people with disabilities.

*Leadership and Reentry Workshop for Students with Disabilities:* After having enjoyed the accessibility and other disability supports that exist in the U.S., FLEX and YES students with disabilities are often not well prepared to return to the less disability-friendly environments of their home countries. It is important to adequately prepare program participants with disabilities for the reverse culture shock that is sure to occur when they return home. Therefore, this workshop should focus solely on the readjustment of each student as a person with a disability, as the students will also be attending other reentry workshops conducted for all FLEX and YES students by their respective placement organizations at the end of the program year. These other workshops will provide more general training for readjustment to the students' home cultures. Additional goals of the Leadership and Reentry workshop are conducting activities to further develop leadership skills and foster empowerment and provision of tools that would enable these individuals to do outreach and work in support of disability rights in their countries.

Proposed funding would support the following activities:

*Preparatory Workshops:* Two five-day workshops in summer 2006 to prepare FLEX and YES students with disabilities for their exchange experience.

- Assessment of students' skills and preparation of reports to provide placement organizations information about their students' specific needs and abilities.
- Lodging, meals, student supervision and emergency medical care. [**Note:** Health insurance is provided by each student's placement organization. Any issues or questions regarding insurance should be addressed to the placement organizations.]
- Coordination of arrival and departure travel information with administrative component grantee. [Students' international and domestic travel is provided through the FLEX administrative components and YES recruitment grants.]
- Coordination of make-up activities and information for any late arriving students.
- Comprehensive follow-up programming with any selected individuals who were unable to attend the workshop.
- Fiscal management.
- Workshop evaluation.

*Support and Programming Services:*

- Provision of disability- and locality-specific information and resources to placement organizations and students to enhance their FLEX and YES program activities.
- Provision of ongoing support and program assistance and communication to FLEX and YES students with disabilities through their POs.
- Fiscal management.
- Evaluation.

*Leadership and Reentry Workshop:* A three-day workshop in spring 2007 to prepare students with disabilities to return to their home countries.

- Lodging, meals, student supervision and medical care.
- Travel from host communities to workshop site, and return.
- Follow-up programming—with any selected individuals who were unable to attend the workshop.
- Fiscal management.
- Evaluation.

**II. Award Information**

*Type of Award:* Grant Agreement.
*Fiscal Year Funds:* 2006.
*Approximate Total Funding:* Approximately $146,346.
*Approximate Number of Awards:* One.
*Anticipated Award Date:* June 2006.
*Anticipated Project Completion Date:* June 2007.
*Additional Information:* Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years, before openly competing it again.

**III. Eligibility Information**

*III.1. Eligible Applicants*

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

*III.2. Cost Sharing or Matching Funds*

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

*III.3. Other Eligibility Requirements*

Grants awarded to eligible organizations with less than four years

of experience in conducting international exchange programs will be limited to $60,000.

**IV. Application and Submission Information**

**Note:** Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

*IV.1. Contact Information To Request an Application*

*Package:* Please contact the Youth Programs Division, ECA/PE/C/PY, Room Number 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 203–7517, fax (202) 203–7529, or e-mail *PetersML@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition. Please specify Bureau Program Officer Michele Peters and refer to the Funding Opportunity Number (ECA/PE/C/PY–06–37) located at the top of this announcement on all other inquiries and correspondence.

*IV.2. To Download a Solicitation Package Via Internet*

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*. Please read all information before downloading.

*IV.3. Content and Form of Submission*

Applicants must follow all instructions in the Solicitation Package. The application should be sent per the instructions under IV.3f. "Submission Dates and Times" section below.

IV.3a. *You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government.* This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. *All proposals must contain an executive summary, proposal narrative and budget.* Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. *You must have nonprofit status with the IRS at the time of application.* If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. *Please take into consideration the following information when preparing your proposal narrative:*

IV.3d.1. *Adherence to All Regulations Governing the J Visa:* The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of grantee program organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements. The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://www.exchanges.state.gov/* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 203–5029. Fax: (202) 453–8640.

IV.3d.2. *Diversity, Freedom and Democracy Guidelines:* Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. *Program Monitoring and Evaluation:* Proposals must include a plan to monitor and evaluate the

project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable timeframe), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning*, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior*, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes*, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

**Please note:** Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes (satisfaction) will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. *Please take the following information into consideration when preparing your budget:*

IV.3e.1. *Applicants must submit a comprehensive budget for the entire program.* The award will be approximately $146,346. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. *Allowable costs for the program include the following:*

(1) Round-trip transportation for participants from their host communities to/from the Leadership and Reentry workshop site.

(2) Daily travel at workshop site location as necessary.

(3) Accommodations and meals for participants during the time of the workshop.

(4) Rental of facilities and equipment.

(5) Fees for relevant excursions and cultural activities.

(6) Honoraria for speakers/trainers, as appropriate.

(7) Necessary reasonable accommodations.

(8) Materials development.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. *Application Deadline and Methods of Submission:*

*Application Deadline Date:* Monday, May 8, 2006.

*Reference Number:* ECA/PE/C/PY–06–37.

*Methods of Submission:* Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov*.

Along with the Program Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. *Submitting Printed Applications:* Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

**Important note:** When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

Applicants must follow all instructions in the Solicitation Package.

The original and eight copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Reference Number: ECA/PE/C/PY–06–37, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

IV.3f.2. *Submitting Electronic Applications:* Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system. Please follow the instructions available in the "Get Started" portion of the site (*http://www.grants.gov/GetStarted*).

Applicants have until midnight (12 a.m.) of the closing date to ensure that their entire applications have been uploaded to the grants.gov site. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will *not* notify you upon receipt of electronic applications.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program. Applicants must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) format on a PC-formatted disk.

## V. Application Review Information

### *V.1. Review Process*

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants assistance awards resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability to Achieve Objectives:* Proposals should exhibit originality, substance, precision, and resourcefulness. Objectives should be reasonable, feasible, and flexible. A detailed agenda and relevant work plan should include proposed support activities and should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above and should clearly demonstrate how the project will meet objectives.

2. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue and program evaluation) and program content.

3. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. You should demonstrate experience working with youth with disabilities, as well as familiarity with the culture and current challenges that exist for people with disabilities living in Eurasia and represented by the FLEX program and people with disabilities in the countries represented in the YES program. Your proposal should demonstrate an institutional record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff.

4. *Multiplier Effect/Impact:* The proposed program should describe how workshop participants will be motivated and enabled to reach out to other individuals with disabilities in their communities in the U.S. and in their home countries.

5. *Follow-on Activities:* Proposals should describe how the program will encourage participants to teach and encourage advocacy to others in their home countries.

6. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended.

7. *Cost effectiveness/Cost sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

## VI. Award Administration Information

### *VI.1. Award Notices*

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

### *VI.2. Administrative and National Policy Requirements*

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments."

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants*; *http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

### *VI.3. Reporting Requirements*

You must provide ECA with two hard copy originals of the following reports:

Quarterly program and financial reports; and a final program and

financial report no more than 90 days after the expiration of the award.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

### VII. Agency Contacts

For questions about this announcement, contact: Michele Peters, Program Officer, Office of Citizen Exchanges, ECA/PE/C/PY, Room 568, Reference Number ECA/PE/C/PY–06–37, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, phone: (202) 203–7517 and fax (202) 203–7529, E-mail: *PetersML@state.gov*.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–06–37.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

### VIII. Other Information

*Notice:* The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: March 22, 2006.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. E6–4383 Filed 3–24–06; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent to Rule on Request to Release Airport Property at Ontario Municipal Airport, Ontario, OR

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of request to release airport property.

**SUMMARY:** The FAA proposes to rule and invite public comment on the release of land at Ontario Municipal Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

**DATES:** Comments must be received on or before April 26, 2006.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address:

Mr. J. Wade Bryant, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Scott Trainor, City Manager, City of Ontario, at the following address:

Mr. Scott Trainor, City Manager, City of Ontario, 444 SW 4th Street, Ontario, OR 97914.

**FOR FURTHER INFORMATION CONTACT:** Mr. William L. Watson, OR/ID Section Supervisor, Federal Aviation Administration, Northwest Mountain Region, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

The request to release property may be reviewed, by appointment, in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to release property at Ontario Municipal Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On March 10, 2006, the FAA determined that the request to release property at Ontario Municipal Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than April 26, 2006.

Ontario Municipal Airport is proposing the release of approximately 29.13 acres of airport property so the property can be sold to Snake River Sportmen. The revenue made from this sale will be used toward purchase of Montgomery and Snow properties, which sit directly in the Runway Protection Zone.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at Ontario Municipal Airport.

Dated: Issued in Renton, Washington, on March 10, 2006.

**J. Wade Bryant,**

*Manager, Seattle Airports District Office.*

[FR Doc. 06–2916 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2005–22020, FAA Order 1050.1E, Change 1]**

### Environmental Impacts: Policies and Procedures

**AGENCY:** Federal Aviation Administration, DOT

**ACTION:** Notice of adoption; notice of availability.

**SUMMARY:** The Federal Aviation Administration (FAA) has revised its procedures for implementing the National Environmental Policy Act by revising Order 1050.1E, Environmental Impacts: Policies and Procedures, with Order 1050.1E, Change 1. The revisions include: changes for clarification, consistency, and addition of information; corrections; and editorial changes. This notice informs the public of the availability of the Final Order. This notice also provides the public with information on how to access Order 1050.1E, Change 1 on FAA's Office of Environment and Energy Web site.

**DATES:** Order 1050.1E is effective March 20, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Matthew McMillen, Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 493–4018.

**SUPPLEMENTARY INFORMATION:** The National Environmental Policy Act (NEPA) and implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508) establish a broad national policy to protect the quality of the human environment and provide policies and goals to ensure that

environmental considerations and associated public concerns are given careful attention and appropriate weight in all decisions of the Federal Government. Section 102(2) of NEPA and 40 CFR 1505.1 require Federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ regulations.

The FAA's previous NEPA Order, 1050.1E, Environmental Impacts: Policies and Procedures, provides FAA's policy and procedures for complying with the requirements of: (a) The CEQ regulations for implementing the procedural provisions of NEPA; (b) Department of Transportation (DOT) Order DOT 5610.1C, Procedures for Considering Environmental Impacts, and (c) other applicable environmental laws, regulations, and executive orders and policies. The FAA proposed to revise Order 1050.1E with Order 1050.1E, Change 1.

As part of revising its environmental order, the FAA requested public comment on the draft Order in a **Federal Register** notice dated Tuesday, December 20, 2006 (Vol. 70, No. 243, p. 75529). The FAA received one comment, which was considered in the issuance of the final Order 1050.1E, Change 1. The Order is distributed primarily by electronic means. The Order will be located for viewing and downloading by all interested parties at *http://www.faa.gov/regulations_policies/orders_notices*. If the public does not have access to the internet, they may obtain a computer disk containing the Order by contacting the Office of Environment and Energy, 800 Independence Avenue SW., Washington, DC 20591. If the public is not able to use an electronic version, they may obtain a photocopy of the Order by contacting FAA's rulemaking docket at Federal Aviation Administration, Office of Chief Council, Attn: Rules Docket (AGC–200)—Docket FAA–22005–22020, 800 Independence Avenue, SW., Washington, DC 20591.

**Synopsis of Changes**

The FAA Order 1050.1E, Change 1, Environmental Impacts: Policies and Procedures, includes changes to the previous version of the Order that may be of interest to the public and other government agencies. The final Order contains the same language as the proposed Order with the exception of the explicit language categorically excluding the establishment or modification of prohibited areas. The changes in Order 1050.1E, Change 1 include the following:

1. Change for clarification (Ch. 3, Para. 301c, Ch. 3, Para. 304c, Ch. 4, Para. 401p, Ch. 4, Para. 401p.(5), Ch. 5, text box on page 5–16, Appendix A, Section 9. Floodplains, Appendix A, Section 11. Historical, Architectural, Archeological, and Cultural Resources;

2. Editorial Change (Ch. 3, Para. 309c);

3. Change for consistency (Ch. 4, Para. 404e);

4. Change for consistency with CEQ regulations (Ch. 5, Para. 506b, Ch. 5, Para. 506e, Ch. 5, Para. 512);

5. Change for consistency with FAA Office of Environment and Energy policy (Ch. 5, Para. 509a.(1) and (4));

6. Change for correction (Appendix A, Section 3. Coastal Resources, Appendix A, Section 6. Department of Transportation Act, Section 4(f), Appendix C, Figure 3. Related Memoranda and Guidance);

7. Change for correction and consistency (Appendix A, Section 10. Hazardous Material, Pollution Prevention, and Solid Waste);

The draft Order 1050.1E, Change 1, published in the **Federal Register**, Volume 70, No. 243, at page 75529, dated Tuesday December 20, 2005, included the addition of a specific categorical exclusion (CATEX) for establishing or modifying a prohibited area. A prohibited area is established or modified through a rulemaking. The addition of this CATEX has been deferred pending further consideration. In the meantime, Order 1050.1E currently includes another, general, CATEX for rulemakings. This CATEX can, as is the case with all CATEXs, be used if there are no extraordinary circumstances. Consequently, it can be applied when accompanied with supporting documentation showing that there would be no extraordinary circumstances resulting in potentially significant impacts on the human environment as the result of establishing or modifying a prohibited area. If there are extraordinary circumstances, then preparation of an environmental assessment or environmental impact statement would be required for the rulemaking.

**Disposition of Comments**

The FAA received one comment on the proposed revision of 1050.1E, Change 1 from the Aircraft Owners and Pilots Association (AOPA) concerning the addition of CATEX 311f. As stated above, addition of this CATEX has been deferred.

Issued in Washington, DC, March 20, 2006.

**Carl E. Burleson,**

*Federal Aviation Administration, Director, Office of Environment and Energy.*

[FR Doc. E6–4375 Filed 3–24–06; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Approval of Finding of No Significant Impact (FONSI) on a Final Environmental Assessment (Final EA); Southern Illinois Airport, Carbondale-Murphysboro, IL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of approval of documents.

**SUMMARY:** The Federal Aviation Administration (FAA) is issuing this notice to advise the public of the approval of a Finding of No Significant Impact (FONSI) on an Environmental Assessment for proposed Federal actions at Southern Illinois Airport, Carbondale-Murphysboro, Illinois. The FONSI specifies that the proposed federal actions and local development projects are consistent with existing environmental policies and objectives as set forth in the National Environmental Policy Act of 1969 and will not significantly affect the quality of the environment.

A description of the proposed Federal actions is: (a) To issue an environmental finding to allow approval of the Airport Layout Plan (ALP) for the development items listed below; (b) Approval of the Airport Layout Plan (ALP) for the development items listed below; and (c) Establish eligibility of the Southern Illinois Airport Authority to compete for Federal funding for the development projects depicted on the Airport Layout Plan.

The specific items in the local airport development project include: Acquisition of approximately 210 acres of land in fee simple title including relocation assistance for one (1) residence; Widening of the existing Runway 18R/36L by 15 feet and construction of a 500-foot extension to Runway 36L to provide a total runway dimension of 4,000 feet × 75 feet. This action includes all appropriate grading and drainage; Extension and widening of the existing parallel taxiway to Runway 18R/36L to serve the extended runway threshold; Construction of new airport facilities in the western and northwestern airfield quadrants. This action includes the construction of a new west side entrance roadway system; creation of a new GPS non-precision Standard Instrument Approach Procedures (SIAP) for Runways 18R, 36L, and 36; relocation of portions of Airport Road, Fox Farm Road and the Airport Entrance Road to allow for the initiation of new non-precision

instrument approach procedures for Runways 36L and 36R; relocation of a portion of Fox Farm Road to remove the facility from within the Runway Protection Zone (RPZ) for Runway 06; relocation of the existing Visual Approach Descent Indicator (VADI) lights and associated wind cone to serve the relocated Runway 36L threshold; installation of Medium Intensity Runway Lights (MIRL) on the extended and widened runway; installation of Medium Intensity Taxiway Lights (MITL) on the extended on widened taxiway; relocation of a portion of the Southern Illinois Power Company's electric lines to allow for the new SIAPs to Runways 36L and 36; removal of obstructions in the approaches to Runways 06 and 18L; mitigation of impacts to 2.7 acres of wetlands; and the approval of the Southern Illinois ALP.

Copies of the environmental decision and the Final EA are available for public information review during regular business hours at the following locations:

1. Southern Illinois Airport, 665 North Airport Road, Murphysboro, Illinois 62966.

2. Division of Aeronautics-Illinois Department of Transportation, One Langhorne Bond Drive, Capital Airport, Springfield, IL 62707.

3. Chicago Airports District Office, Room 320, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

**FOR FURTHER INFORMATION, CONTACT:** E. Lindsay Butler, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, Room 320, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Ms. Butler can be contacted at (847) 294–7723 (voice), (847) 294–7046 (facsimile) or by e-mail at *lindsay.butler@faa.gov.*

Issued in Des Plaines, Illinois on February 15, 2006.

**Larry H. Ladendorf,**

*Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.*

[FR Doc. 06–2913 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Programmatic Environmental Impact Statement: Launches and Reentries Under an Experimental Permit

**AGENCY:** Federal Aviation Administration, Office of Commercial Space Transportation, DOT.

**ACTION:** Notice of intent to prepare a Programmatic Environmental Impact Statement.

**SUMMARY:** The Commercial Space Launch Amendments Act of 2004 (CSLAA), enacted on December 23, 2004, directs the Secretary of Transportation and, through delegations, the Federal Aviation Administration (FAA) Office of Commercial Space Transportation, to establish an experimental permit regime for developmental reusable suborbital rockets. The intent of Congress for the experimental permit regime is to reduce the regulatory burden on developers of reusable suborbital rockets. Congress intended that, "[a]t a minimum, permits should be granted more quickly and with fewer requirements than licenses." (H. Rep. 108.429 Sec. VII) To address the intent of Congress and meet a reduced timeline for issuing permits, a congressionally mandated 120 day timeline, the FAA is preparing a Programmatic Environmental Impact Statement (PEIS) to evaluate the impacts of launches and reentries conducted under an experimental permit. The intent of the PEIS is to facilitate the development of a permit application package and the subsequent environmental review by FAA, and to ensure that the issuance of an experimental permit is consistent with the FAA's mission of protecting public health and safety, safety of property, and the national security and foreign policy interests of the United States.

The proposed action for this PEIS is to issue experimental permits for the launch and reentry of reusable suborbital rockets. Suborbital rocket means a vehicle, rocket-propelled in whole or in part, intended for flight on a suborbital trajectory, the thrust of which is greater than its lift for the majority of the rocket-powered portion of its ascent. Suborbital trajectory means the intentional flight path of a launch vehicle, reentry vehicle, or any portion thereof, whose vacuum instantaneous impact point does not leave the surface of the Earth.

The FAA will prepare the PEIS in accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) NEPA regulations (40 Code of Federal Regulations [CFR] Parts 1500–1508), and the FAA procedures for implementing NEPA in FAA Order 1050.1E.

**DATES:** The FAA invites interested agencies, organizations, Native American tribes, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues, and in determining the appropriate scope of the PEIS. The public scoping period starts with the publication of this notice in the **Federal Register** and will continue until May 19, 2006. The FAA will consider all comments received or postmarked by May 19, 2006 in defining the scope of the Draft PEIS. Written comments postmarked or sent after this date will be considered to the degree practicable.

If an agency, organization, or a member of the general public desires to have a scoping meeting at a specific location, please contact Stacey M. Zee at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**ADDRESSES:** Written comments or suggestions on the scope and content of the PEIS and requests to receive a copy of the Draft PEIS when it is issued should be directed via mail to: PEIS Experimental Permits, c/o ICF Consulting, 9300 Lee Highway, Fairfax VA 22031; via e-mail at *PEIS-Experimental-Permits@icfconsulting.com*; or via fax at 703–934–3951. The subject line of e-mails or faxes should be labeled "Scoping for the Experimental Permits PEIS."

**FOR FURTHER INFORMATION CONTACT:** For information on the proposed project or to request a location for a scoping meeting, contact Stacey M. Zee via mail at: Federal Aviation Administration, Office of Commercial Space Transportation, Room 331, 800 Independence Avenue, SW., Washington, DC 20591; via phone at (202) 267–9305; via fax at (202) 267–5463; or via e-mail at *Stacey.Zee@faa.gov.* Additional information may also be found on the PEIS Web site at *http://ast.faa.gov/lrra/PEISSite.htm.*

**SUPPLEMENTARY INFORMATION:**

#### Background and Need for Agency Action

Under Title 49, U.S. Code, Subtitle IX, Sections 70101–70121, Commercial Space Launch Activities, the FAA oversees, licenses, and regulates both launches and reentries of launch and reentry vehicles, and the operation of launch and reentry sites when carried out by U.S. citizens or within the United States. (49 U.S.C. 70104, 70105) Chapter 701 directs the FAA to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States; and to encourage, facilitate, and promote commercial space launch and reentry by

the private sector. (49 U.S.C. 70103, 70105)

Under the CSLAA, which was signed into law on December 23, 2004, FAA can issue experimental permits rather than licenses for the launch and reentry of reusable suborbital rockets. Previously, the FAA could only issue a license for these operations. Congress directed that experimental permits could be issued for:

- Research and development to test new design concepts, new equipment, or new operating techniques;
- Showing compliance with requirements as part of the process for obtaining a license; or
- Crew training prior to obtaining a license for a launch or reentry using the design of the rocket for which the permit would be issued.

The CSLAA of 2004 also directs the FAA to make a determination on issuing an experimental permit within 120 days of receiving a complete application. The FAA currently has 180 days to make a license determination. Because of this reduced review time, the FAA is seeking to clearly define the requirements for an experimental permit application in the proposed rulemaking and streamline the environmental review process for such applications in the future. The Notice of Proposed Rulemaking (NPRM) that is being issued concurrent with this Notice of Intent specifies the proposed application requirements for an operator of a reusable suborbital rocket to obtain an experimental permit and the proposed operating requirements and restrictions on launch and reentry of a reusable suborbital rocket operating under a permit.

The FAA is preparing this PEIS to examine the environmental impacts of reusable suborbital rockets operating under an experimental permit. The PEIS will provide information and analyses common to all reusable suborbital rockets, will facilitate tiering of subsequent environmental assessments and environmental impact statements, and will allow the environmental analysis of an individual permit applicant to focus on the environmental effects specific to their permit application. The FAA's intent is to focus the scope of future environmental analyses and improve the efficiency of acting on individual permit applications.

**Proposed Action**

The proposed action for this PEIS is to issue experimental permits for the launch and reentry of reusable suborbital rockets, develop the environmental criteria for issuing those permits, and prepare documentation that can be referenced or tiered from in future applications. The proposed action includes four conceptual reusable suborbital rockets based on the type of take-off as follows:

1. A vertical take-off suborbital rocket,
2. A combination jet and rocket powered horizontal take-off suborbital rocket,
3. A horizontal take-off suborbital rocket, and
4. A suborbital rocket that requires a support aircraft or balloon to transport the rocket to altitude.

For each type of suborbital rocket, a range of propellants will be analyzed including those used in liquid and hybrid rocket engines. In addition, the type of landing, vertical or horizontal, will be analyzed in the PEIS. Under the proposed action, the launch and reentry would occur from an FAA licensed launch location. FAA will evaluate the impacts associated with each conceptual vehicle from the following locations: Mojave Airport, Mojave, California; California Spaceport, Vandenberg Air Force Base, California; Spaceport Florida, Cape Canaveral Air Force Station, Florida; Mid-Atlantic Regional Spaceport, Wallops Flight Facility, Virginia; the proposed Oklahoma Spaceport, Burns Flat, Oklahoma; and the proposed Southwest Regional Spaceport, Upham, New Mexico. Based on comments received during the scoping period and the advancement of the NPRM, the FAA may propose additional suborbital rocket concepts, propellant types, and locations for impacts analysis.

Under the proposed action, the FAA assumes that up to 50 launch and landing events per conceptual reusable suborbital rocket would occur annually, and no more than 100 annual launch and landing events would occur at any one location. The proposed action assumes that operations would take place from existing commercial launch sites and that no new infrastructure (*e.g.*, buildings, runways, launch pads) would be required. Therefore, infrastructure construction and use are not included in the scope of the PEIS.

**Alternatives**

Other than the proposed action and the no action alternative, the FAA does not have any defined alternatives to consider, at this time. Based on the comments received during the scoping period and the advancement of the NPRM, the FAA may consider additional alternatives based on its discretion in implementing the CSLAA. The FAA will assess alternatives in accordance with the CEQ NEPA regulations (40 CFR 1502.14).

**Identification of Environmental Issues**

The purpose of this notice is to solicit comments and suggestions for consideration in the preparation of the PEIS. As background for public comment, this notice contains a list of potential environmental issues that the FAA has tentatively identified for analysis. This list, which the FAA developed from preliminary review of the experimental permit regime and similar projects, is not intended to be all-inclusive or to imply any predetermination of impacts. Instead, it is presented to facilitate public comment on the planned scope and content of the PEIS. Additions to or deletions from this list may occur as a result of the public scoping process. The preliminary list of potential environmental issues that may be analyzed in the PEIS includes the following:

1. Air Quality—the effects of emissions associated with launch and reentry operations,
2. Water Resources—the effects of emissions of launch and reentry operations on water resources,
3. Biological Resources—the effects of launch and reentry operations on terrestrial and aquatic plants and animals, including state- and federally-listed threatened and endangered species, and other protected resources (*e.g.*, wetlands and essential fish habitat),
4. Public Health and Safety—the effects of launch and reentry operations on public health and safety, including potential incidental spills and releases of hazardous or toxic materials,
5. Socioeconomics—the effects of a potential influx of workers and the potential increase in demand for local services,
6. Cultural Resources—the potential effects on historical, archaeological, and culturally important sites, and
7. Environmental Justice—the potential for disproportionately high and adverse effects on populations protected under Executive Order 12898.

**Scoping Process**

To ensure that all issues related to this proposal are addressed, the FAA will conduct an open process to define the scope and content of the PEIS. Interested agencies, organizations, Native American tribes, and members of the public are encouraged to submit comments or suggestions concerning the content of the PEIS, issues and impacts to be addressed in the PEIS, and alternatives that should be considered. Written comments should be sent to the FAA as described in the **ADDRESSES** section above.

**Draft PEIS Schedule and Availability**

The Draft PEIS is scheduled to be issued in the fall of 2006. The availability of the Draft PEIS, the methods by which the Draft PEIS will be made available for public review, and dates for public hearings soliciting comments on the PEIS will be announced in the **Federal Register.** Comments on the Draft PEIS will be considered in preparing the Final PEIS.

Those interested parties who do not wish to submit comments at this time, but who would like to receive a copy of the Draft PEIS and other project materials, should follow the guidance provided in the **ADDRESSES** section of this notice.

Issued in Washington, DC, on March 20, 2006.

**Patricia G. Smith,**

*Associate Administrator for Commercial Space Transportation.*

[FR Doc. E6–4373 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 186 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B).

**DATES:** The meeting will be held April 17–20, 2006 starting at 9 a.m. (unless stated otherwise).

**ADDRESSES:** The meeting will be held at MITRE/CAASD, 7515 Colshire Drive, McLean, VA 22102–7539.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.* MITRE telephone (703) 983–6000. For map and directions: *http://www.mitre.org/about/locations.html.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 186 meeting.

**Note:** Specific working group sessions will be held on April 17, 18, 19.

- **April 17:**
- WG4 STP Subgroup MITRE 2 Room 2N103
- **April 18:**
- WG4 STP Subgroup MITRE 2 Room 2N103
- **April 19:**
- WG4 STP Subgroup MITRE 2 Room 2N105
- WG4 ASSAP Subgroup MITRE 1 Room 4H204
- WG–3—1090 MHz MOPS–MITRE 2 Room 0N136

**Note:** ASAS—Aircraft Surveillance Applications System

CDTI—Cockpit Display of Traffic Information

MOPS—Minimum Operational Performance Standards

STP—Surveillance Transmit Processing

- **April 20:**
- Opening Plenary Session (Chairman's Introductory Remarks, Review of Meeting Agenda, Review/Approval of Previous Meeting Summary, RTCA Paper No. 058–06/SC186–231 (currently in draft)
- ADS–B Program Review/Status
- Review/Approval—Change 1 to DO–260–Minimum Operational Performance Standards for 1090 MHz Automatic Dependent Surveillance—Broadcast (ADS–B)
- Review/Approval—Change 1 to DO–260A–Minimum Operational Performance Standards for 1090 MHz Automatic Dependent Surveillance—Broadcast (ADS–B) and Traffic Information Services (TIS–B)

RTCA Paper No. 059–06/SC186–232

March 16, 2006

**Thirty-Sixth Meeting**

*SC–186*

Automatic Dependent Surveillance—Broadcast (ADS–B)

*Date:* April 17–20, 2006.

*Time:* 9 a.m. (Unless Otherwise Noted).

*Place:* MITRE/CAASD, 7515 Colshire Drive McLean, VA 22102–7539, (703) 983–6000.

Map and Directions: *http://www.mitre.org/about/locations.html.*

Specific Sessions

Monday, April 17—WG4 STP Subgroup MITRE 2 Room 2N103

Tuesday, April 18—WG4 STP Subgroup MITRE 2 Room 2N103

Wednesday, April 19—WG4 STP Subgroup MITRE 2 Room 2N105; WG4 ASSAP Subgroup MITRE 1 Room 4H204; WG–3—1090 MHz MOPS—MITRE 2 Room 0N136.

**Note:** ASSAP—Aircraft Surveillance and Separation Assurance Processing System.

CDTI—Cockpit Display of Traffic Information.

MOPS—Minimum Operational Performance Standards.

STP—Surveillance Transmit Processing.

Thursday, April 20—Plenary Session—See Agenda Below—

*Agendas—Plenary Session—Agenda*

Thursday—April 20th, starting at 9 a.m. (MITRE 1 Auditorium)

1. Chairman's Introductory Remarks.
2. Review of Meeting Agenda.
3. Review/Approval of the Thirty Fifth Meeting Summary, RTCA Paper No. 058–06/SC186–231 (currently in draft).
4. Date, Place and Time of Next Meeting.
5. ADS–B Program Review/Status.
6. Review/Approval—Change 1 to DO–260—Minimum Operational Performance Standards for 1090 MHz Automatic Dependent Surveillance—Broadcast (ADS–B).
7. Review/Approval—Change 1 to DO–260A—Minimum Operational Performance Standards for 1090 MHz Automatic Dependent Surveillance—Broadcast (ADS–B) and Traffic Information Services (TIS–B).
8. WG4: STP MOPS progress.
10. New Business.
11. Other Business.
12. Review Actions Items/Work Program.
13. Adjourn.

- WG4: STP MOPS Review
- Requirement Focus Group—NRA Document Status
- Closing Plenary Session (New Business, Other Business, Review Action Items/Work Program, Date, Place and Time of Next Meeting, Other Business, Review Actions Items/Work Program, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, March 20, 2006.

**Francisco Estrada C.,**

*RTCA Advisory Committee.*

[FR Doc. 06–2914 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket Number NHTSA–05–23389–2]**

### Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on December 22, 2005 (70 FR 76105).

**DATES:** OMB approval has been requested by April 26, 2006.

**FOR FURTHER INFORMATION CONTACT:** Samuel Daniel, Jr. at the National Highway Traffic Safety Administration (NHTSA), Office of Crash Avoidance Standards (NVS–120), (202) 366–4921. 400 Seventh Street, SW., Washington DC 20590.

**SUPPLEMENTARY INFORMATION:**

**National Highway Traffic Safety Administration**

*Title:* 49 CFR 571.138, Tire Pressure Monitoring Systems.

*OMB Number:* 2127–0631.

*Type of Request:* Extension of a currently approved collection.

*Abstract:* NHTSA issued a final rule in April 2005, FMVSS No. 138, *Tire pressure monitoring systems,* in response to section 13 of the Transportation Recall Enhancement, Accountability, and Documentation Act (TREAD). FMVSS No. 138 specifies that compliance with the standard be phased-in over a three-year period beginning on October 5, 2005 as follows: Between October 5, 2005 and August 31, 2006, 20 percent of new vehicles produced by each manufacturer must comply with FMVSS No. 138; 70 percent of the vehicles produced between September 1, 2006 and August 31, 2007 must comply with the Standard; and all vehicles built on or after September 1, 2007 must comply with FMVSS No. 138. The agency decided to include a carry-forward credit feature in FMVSS No. 138, which provides vehicle manufacturers the opportunity to count compliant vehicles manufactured in a given year toward the phase-in percentage requirements for one of the subsequent phase-in years. The purpose of this data collection request is to obtain OMB approval for the data report specified in 49 CFR part 585, *Phase-In Reporting Requirements* which requires vehicle manufacturers to provide NHTSA with the vehicle production information needed to determine compliance with the phase-in requirements and to award carry-forward credit.

*Affected Public:* Business or other for profit organizations.

*Estimated Total Annual Burden:* 42 man-hours.

*Estimated Number of Respondents:* 21.

**ADDRESSES:** Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

*Comments are invited on:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it prior to April 26, 2006.

Issued on: March 22, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E6–4379 Filed 3–24–06; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

### Agency Information Collection Activities: Proposed Information Collection; Comment Request

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "International Regulation—Part 28."

**DATES:** Comments must be received by May 26, 2006.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0102, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic 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.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0102, by mail to U.S. Office of Management and Budget, 725, 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the collection from Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

The OCC is proposing to extend OMB approval of the following information collection:

*Title:* International Regulation—Part 28.

*OMB Number:* 1557–0102.

*Description:* This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend its approval of the information collection.

12 CFR Part 28 contains the following collections of information:

*12 CFR 28.3 Filing Requirements for Foreign Operations of a National Bank—Notice Requirement.* A national bank shall notify the OCC when it:

- Files an application, notice, or report with the FRB to establish or open a foreign branch, or acquire or divest of an interest in, or close, an Edge corporation, Agreement corporation, foreign bank, or other foreign organization.
- Opens a foreign branch, and no application or notice is required by the FRB for such transaction.
- Files an application to join a foreign exchange, clearinghouse, or similar type of organization.

In lieu of a notice, the OCC may accept a copy of an application, notice, or report submitted to another Federal agency that covers the proposed action and contains substantially the same

information required by the OCC. A national bank shall furnish the OCC with any additional information the OCC may require in connection with the national bank's foreign operations.

*12 CFR 28.12(a) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal branch or agency—Approval and Licensing Requirements.* A foreign bank shall submit an application to, and obtain prior approval from the OCC before it establishes a Federal branch or agency, or exercises fiduciary powers at a Federal branch (a foreign bank may submit an application to exercise fiduciary powers at the time of filing an application for a Federal branch or at any subsequent date).

*12 CFR 28.12(e)(2) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal branch or agency—Written Notice for Additional Intrastate Branches or Agencies.* A foreign bank shall provide written notice to the OCC 30 days in advance of the establishment of an intrastate branch or agency.

*12 CFR 28.12(h) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal Branch or Agency—After-the-fact Notice for Eligible Foreign Banks.* A foreign bank proposing to establish a Federal branch or agency through the acquisition of, or merger or consolidation with, a foreign bank that has an existing bank subsidiary, branch, or agency, shall provide after-the-fact notice within 14 days of the transaction to the OCC if (1) the resulting bank is an "eligible foreign bank" within the meaning of § 28.12(f) and (2) no Federal branch established by the transaction is insured.

*12 CFR 28.12(i) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Approval of a Federal Branch or Agency—Contraction of Operations.* A foreign bank shall provide written notice to the OCC within 10 days after converting a Federal branch into a limited Federal branch of Federal agency.

*12 CFR 28.14(c) Limitations Based upon Capital of a Foreign Bank—Aggregation.* A foreign bank shall designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance.

*12 CFR 28.15(d), (d)(2), and (f) Capital Equivalency Deposits.* Deposit arrangements:

- A foreign bank should require its depository bank to segregate its capital equivalency deposits on the depository bank's books and records.
- The funds deposited and obligations that are placed in safekeeping at a depository bank to satisfy a foreign bank's capital equivalency deposit requirement must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC.

Maintenance of capital equivalency ledger account: Each Federal branch or agency shall maintain a capital equivalency account and keep records of the amount of liabilities requiring capital equivalency coverage in a manner and form prescribed by the OCC.

*12 CFR 28.15(d)(1) Capital Equivalency Deposits—Deposit Arrangements.* A foreign bank's capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC, but in no event below the statutory minimum.

*12 CFR 28.16(c) Deposit-taking by an Uninsured Federal branch—Application for an Exemption.* A foreign bank may apply to the OCC for an exemption to permit an uninsured Federal branch to accept or maintain deposit accounts that are not listed in paragraph (b) of this section. The request should describe:

- The types, sources, and estimated amount of such deposits and explain why the OCC should grant an exemption;
- How the exemption maintains and furthers the policies described in paragraph (a) of this section.

*12 CFR 28.16(d) Deposit taking by an uninsured Federal branch—Aggregation of deposits.* A foreign bank that has more than one Federal branch in the same state may aggregate deposits in all of its Federal branches in that state, but exclude deposits of other branches, agencies or wholly owned subsidiaries of the bank. The Federal branch shall compute the average amount by using the sum of deposits as of the close of business of the last 30 calendar days ending with and including the last day of the calendar quarter, divided by 30. The Federal branch shall maintain records of the calculation until its next examination by the OCC.

*12 CFR 28.17 Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Notice of Change in Activity or Operations.* A Federal branch or agency shall notify the OCC if it changes its corporate title; changes its mailing address; converts to a state branch, state agency, or representative office; or the parent foreign bank changes the designation of its home state.

*12 CFR 28.18(c)(1) Recordkeeping and Reporting—Maintenance of Accounts, Books, and Records.* Each Federal branch or agency shall maintain a set of accounts and records reflecting its transactions that are separate from those of the foreign bank and any other branch or agency. The Federal branch or agency shall keep a set of accounts and records in English sufficient to permit the OCC to examine the condition of the Federal branch or agency and its compliance with applicable laws and regulations.

*12 CFR 28.20(a)(1) Maintenance of Assets—General Rule.* The OCC may require a foreign bank to hold certain assets, with the approval of the OCC, in the state in which its Federal branch or agency is located.

*12 CFR 28.22 (b) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Voluntary Liquidation.* Notice to customers and creditors—A foreign bank shall publish notice of the impending closure of each Federal branch or agency for a period of two months in every issue of a local newspaper where the Federal branch or agency is located. If only weekly publication is available, the notice must be published for nine consecutive weeks.

*12 CFR 28.22(e) Reports of Examination.* The Federal branch or agency shall send the OCC certification that all of its Reports of Examination have been destroyed or return its Reports of Examination to the OCC.

*12 CFR 28.25(a) Covered under Information Collection 1557–0014 (Comptroller's Licensing Manual) Change in Control—After-the-fact Notice.* A foreign bank that operates a Federal branch or agency shall inform the OCC in writing of the direct or indirect acquisition of control of the foreign bank by any person or entity, or group of persons or entities acting in concert, within 14 calendar days after the foreign bank becomes aware of a change in control.

*12 CFR 28.52 Covered under Information Collection 1557–0081 (MA)—Reports of Condition and Income (Interagency Call Report), FFIEC 031, FFIEC 041 Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve for specified international assets when required by the OCC.

*12 CFR 28.53 Accounting for Fees on International Loans.* Sets forth restrictions on fees and specifies accounting treatment for international loans.

*12 CFR 28.54 Covered under Information Collection 1557–0100 Country Exposure Report and Country Exposure Information Report (FFIEC 009, FFIEC 009a) Reporting and Disclosure of International Assets.* A banking institution shall submit to the OCC, at least quarterly, information regarding the amounts and composition of its holdings of international assets. A banking institution shall submit to the OCC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals; Businesses or other for-profit.

*Estimated Number of Respondents:* 79.

*Estimated Total Annual Responses:* 117.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 3,661.5.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and 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 has 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 21, 2006.

**Stuart Feldstein,**

*Assistant Director, Legislative and Regulatory Activities Division.*

[FR Doc. E6–4374 Filed 3–24–06; 8:45 am]

BILLING CODE 4810–33–P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Financial Management Service; Proposed Collection of Information: Trace Request for Electronic Funds Transfer (EFT) Payment; and Trace Request Direct Deposit

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning forms FMS–150.1 "Trace Request for Electronic Funds Transfer Payment" and FMS–150.2 "Trace Request Direct Deposit."

**DATES:** Written comments should be received on or before May 26, 2006.

**ADDRESSES:** Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Gavin Jackson, Director, Project Management Division, Room 335, 401–14th Street, SW., Washington, DC 20227, (202) 874–8815.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

*Title:* Trace Request for EFT Payment; and Trace Request Direct Deposit.

*OMB Number:* 1510–0045.

*Form Number:* FMS 150.1, FMS 150.2.

*Abstract:* These forms are used to notify the financial organization that a customer (beneficiary) has claimed non-receipt of credit for a payment. The forms are designed to help the financial organization locate any problems and to keep the customer (beneficary) informed of any action taken.

*Current Actions:* Extension of currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 134,783.

*Estimated Time Per Respondent:* 8 minutes.

*Estimated Total Annual Burden Hours:* 17,971.

*Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. 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) estimate of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: March 17, 2006.

**Gavin E. Jackson,**

*Director, Project Management Division, Regional Operations.*

[FR Doc. 06–2937 Filed 3–24–06; 8:45 am]

BILLING CODE 4810–35–M

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Financial Management Service; Proposed Collection of Information: Notice of Reclamation Electronic Funds Transfer, Federal Recurring Payments; and Request for Debit, Electronic Funds Transfer, Federal Recurring Payments

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Financial Management Service, 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 a continuing information collection. By this notice, the Financial Management Service solicits comments concerning forms FMS–133, "Notice of Reclamation, Electronic Funds Transfer, Federal Recurring Payments" and FMS–135, "Request for Debit, Electronic Funds Transfer, Federal Recurring Payments."

**DATES:** Written comments should be received on or before May 26, 2006.

**ADDRESSES:** Direct all written comments to Financial Management Service, 3700 East West Highway, Records and Information Management Branch, Room 135, Hyattsville, Maryland 20782.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Gavin Jackson, Director, Project Management Division, Room 335, 401–14th Street, SW., Washington, DC 20227, (202) 874–8815.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

*Title:* Notice of Reclamation Electronic Funds Transfer, Federal Recurring Payments; and Request for Debit, Electronic Funds Transfer, Federal Recurring Payments.

*OMB Number:* 1510–0043.

*Form Number:* FMS 133, FMS 135.

*Abstract:* Program agencies authorize Treasury to recover payments that have been issued after the death of the beneficiary. FMS Form 133 is used by Treasury to notify financial organizations (FO) of the FO's accountability concerning the funds. When an FO does not respond to the FMS 133, Treasury then prepares FMS 135 and sends it to the Federal Reserve Bank (FRB) to request that the FRB debit the FO's account.

*Current Actions:* Extension of currently approved collection.

*Type of Review:* Regular.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 396,674.

*Estimated Time Per Respondent:* 12 minutes.

*Estimated Total Annual Burden Hours:* 79,335.

*Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. 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.

Dated: March 17, 2006.

**Gavin E. Jackson,**

*Director, Project Management Division, Regional Operations.*

[FR Doc. 06–2938 Filed 3–24–06; 8:45 am]

**BILLING CODE 4810–35–M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8907

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8907, Nonconventional Source Fuel Credit.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6516, 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 R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Nonconventional Source Fuel Credit.

*OMB Number:* 1545–2008.

*Form Number:* Form 8907.

*Abstract:* Form 8907 will be used to claim a credit from the production and sale of fuel created from nonconventional sources. For tax years ending after 12/31/05 fuel from coke or coke gas can qualify for the credit, and the credit becomes part of the general business credit.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profit organizations, Individuals or households.

*Estimated Number of Respondents:* 22,000.

*Estimated Time per Respondent:* 12 hours 41 minutes.

*Estimated Total Annual Burden Hours:* 278,960.

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: March 1, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4330 Filed 3–24–06; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 4136

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4136, Credit for Federal Tax Paid on Fuels.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Credit for Federal Tax Paid on Fuels.

*OMB Number:* 1545–0162.

*Form Number:* 4136.

*Abstract:* Internal Revenue Code section 34 allows a credit for Federal excise tax for certain fuel uses. Form 4136 is used to figure the amount of income tax credit. The data is used by IRS to verify the validity of the claim for the type of nontaxable or exempt use.

*Current Actions:* There are no changes being made to Form 8569 at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, individuals or households, not-for-profit institutions, and farms.

*Estimated Number of Respondents:* 1,828,759.

*Estimated Number of Respondents:* 44 minutes.

*Estimated Total Annual Burden Hours:* 1,360,489.

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: March 17, 2006.

**Glenn Kirkland,**

*IRS Reports Clearance Office.*

[FR Doc. E6–4332 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[EE–63–88; IA–140–86; REG–209785–95]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing regulations, EE–63–88 (Final and temporary regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; *IA–140–86* (Temporary) Fringe Benefits; Listed Property; and *REG–209785–95* (Final) Substantiation of Business Expenses (§§ 1.61–2, 1.132–5, and 1.274–5).

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of regulation should be directed to R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title: EE–63–88* (Final and temporary regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; *IA–140–86* (Temporary) Fringe Benefits; Listed Property; and *REG–209785–95* (Final) Substantiation of Business Expenses.

*OMB Number:* 1545–0771.

*Regulation Project Number:* EE–63–88; IA–140–86; and REG–209785–95.

*Abstract: EE–63–88*—This regulation provides guidance on the tax treatment of taxable and nontaxable fringe benefits and general and specific rules for the valuation of taxable fringe benefits in accordance with Code sections 61 and 132. The regulation also provides guidance on exclusions from gross income for certain fringe benefits. *IA–140–86*—This regulation provides guidance relating to the requirement that any deduction or credit with respect to business travel, entertainment, and gift expenses be substantiated with adequate records in accordance with Code section 274(d). The regulation also provides guidance on the taxation of fringe benefits and clarifies the types of records that are generally necessary to substantiate any deduction or credit for listed property. *REG–209785–95*—This regulation provides that taxpayers who deduct, or reimburse employees for, business expenses for travel, entertainment, gifts, or listed property are required to maintain certain records, including receipts, for expenses of $75 or more.

*Current Actions:* There are no changes to these existing regulations,

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for profits institutions, farms and Federal, state, local or tribal governments.

*Estimated Number of Respondents:* 28,582,150.

*Estimated Time Per Respondent:* 1 hr., 20 min.

*Estimated Total Annual Burden Hours:* 37,922,688.

*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: March 20, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4333 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2005–16

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2005–16, Master and Prototype and Volume Submitter Plans.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the revenue procedure should be directed to R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Master and Prototype and Volume Submitter Plans.

*OMB Number:* 1545–1674.

*Revenue Procedure Number:* Revenue Procedure 2005–16.

*Abstract:* The master and prototype and volume submitter revenue procedure sets forth the procedures for sponsors of master and prototype and volume submitter pension, profit-sharing and annuity plans to request an opinion letter or an advisory letter from the Internal Revenue Service that the form of a master or prototype plan or volume submitter plan meets the requirements of section 401(a) of the Internal Revenue Code. The information requested in sections 5.11, 8.02, 11.02, 12, 14.05, 15.02, 18; and 24 of the master and prototype revenue procedure is in addition to the information required to be submitted with Forms 4461 (Application for Approval of Master or Prototype Defined Contribution Plan), 4461–A (Application for Approval of Master or Prototype Defined Benefit Plan) and 4461–B (Application for Approval of Master or Prototype or Plan (Mass Submitter Adopting Sponsor)). This information is needed in order to enable the Employee Plans function of the Service's Tax Exempt and Government Entities Division to issue an opinion letter or an advisory letter.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local or tribal governments.

*Estimated Number of Respondents:* 296,750.

*Estimated Time Per Respondent:* 3 hour, 34 minutes.

*Estimated Total Annual Burden Hours:* 1,058,850.

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: March 13, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4334 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 2163(c)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2163(c), Employment—Reference Inquiry.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 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 R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Employment—Reference Inquiry.

*OMB Number:* 1545–0274.

*Form Number:* 2163(c).

*Abstract:* Form 2163(c) is used by the Internal Revenue Service to verify past employment history and to question listed and developed references as to the character and integrity of current and potential Internal Revenue Service employees. The information received is incorporated into a report on which a security determination is based.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, non-profit institutions, farms, Federal government, and state, local or tribal governments.

*Estimated Number of Respondents:* 20,000.

*Estimated Time Per Respondent:* 12 mins.

*Estimated Total Annual Burden Hours:* 4,000.

*The following paragraph applies to all of the collections of information covered by this notice:*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 20, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4335 Filed 3–24–06; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 97–19

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–19, Timely Mailing Treated as Timely Filing.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 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 R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at RJoseph.Durbala@irs.gov.

**SUPPLEMENTARY INFORMATION:**

*Title:* Timely Mailing Treated as Timely Filing.

*OMB Number:* 1545–1535.

*Form Number:* Revenue Procedure 97–19.

*Abstract:* Procedure 97–19 provides the criteria that will be used by the IRS to determine whether a private delivery service qualifies as a designated Private Delivery Service under section 7502 of the Internal Revenue Code.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profit organizations.

*Estimated Number of Respondents:* 5.

*Estimated Time Per Respondent:* 613 hours 48 minutes.

*Estimated Total Annual Burden Hours:* 3,069.

*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: March 17, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4336 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8822

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8822, Change of Address.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 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 R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Change of Address.

*OMB Number:* 1545–1163.

*Form Number:* Form 8822.

*Abstract:* Form 8822 is used by taxpayers to notify the Internal Revenue Service that they have changed their home or business address or business location.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

*Estimated Number of Respondents:* 1,500,000.

*Estimated Time Per Respondent:* 16 min.

*Estimated Total Annual Burden Hours:* 387,501.

*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: March 20, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4337 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 2006–25

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–25, Qualifying Gasification Project Program.

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, Room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, Room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

**SUPPLEMENTARY INFORMATION:**

*Title:* Qualifying Gasification Project Program.

*Notice Number:* 1545–2002.

*Abstract:* This Notice establishes the qualifying gasification project program under section 48B of the Internal Revenue Code. The notice provides the time and manner for a taxpayer to apply for an allocation of qualifying gasification project credits.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Business or other-for-profit organizations.

*Estimated Number of Respondents:* 20.

*Estimated Time per Respondent:* 51 minutes.

*Estimated Total Annual Reporting Burden Hours:* 1,700.

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: March 20, 2006.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4338 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for RP 2006–XX

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning RP 2006–XX, Restaurant Tips—Attributed Tip Income Program (ATIP).

**DATES:** Written comments should be received on or before May 26, 2006 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 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 R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Restaurant Tips—Attributed Tip Income Program (ATIP).

*OMB Number:* 1545–2005.

*Form Number:* RP 2006–XX.

*Abstract:* This revenue procedure sets forth the requirements for participating in the Attributed Tip Income Program (ATIP). ATIP provides benefits to employers and employees similar to those offered under previous tip reporting agreements without requiring one-on-one meetings with the Service to determine tip rates or eligibility.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and other for-profit organizations, Farms.

*Estimated Number of Respondents:* 610.

*Estimated Time per Respondent:* 10 hours.

*Estimated Total Annual Burden Hours:* 6,100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 1, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. E6–4344 Filed 3–24–06; 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, Tennessee, 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 Tuesday, April 25, 2006, at 11 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 Tuesday, April 25, 2006, at 11 a.m., Central time via a telephone conference call. You can submit written comments to the panel by faxing the comments to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 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: March 21, 2006.

**John Fay,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E6–4331 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** An open meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel will be conducted at the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, in Room 7718. The Committee will be discussing issues pertaining to the IRS administration of the Earned Income Tax Credit.

**DATES:** The meeting will be held Friday, April 21, 2006, from 9 a.m. through 12 noon ET.

**FOR FURTHER INFORMATION CONTACT:** Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

**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 Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel will be held Friday, April 21, 2006 from 9 a.m. to 12 p.m. ET at 1111 Constitution Avenue, NW., Washington, DC 20224, Room 7718. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, contact Audrey Y. Jenkins as noted above. Notification of intent to participate in the meeting must be made with Ms. Jenkins. If you would like a written statement to be considered, send written comments to Ms. Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post your comments to the Web site: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 21, 2006.

**John Fay,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. E6–4341 Filed 3–24–06; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### Notice of Intent To Grant An Exclusive License

**AGENCY:** Office of Research and Development, Department of Veterans Affairs.

**ACTION:** Notice of intent.

**SUMMARY:** Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to New England Compounding Pharmacy, Inc., 697 Waverly Street, Framingham, MA 01701 an exclusive license to practice U.S. Patent No. 6,569,615 issued, May 27, 2003, entitled, "Compositions and Methods for Tissue Preservation."

**DATES:** Comments must be received by April 11, 2006.

**ADDRESSES:** Send comments to: Amy E. Centanni, Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development Attn: 12TT; 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 254–0199; Facsimile: (202) 254–0473; e-mail: *amy.centanni@mail.va.gov.*

**FOR FURTHER INFORMATION CONTACT:** Copies of the published patent may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

**SUPPLEMENTARY INFORMATION:** It is in the public interest to license this invention as New England Compounding Pharmacy, Inc., submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs, Office of Research and Development receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Approved: March 17, 2006.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

[FR Doc. E6–4326 Filed 3–24–06; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Monday,
March 27, 2006

Part II

# Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants—Western Great Lakes Population of Gray Wolves; Proposed Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018–AU54**

## Endangered and Threatened Wildlife and Plants; Designating the Western Great Lakes Population of Gray Wolves as a Distinct Population Segment; Removing the Western Great Lakes Distinct Population Segment of the Gray Wolf From the List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) propose to establish the Western Great Lakes Distinct Population Segment (WGL DPS) of the gray wolf (*Canis lupus*). This DPS includes all of Minnesota, Wisconsin, and Michigan; the eastern half of North Dakota and South Dakota; the northern half of Iowa; the northern portions of Illinois and Iowa; and the northwestern portion of Ohio. We further propose to remove the WGL DPS from the List of Endangered and Threatened Wildlife established under the Endangered Species Act of 1973, as amended (Act). We propose these actions because available data indicate that this DPS no longer meets the definitions of threatened or endangered under the Act. The threats have been reduced or eliminated as evidenced by a population that is stable or increasing in Minnesota, Wisconsin, and Michigan, and greatly exceeds the numerical recovery criteria established in its recovery plan. Completed State wolf management plans will provide adequate protection and management of the species if delisted in the WGL DPS. The proposed rule, if finalized, would remove this DPS from the protections of the Act. This proposed rule would also remove the currently designated critical habitat for the gray wolf in Minnesota and Michigan and remove the current special regulations for gray wolves in Minnesota.

**DATES:** We request that comments be received by June 26, 2006 in order to ensure their consideration in our final decision. We have scheduled four informational meetings followed by public hearings for May 8, 10, 16, and 17, 2006. At each location the informational meeting will be held from 6 to 7:15 p.m., followed by a public hearing from 7:30 to 9 p.m.

**ADDRESSES:** You may submit comments and other information, identified by "RIN 1018-AU54," by any of the following methods:

- Fish and Wildlife Service Region 3 Web Site: *http://www.fws.gov/midwest/wolf/* Follow the instructions found there.
- E-mail: *WGLwolfdelist@fws.gov*
- Fax: 612–713–5292. Put "WGL Wolf Delisting; RIN 1018-AU54" in the subject line.
- Mail: WGL Wolf Delisting, U.S. Fish and Wildlife Service, Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111–4056.
- Hand Delivery/Courier: WGL Wolf Delisting, Ecological Services—Room 646, U.S. Fish and Wildlife Service, Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111–4056.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions found there for submitting comments.

All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comments Solicited" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Hearings:* We have scheduled informational meetings followed by public hearings at the following four locations:

- May 8, 2006—Duluth, Minnesota. Meeting and hearing will be in the Northern Lights I Room at the Inn on Lake Superior, 350 Canal Park Drive.
- May 10, 2006—Wausau, Wisconsin. Meeting and hearing will be at the Westwood Conference Room of the Westwood Center, 1800 West Bridge Street.
- May 16, 2006—Marquette, Michigan. Meeting and hearing will be in the Michigan Room of the Don H. Bottum University Center, Northern Michigan University, 540 West Kaye Avenue. (Use parking lot #8.)
- May 17, 2006—Grayling, Michigan. Meeting and hearing will be held in the Evergreen Room of the Holiday Inn, 2650 Business Loop South I–75.

Additional details on the hearings, including maps, will be provided on our Web site (see **FOR FURTHER INFORMATION CONTACT**).

The complete file for this rule is available for inspection, by appointment, during normal business hours at our Midwest Regional Office: U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Ft. Snelling, MN 55111–4056. Call 612–713–5350 to make arrangements. The comments and materials we receive during the comment period also will be made available for public inspection, by appointment, during normal business hours following the close of the comment period. See the "Public Comments Solicited" section of **SUPPLEMENTARY INFORMATION** for location information.

**FOR FURTHER INFORMATION CONTACT:** Ron Ressnider, 612–713–5350. Direct all questions or requests for additional information to the Service using the Gray Wolf Phone Line—612–713–7337, facsimile—612–713–5292, the general gray wolf electronic mail address—*GRAYWOLFMAIL@FWS.GOV*, or write to: GRAY WOLF QUESTIONS, U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Ft. Snelling, MN 55111–4056. Additional information is also available on our World Wide Web site at *http://www.fws.gov/midwest/wolf*. In the event that our internet connection is not functional, please contact the Service by the alternative methods mentioned above. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance. Do not submit comments or other information by the methods described in this paragraph.

**SUPPLEMENTARY INFORMATION:**

### Background

*Biology and Ecology of Gray Wolves*

Gray wolves are the largest wild members of the Canidae, or dog family, with adults ranging from 18 to 80 kilograms (kg) (40 to 175 pounds (lb)) depending upon sex and subspecies (Mech 1974). The average weight of male wolves in Wisconsin is 35 kg (77 lb) and ranges from 26 to 46 kg (57 to 102 lb), while females average 28 kg (62 lb) and range from 21 to 34 kg (46 to 75 lb) (Wisconsin Department of Natural Resources (WI DNR) 1999). Wolves' fur color is frequently a grizzled gray, but it can vary from pure white to coal black. Wolves may appear similar to coyotes (*Canis latrans*) and some domestic dog breeds (such as the German shepherd or Siberian husky) (*C. lupus familiaris*). Wolves' longer legs, larger feet, wider head and snout, and straight tail distinguish them from both coyotes and dogs.

Wolves primarily are predators of medium and large mammals. Wild prey species in North America include white-tailed deer (*Odocoileus virginianus*) and mule deer (*O. hemionus*), moose (*Alces alces*), elk (*Cervus elaphus*), woodland caribou (*Rangifer caribou*) and barren ground caribou (*R. arcticus*), bison (*Bison bison*), muskox (*Ovibos*

*moschatus*), bighorn sheep (*Ovis canadensis*) and Dall sheep (*O. dalli*), mountain goat (*Oreamnos americanus*), beaver (*Castor canadensis*), snowshoe hare (*Lepus americanus*), and muskrat (*Ondatra zibethicus*), with small mammals, birds, and large invertebrates sometimes being taken (*Chavez and Gese 2005, Mech 1974, Stebler 1944, WI DNR 1999, Huntzinger et al.* 2005). In the WGLDPS, during the last 25 years, wolves have also killed domestic animals including horses (*Equus caballus*), cattle (*Bos taurus*), sheep (*Ovis aries*), goats (*Capra hircus*), llamas (*Lama glama*), pigs (*Sus scrofa*), geese (*Anser sp.*), ducks (*Anas sp.*), turkeys (*Meleagris gallopavo*), chickens (*Gallus sp.*), guinea fowl (*Numida meleagris*), pheasants (*Phasianus colchicus*), dogs, cats (*Felis catus*), and captive white-tailed deer (Paul 2004, 2005; Wydeven 1998; Wydeven *et al.* 2001; Wydeven and Wiedenhoeft 1999, 2000, 2001, 2005).

Wolves are social animals, normally living in packs of 2 to 12 wolves. Winter pack size in Michigan's Upper Peninsula (UP) averaged from 2.7 to 4.6 wolves during the 1995 through 2005 period and ranged from 2 to 14 wolves per pack (Huntzinger *et al.* 2005). Pack size in Wisconsin is similar, averaging 3.8 to 4.1 wolves per pack, and ranging from 2 to 11 wolves in winter 2004–2005 (Wydeven and Wiedenhoeft 2005). In Minnesota the average pack size found in the 1988–89, 1997–98, and 2003–2004 winter surveys was higher—5.55, 5.4, and 5.3 wolves per pack, respectively (Erb and Benson 2004).

Packs are primarily family groups consisting of a breeding pair, their pups from the current year, offspring from one or two previous years, and occasionally an unrelated wolf. Packs typically occupy, and defend from other packs and individual wolves, a territory of 50 to 550 square kilometers ($km^2$) (20 to 214 square miles ($mi^2$)). Midwest wolf packs tend to occupy territories on the lower end of this size range. Michigan Upper Peninsula territories averaged 267 $km^2$ in 2000–2001 (Drummer *et al.* 2002), Wisconsin territories 37 $mi^2$ in 2004–2005 (Wydeven and Wiedenhoeft 2005), and Minnesota territory size averaged 102 $km^2$ in 2003–2004 (Erb and Benson 2004). Normally, only the top-ranking ("alpha") male and female in each pack breed and produce pups. Litters are born from early April into May; they range from 1 to 11 pups, but generally include 4 to 6 pups (Michigan Department of Natural Resources (MI DNR) 1997; USFWS 1992; USFWS *et al.* 2001). Normally a pack has a single litter annually, but the production of 2 or 3 litters in one year has been routinely documented in Yellowstone National Park (USFWS *et al.* 2002; Smith *et al.* 2005).

Yearling wolves frequently disperse from their natal packs, although some remain with their natal pack. Adult wolves and pups older than 5 months also may disperse but at much lower frequencies (Fuller 1989). Dispersers may range over large areas as lone animals after leaving their natal pack or they may locate suitable unoccupied habitat and a member of the opposite sex and begin their own pack. These dispersal movements allow a wolf population to quickly expand and colonize areas of suitable habitat that are nearby or even those that are isolated by a broad area of unsuitable habitat. Additional details on extraterritorial movements are found in *Delineating the Midwestern Gray Wolf Population DPS*, below.

**Recovery**

*Background*—The gray wolf historically occurred across most of North America, Europe, and Asia. In North America, gray wolves formerly occurred from the northern reaches of Alaska, Canada, and Greenland to the central mountains and the high interior plateau of southern Mexico. The only areas of the conterminous United States that apparently lacked gray wolf populations since the last ice age are parts of California (but some authorities question the reported historical absence of gray wolves from parts of California (Carbyn *in litt.* 2000; Mech, U.S. Geological Survey, *in litt.* 2000)) and portions of the eastern and southeastern United States (areas occupied by the red wolf or a recently suggested eastern wolf, *C. lycaon* (Wilson et al. 2000; Grewal et al. 2004; White et al. 2001)). In addition, wolves were generally absent from the deserts and mountaintop areas of the western United States (Young and Goldman 1944; Hall 1981; Mech 1974; Nowak 2000).

European settlers in North America and their cultures often had superstitions and fears of wolves and a unified desire to eliminate them (Boitani 1995). Their attitudes, coupled with perceived and real conflicts between wolves and human activities along the western frontier, led to widespread persecution of wolves. Poison, trapping, snaring, and shooting spurred by Federal, State, and local government bounties extirpated this once widespread species from nearly all of its historical range in the 48 conterminous States.

*Recovery Planning*—Gray wolf populations in the United States are currently protected under the Act as a threatened species in Minnesota and endangered in the remaining 47 conterminous states and Mexico (50 CFR 17.11(h)), by separate regulations establishing three non-essential experimental populations (50 CFR 17.84(i), (k), and (n)), and by special regulations for Minnesota wolves (50 CFR 17.40(d)). The current status of wolves is discussed below under Previous Federal Action. At the time the Act was passed, only several hundred wolves occurred in northeastern Minnesota and on Isle Royale, Michigan, and a few scattered wolves may have occurred in the Upper Peninsula of Michigan, Montana, the American Southwest, and Mexico.

We approved the 1978 Recovery Plan for the Eastern Timber Wolf (Recovery Plan) on May 2, 1978 (USFWS 1978). We subsequently approved an updated and revised version on January 31, 1992 (USFWS 1992), which replaced the 1978 Recovery Plan. The 1978 Recovery Plan and its 1992 revision were intended to apply to the eastern timber wolf, *Canis lupus lycaon*, thought at that time to be the wolf subspecies that historically inhabited the United States east of the Great Plains (Young and Goldman 1944; Hall 1981; Mech 1974). Thus, these Recovery Plans cover a geographic triangle extending from Minnesota to Maine and into northeastern Florida. The Recovery Plan was based on the best available information on wolf taxonomy at the time of its original publication and subsequent revision. Since the publication of those Recovery Plans, several studies have produced conflicting results regarding the taxonomic identity of the wolf that historically occupied the eastern States. While this issue remains unresolved, this recovery program has continued to focus on recovering the wolf population that survived in, and has expanded outward from, northeastern Minnesota, regardless of its taxonomic identity.

The 1978 Recovery Plan and the 1992 revised plan contain the same two delisting criteria. The first delisting criterion states that the survival of the wolf in Minnesota must be assured. We, and the Eastern Timber Wolf Recovery Team (Rolf Peterson, Eastern Timber Wolf Recovery Team, *in litt.* 1997, 1998, 1999a, 1999b), have concluded that this first delisting criterion remains valid. It addresses a need for reasonable assurances that future State, Tribal, and Federal wolf management and protection will maintain a viable recovered population of gray wolves

within the borders of Minnesota for the foreseeable future.

Maintenance of the Minnesota wolf population is vital because the remaining genetic diversity of gray wolves in the eastern United States was carried by the several hundred wolves that survived in the State into the early 1970s. The Recovery Team insisted that the remnant Minnesota wolf population be maintained and protected to achieve wolf recovery in the eastern United States. The successful growth of that remnant population has maintained and maximized the representation of that genetic diversity among gray wolves in the WGL DPS. Furthermore, the Recovery Team established a planning goal of 1,250–1,400 animals for the Minnesota wolf population (USFWS 1992), which would increase the likelihood of maintaining its genetic diversity over the long term. This large Minnesota wolf population also provides the resiliency to reduce the adverse impacts of unpredictable demographic and environmental events. Furthermore, the Recovery Plan promotes a wolf population across 4 of 5 wolf management zones, encompassing about 40 percent of the State, further adding to the resiliency of the Minnesota wolf population. The State's wolf population currently is estimated to be more than double that numerical goal, and occupies all 4 management zones.

The second delisting criterion in the Recovery Plan states that at least one viable wolf population should be reestablished within the historical range of the eastern timber wolf outside of Minnesota and Isle Royale, Michigan. The Recovery Plan provides two options for reestablishing this second viable wolf population. If it is an isolated population, that is, located more than 100 miles from the Minnesota wolf population, the second population should consist of at least 200 wolves for at least 5 years (based upon late-winter population estimates) to be considered viable. Alternatively, if the second population is not isolated, that is, located within 100 miles of a self-sustaining wolf population (for example, the Minnesota wolf population), a reestablished second population having a minimum of 100 wolves for at least 5 years would be considered viable.

The Recovery Plan does not specify where in the eastern United States the second population should be reestablished. Therefore, the second population could be located anywhere within the triangular Minnesota-Maine-Florida area covered by the Recovery Plan, except on Isle Royale (Michigan) or within Minnesota. The 1978 Recovery Plan identified potential gray wolf restoration areas throughout the eastern United States, including northern Wisconsin and Michigan and areas as far south as the Great Smoky Mountains and adjacent areas in Tennessee, North Carolina, and Georgia. The revised 1992 Recovery Plan dropped from consideration the more southern potential restoration areas, because recovery efforts for the red wolf were being initiated in those areas. The 1992 revision retained potential gray wolf re-establishment areas in northern Wisconsin, the UP of Michigan, the Adirondack Forest Preserve of New York, a small area in eastern Maine, and a larger area of northwestern Maine and adjacent northern New Hampshire (USFWS 1992). Neither the 1978 nor the 1992 recovery criteria suggest that the restoration of the gray wolf throughout all or most of its historical range in the eastern United States, or to all of these potential re-establishment areas, is necessary to achieve recovery under the Act.

In 1998, the Eastern Timber Wolf Recovery Team clarified the delisting criterion for the second population (i.e., the wolf population that had developed in northern Wisconsin and the adjacent Upper Peninsula of Michigan). It stated that the numerical delisting criterion for the Wisconsin-Michigan population will be achieved when 6 consecutive late-winter wolf surveys documented that the population equaled or exceeded 100 wolves (excluding Isle Royale wolves) for the 5 consecutive years between the 6 surveys (Rolf Peterson, Eastern Timber Wolf Recovery Team, *in litt.* 1998). This second population is less than 200 miles from the Minnesota wolf population, and it has had a late-winter population exceeding 100 animals since 1994, and exceeding 200 animals since 1996, thus the recovery goals have been met.

The Recovery Plan has no goals or criteria for the gray wolf population on 546 sq km (210 sq mi) of Isle Royale, Michigan. The wolf population of Isle Royale is not considered to be an important factor in the recovery or long-term survival of wolves in the WGL DPS. This wolf population is small, varying from 12 to 30 animals in 2 or 3 packs over the last 20 years (Peterson and Vucetich 2005). Due to its small insular nature, it is almost completely isolated from other wolf populations and has never exceeded 50 animals. For these reasons, the Recovery Plan does not include these wolves in its recovery criteria, but recommends the continuation of research and complete protection for these wolves that is assured by National Park Service management (USFWS 1992). Unless stated otherwise in this proposal, subsequent discussions of Michigan wolves do not refer to wolves on Isle Royale.

The Recovery Plan recognizes the potential for wolves to come into conflict with human activities, and that such conflicts are likely to impede wolf recovery unless they can be reduced to socially tolerated levels. Among major recovery actions identified in the 1992 Recovery Plan is the need to "minimize losses of domestic animals due to wolf predation." [p.6] The Recovery Plan recommends measures to avoid such conflicts and to reduce conflicts when they develop. These measures include promoting the re-establishment of wolf populations only in areas where such conflicts are likely to be relatively infrequent, a recommendation that wolf density in peripheral wolf range in Minnesota (Zone 4, 26 percent of the State) be limited to an average of one wolf per 50 square miles (128 sq km) [p.15], and a recommendation that wolves that move into Minnesota Zone 5 (about 61 percent of the State) "should be eliminated by any legal means" because livestock production and other human activities make that area "not suitable for wolves." [p.20]

When wolves kill domestic animals, the Recovery Plan recommends that government agents remove those wolves. In Minnesota Zone 1 (4,462 sq mi in northeastern Minnesota), wolf removal should be by livetrapping and translocation, whereas in Zones 2 and 3 (1,864 and 3,501 sq mi in northeastern and north central Minnesota, respectively), those wolves may be removed by any means including lethal take. In Zones 4 and 5, the Recovery Plan recommends preventive depredation control be conducted by trapping wolves in the vicinity of previous depredation sites. Similarly, the Recovery Plan recommends management practices "including the potential taking of problem animals" for wolf populations that develop in Wisconsin and Michigan. [p.34] (Service 1992). Neither the trapping and translocations (Minnesota Zone 1) nor the preventive depredation control (Zones 4 and 5) have been implemented. Lethal taking of depredating wolves in Wisconsin and Michigan has occurred only on a very limited basis. More detailed discussion of wolf depredation control activities in the Midwest is found in Factor D.

**Recovery of the Gray Wolf in the Western Great Lakes**

*Minnesota*

During the pre-1965 period of wolf bounties and legal public trapping, wolves persisted in the remote northeastern portion of Minnesota, but were eliminated from the rest of the State. Estimated numbers of Minnesota wolves before their listing under the Act in 1974 include 450 to 700 in 1950–53 (Fuller et al. 1992, Stenlund 1955), 350 to 700 in 1963 (Cahalane 1964), 750 in 1970 (Leirfallom 1970), 736 to 950 in 1971–72 (Fuller et al. 1992), and 500 to 1,000 in 1973 (Mech and Rausch 1975). Although these estimates were based upon different methodologies and are not directly comparable, each puts the pre-listing abundance of wolves in Minnesota at 1,000 or less. This was the only significant wolf population in the United States outside Alaska during those time-periods.

After the wolf was listed as endangered under the Act, Minnesota population estimates increased (see Table 1 below). Mech estimated the population to be 1,000 to 1,200 in 1976 (USFWS 1978), and Berg and Kuehn (1982) estimated that there were 1,235 wolves in 138 packs in the winter of 1978–79. In 1988–89, the Minnesota Department of Natural Resources (MN DNR) repeated the 1978–79 survey and also used a second method to estimate wolf numbers in the State. The resulting independent estimates were 1,500 and 1,750 wolves in at least 233 packs (Fuller et al. 1992).

During the winter of 1997–98, a statewide wolf population and distribution survey was repeated by MN DNR, using methods similar to those of the two previous surveys. Field staff of Federal, State, Tribal, and county land management agencies and wood products companies were queried to identify occupied wolf range in Minnesota. Data from five concurrent radio telemetry studies tracking 36 packs, representative of the entire Minnesota wolf range, were used to determine average pack size and territory area. Those figures were then used to calculate a statewide estimate of wolf and pack numbers in the occupied range, with single (non-pack) wolves factored into the estimate (Berg and Benson 1999).

TABLE 1.—GRAY WOLF WINTER POPULATIONS IN MINNESOTA, WISCONSIN, AND MICHIGAN (EXCLUDING ISLE ROYALE) FROM 1976 THROUGH 2005. NOTE THAT THERE ARE SEVERAL YEARS BETWEEN THE FIRST FOUR ESTIMATES

| Year | Minnesota | Wisconsin | Michigan | WI & MI Total |
|---|---|---|---|---|
| 1976 | 1,000–1,200 | | | |
| 1978–79 | 1,235 | | | |
| 1988–89 | 1,500–1,750 | 31 | 3 | 34 |
| 1993–94 | | 57 | 57 | 114 |
| 1994–95 | | 83 | 80 | 163 |
| 1995–96 | | 99 | 116 | 215 |
| 1996–97 | | 148 | 112 | 260 |
| 1997–98 | 2,445 | 180 | 140 | 320 |
| 1998–99 | | 205 | 174 | 379 |
| 1999–2000 | | 248 | 216 | 464 |
| 2000–01 | | 257 | 249 | 506 |
| 2001–02 | | 327 | 278 | 604 |
| 2002–03 | | 335 | 321 | 656 |
| 2003–04 | 3,020 | 373 | 360 | 733 |
| 2004–05 | | 425 | 405 | 830 |

The 1997–98 survey concluded that approximately 2,445 wolves existed in about 385 packs in Minnesota during that winter period (90 percent confidence interval from 1,995 to 2,905 wolves) (Berg and Benson 1999). This figure indicated the continued growth of the Minnesota wolf population at an average rate of about 3.7 percent annually from 1970 through 1997–98. Between 1979 and 1989 the annual growth rate was about 3 percent, and it increased to between 4 and 5 percent in the next decade (Berg and Benson 1999; Fuller et al. 1992). As of the 1998 survey, the number of Minnesota wolves was approximately twice the planning goal for Minnesota, as specified in the Eastern Recovery Plan (USFWS 1992).

Minnesota DNR conducted another survey of the State's wolf population and range during the winter of 2003–04, again using similar methodology. That survey concluded that an estimated 3,020 wolves in 485 packs occurred in Minnesota at that time (90 percent confidence interval for this estimate is 2,301 to 3,708 wolves). Due to the wide overlap in the confidence intervals for the 1997–98 and 2003–04 surveys, the authors conclude that, although the population point estimate increased by about 24 percent over the 6 years between the surveys (about 3.5 percent annually), there was no statistically significant increase in the State's wolf population during that period (Erb and Benson 2004).

As wolves increased in abundance in Minnesota, they also expanded their distribution. During 1948–53, the major wolf range was estimated to be about 11,954 sq mi (31,080 sq km) (Stenlund 1955). A 1970 questionnaire survey resulted in an estimated wolf range of 14,769 sq mi (38,400 sq km) (calculated by Fuller et al. 1992 from Leirfallom 1970). Fuller et al. (1992), using data from Berg and Kuehn (1982), estimated that Minnesota primary wolf range included 14,038 sq mi (36,500 sq km) during winter 1978–79. By 1982–83, pairs or breeding packs of wolves were estimated to occupy an area of 22,000 sq mi (57,050 sq km) in northern Minnesota (Mech et al. 1988). That study also identified an additional 15,577 sq mi (40,500 sq km of peripheral range, where habitat appeared suitable but no wolves or only lone wolves existed. The 1988–89 study produced an estimate of 23,165 sq mi (60,200 sq km) as the contiguous wolf range at that time in Minnesota (Fuller et al. 1992), an increase of 65 percent over the primary range calculated for 1978–79. The 1997–98 study concluded that the contiguous wolf range had expanded to 33,971 sq mi (88,325 sq km), a 47 percent increase in 9 years (Berg and Benson 1999). By that time the Minnesota wolf population was using most of the occupied and peripheral range identified by Mech et al. (1988). The wolf population in Minnesota had recovered to the point that its contiguous range covered approximately 40 percent of the State

during 1997–98. In contrast, the 2003–04 survey failed to show a continuing expansion of wolf range in Minnesota, and any actual increase in wolf numbers since 1997–98 was attributed to increased wolf density within a stabilized range (Erb and Benson 2004).

Although Minnesota DNR does not conduct a formal wolf population survey annually, it includes the species in its annual carnivore track survey. This survey, standardized and operational since 1994, provides an annual index of abundance for several species of large carnivores by counting their tracks along 51 standardized survey routes in the northern portion of Minnesota. Based on these surveys, the wolf track indices for winter 2004–05 showed little change from the previous winter, and no statistically significant trends are apparent since 1994. However, the data show some indication of an increase in wolf density (Erb 2005). Thus, the winter track survey results are consistent with a stable or slowly increasing wolf population in northern Minnesota over this 11-year period.

*Wisconsin*

Wolves were considered to have been extirpated from Wisconsin by 1960. No formal attempts were made to monitor the State's wolf population from 1960 until 1979. From 1960 through 1975, individual wolves and an occasional wolf pair were reported. There is no documentation, however, of any wolf reproduction occurring in Wisconsin, and the wolves that were reported may have been dispersing animals from Minnesota.

Wolves are believed to have returned to Wisconsin in more substantial numbers in about 1975, and the WI DNR began wolf population monitoring in 1979–80 and estimated a statewide population of 25 wolves at that time (Wydeven and Wiedenhoeft 2001). This population remained relatively stable for several years then declined slightly to approximately 15 to 19 wolves in the mid-1980s. In the late 1980s, the Wisconsin wolf population began an increase that has continued into 2005 (Wydeven et al. 2005).

Wisconsin DNR intensively surveys its wolf population annually using a combination of aerial, ground, and satellite radio telemetry, complemented by snow tracking and wolf sign surveys (Wydeven et al. 1995, 2005). Wolves are trapped from May through September and fitted with radio collars, with a goal of having at least one radio-collared wolf in about half of the wolf packs in Wisconsin. Aerial locations are obtained from each functioning radio-collar about once per week, and pack territories are estimated and mapped from the movements of the individuals who exhibit localized patterns. From December through March, the pilots make special efforts to visually locate and count the individual wolves in each radio-tracked pack. Snow tracking is used to supplement the information gained from aerial sightings and to provide pack size estimates for packs lacking a radio-collared wolf. Tracking is done by assigning survey blocks to trained trackers who then drive snow-covered roads in their blocks and follow all wolf tracks they encounter. Snowmobiles are used to locate wolf tracks in more remote areas with few roads. The results of the aerial and ground surveys are carefully compared to properly separate packs and to avoid over-counting (Wydeven et al. 2003). The number of wolves in each pack is estimated based on the aerial and ground observations made of the individual wolves in each pack over the winter.

Because the monitoring methods focus on wolf packs, lone wolves are likely undercounted in Wisconsin. As a result, the annual population estimates are probably slight underestimates of the actual wolf population within the State during the late-winter period. Fuller (1989) noted that lone wolves are estimated to compose from 2 to 29 percent. Also, these estimates are made at the low point of the annual wolf population cycle; the late-winter surveys produce an estimate of the wolf population at a time when most winter mortality has already occurred and before the birth of pups. Thus, Wisconsin wolf population estimates are conservative in two respects: they undercount lone wolves and the count is made at the annual low point of the population. This methodology is consistent with the recovery criteria established in the 1992 Recovery Plan, which established numerical criteria to be measured with data obtained by late-winter surveys.

During the July 2004 through June 2005 period, 63 radio collars were active on Wisconsin wolves, including 7 dispersers. At the beginning of the winter of 2004–05 radio collars were functioning in at least 39 packs. An estimated 425 to 455 wolves in 108 packs, including 11 to 13 wolves on Native American reservations, were in the State in early 2005, representing a 14 percent increase from 2004 (Wydeven et al. 2005a).

Wisconsin population estimates for 1985 through 2005 increased from 15 to 425–455 wolves (see Table 1 above) and from 4 to 108 packs (Wydeven et al. 2005a). This represents an annual increase of 21 percent through 2000, and an average annual increase of 11 percent for the most recent five years. This declining rate of increase may indicate that the Wisconsin wolf population is nearing the carrying capacity in the State.

In 1995, wolves were first documented in Jackson County, Wisconsin, well to the south of the northern Wisconsin area occupied by other Wisconsin wolf packs. The number of wolves in this central Wisconsin area has dramatically increased since that time. During the winter of 2004–05, there were 42–44 wolves in 11 packs in the central forest wolf range (Zone 2 in the Wisconsin Wolf Management Plan) and an additional 19 wolves in 6 packs in the marginal habitat in Zone 3, located between Zone 1 (northern forest wolf range) and Zone 2 (Wisconsin DNR 1999, Wydeven et al. 2005a) (see Figure 3).

During the winter of 2002–03, 7 wolves were believed to be primarily occupying Native American reservation lands in Wisconsin (Wydeven et al. 2003); this increased to 11 to 13 wolves in the winter of 2004–05 (Wydeven in litt. 2005). The 2004–05 animals consisted of 2 packs totaling 7 to 9 wolves on the Bad River Chippewa Reservation and a pack of 4 wolves on the Lac Courtes Oreilles Chippewa Reservation, both in northern Wisconsin. There were an additional 24 to 26 wolves that spent some time on reservation lands in the winter of 2004–05, including the Lac du Flambeau Chippewa Reservation, the Red Cliff Chippewa Reservation, the St. Croix Chippewa Reservation, the Menominee Reservation, and the Ho Chunk Reservation. It is likely that the Potowatomi Reservation lands will also host wolves in the near future (Wydeven in litt. 2005). Of these reservations the Ho-Chunk, St. Croix Chippewa, and Potowatomi are composed mostly of scattered parcels of land, and are not likely to provide significant amounts of wolf habitat.

In 2002, wolf numbers in Wisconsin alone surpassed the Federal criterion for a second population, as identified in the 1992 Recovery Plan (i.e., 100 wolves for a minimum of 5 consecutive years, as measured by 6 consecutive late-winter counts). Furthermore, in 2004 Wisconsin wolf numbers exceeded the Recovery Plan criterion of 200 animals for 6 successive late-winter surveys for an isolated wolf population. The Wisconsin wolf population continues to increase, although the slower rates of increase seen since 2000 may be the first

indications that the State's wolf population growth and geographic expansion are beginning to level off. Mladenoff et al. (1997) and Wydeven et al. (1997) estimated that occupancy of primary wolf habitat in Wisconsin would produce a wolf population of about 380 animals in the northern forest area of the State plus an additional 20–40 wolves in the central forest area. If wolves occupy secondary habitat (areas with a 10–50 percent probability of supporting a wolf pack) in the State, their estimated population could be 50 percent higher or more (Wydeven et al. 1997) resulting in a statewide population of 600 or more wolves.

*Michigan*

Wolves were extirpated from Michigan as a reproducing species long before they were listed as endangered in 1974. Prior to 1991, and excluding Isle Royale, the last known breeding population of wild Michigan wolves occurred in the mid-1950s. However, as wolves began to reoccupy northern Wisconsin, the MI DNR began noting single wolves at various locations in the Upper Peninsula of Michigan. In 1989, a wolf pair was verified in the central Upper Peninsula, and it produced pups in 1991. Since that time, wolf packs have spread throughout the Upper Peninsula, with immigration occurring from Wisconsin on the west and possibly from Ontario on the east. They now are found in every county of the Upper Peninsula, with the possible exception of Keweenaw County (Huntzinger et al. 2005).

The MI DNR annually monitors the wolf population in the Upper Peninsula by intensive late-winter tracking surveys that focus on each pack. The Upper Peninsula is divided into seven monitoring zones, and specific surveyors are assigned to each zone. Pack locations are derived from previous surveys, citizen reports, and extensive ground and aerial tracking of radio-collared wolves. During the winter of 2004–05 at least 87 wolf packs were resident in the Upper Peninsula (Huntzinger et al. 2005). A minimum of 40 percent of these packs had members with active radio-tracking collars during the winter of 2004–05 (Huntzinger et al. 2005). Care is taken to avoid double-counting packs and individual wolves, and a variety of evidence is used to distinguish adjacent packs and accurately count their members. Surveys along the border of adjacent monitoring zones are coordinated to avoid double-counting of wolves and packs occupying those border areas. In areas with a high density of wolves, ground surveys by 4 to 6 surveyors with concurrent aerial tracking are used to accurately delineate territories of adjacent packs and count their members (Beyer et al. 2004, Huntzinger et al. 2005, Potvin et al. in press). As with Wisconsin, the Michigan surveys likely miss many lone wolves, thus underestimating the actual population.

Annual surveys have documented minimum late-winter estimates of wolves occurring in the Upper Peninsula as increasing from 57 wolves in 1994 to 405 in 87 packs in 2005 (see Table 1 above). Over the last 10 years the annualized rate of increase has been about 18 percent (MI DNR 1997, 1999, 2001, 2003; Beyer et al. 2003, 2004; Huntzinger et al. 2005). The rate of annual increase has varied from year to year during this period, but there appears to be two distinct phases of population growth, with relatively rapid growth (about 25 percent per year from 1997 through 2000) and slower growth (about 14 percent from 2000 to the present time). Similar to Wisconsin, this may indicate a slowing growth rate as the population increases. The 2005 late-winter population was up 13 percent from the previous year's estimated population (Huntzinger et al. 2005). As with the Wisconsin wolves, the number of wolves in the Michigan Upper Peninsula wolf population by itself has surpassed the recovery criterion for a second population in the eastern United States (i.e., 100 wolves for a minimum of 5 consecutive years, based on 6 late-winter estimates), as specified in the Federal Recovery Plan, since 2001. In addition, the Upper Peninsula numbers have now surpassed the Federal criterion for an isolated wolf population of 200 animals for 6 successive late-winter surveys (FWS 1992).

In 2004–05, no wolf packs were known to be primarily using tribal-owned lands in Michigan (Beyer pers comm. 2005). Native American tribes in the Upper Peninsula of Michigan own small, scattered parcels of land. As such, no one tribal property would likely support a wolf pack. However, as wolves occur in all counties in the Upper Peninsula and range widely, tribal land is likely utilized periodically by wolves.

As mentioned previously, the wolf population of Isle Royale National Park, Michigan, is not considered to be an important factor in the recovery or long-term survival of wolves in the WGL DPS. This small and isolated wolf population cannot make a significant numerical contribution to gray wolf recovery, although long-term research on this wolf population has added a great deal to our knowledge of the species. The wolf population on Isle Royale has ranged from 12 to 50 wolves since 1959, and was 30 wolves in the winter of 2004–05 (Peterson and Vucetich 2005).

Although there have been verified reports of wolf sightings in the Lower Peninsula of Michigan, resident breeding packs have not been confirmed there. In October 2004 the first gray wolf since 1910 was documented in the Lower Peninsula (LP). This wolf had been trapped and radio-collared by the MI DNR while it was a member of a central UP pack in late 2003. At some point it had moved to the LP and ultimately was killed by a trapper who believed it was a coyote (MI DNR 2004a). Shortly after that, MI DNR biologists and conservation officers confirmed that two additional wolves were traveling together in Presque Isle County in the northern Lower Peninsula (NLP). A subsequent two-week survey was conducted in that area, but no additional evidence of wolf presence was found (Huntzinger et al. 2005). Recognizing the likelihood that small numbers of gray wolves will eventually move into the Lower Peninsula and form persistent packs (Potvin 2003, Gehring and Potter 2005 in press), MI DNR has begun a revision of its Wolf Management Plan in part to incorporate provisions for wolf management there.

*Summary for Wisconsin and Michigan*

The two-State wolf population, excluding Isle Royale wolves, has exceeded 100 wolves since late-winter 1993–94 and has exceeded 200 wolves since late-winter 1995–96. Therefore, the combined wolf population for Wisconsin and Michigan has exceeded the second population recovery goal of the 1992 Recovery Plan for a non-isolated wolf population since 1999. Furthermore, the two-state population has exceeded the recovery goal for an isolated second population since 2001.

*Other Areas in the Western Great Lakes DPS*

As described earlier, the increasing wolf population in Minnesota and the accompanying expansion of wolf range westward and southwestward in the State have led to an increase in dispersing wolves that have been documented in North and South Dakota in recent years. No surveys have been conducted to document the number of wolves present in North Dakota or South Dakota. However, biologists who are familiar with wolves there generally agree that there are only occasional lone dispersers that appear primarily in the eastern portion of these States. There were reports of pups being seen in the Turtle Mountains of North Dakota in

1994, but there have been no reports in the last few years (Roger Collins, USFWS, in litt. 1998; Phil Mastrangelo, USDA–APHIS–Wildlife Services, Bismarck, ND, pers. comm. 2005).

An examination of eight skulls from North and South Dakota wolves indicates that seven likely had dispersed from Minnesota; the eighth probably came from Manitoba, Canada (Licht and Fritts 1994). Genetic analyses of an additional gray wolf killed in 2001 in extreme northwestern South Dakota and another killed in central Nebraska in 2002 (both outside of this proposed WGL DPS) indicate that they, too, originated from the Minnesota-Wisconsin-Michigan wolf population (Straughan and Fain 2002, Steve Anschutz, USFWS, Lincoln, NE, in litt. 2003).

Additionally, some wolves from the Minnesota-Wisconsin-Michigan population have traveled to other portions of the WGL DPS. In October 2001, a wolf was killed in north-central Missouri by a farmer who stated that he thought it was a coyote. The wolf's ear tag identified it as having originated from the western portion of Michigan's Upper Peninsula, where it had been captured as a juvenile in July 1999. A wolf, presumably from the Wisconsin or possibly Minnesota wolf population, was shot and killed in Marshall County, in north-central Illinois, in December 2002. A second wolf was killed by a vehicle strike in northeastern Illinois in February 2005, and a third (verified as originating from the Western Great Lakes wolf population) was killed in Pike County, Illinois, (near Quincy) in December 2005. Another Great Lakes wolf was found dead in Randolph County in east-central Indiana (about 12 miles from the Ohio border) in June 2003. That wolf originated in Jackson County, Wisconsin, based on a Wisconsin DNR ear tag that it carried (Wydeven and Wiedenhoeft 2003b).

Wolf dispersal is expected to continue as wolves travel away from the more saturated habitats in the core recovery areas into areas where wolves are extremely sparse or absent. Unless they return to a core recovery population and join or start a pack there, they are unlikely to contribute to long-term maintenance of recovered wolf populations. Although it is possible for them to encounter a mature wolf of the opposite sex, to mate, and to reproduce outside the core wolf areas, the lack of large expanses of unfragmented public land make it unlikely that any wolf packs will persist in these areas. The only exception is the NLP of Michigan, where several studies indicate a persistent wolf population may develop (Gehring and Potter in press, Potvin 2003), perhaps dependent on occasional to frequent immigration of UP wolves. However, currently existing wolf populations in Minnesota, Wisconsin, and the UP of Michigan have already greatly exceeded the Federal recovery criteria, and maintaining viable recovered wolf populations in these areas will not be dependent in any way on wolves or wolf populations in other areas of the WGL DPS.

**Previous Federal Action**

On April 1, 2003, we published a final rule (68 FR 15804) that reclassified and delisted gray wolves, as appropriate, across their range in the 48 conterminous United States and Mexico. Within that rule, we established three DPSs for the gray wolf. Gray wolves in the Western DPS and the Eastern DPS were reclassified from endangered to threatened, except where already classified as threatened or as an experimental population. Gray wolves in the Southwestern DPS retained their previous endangered or experimental population status. Three existing gray wolf experimental population designations were not affected by the April 1, 2003, final rule. We removed gray wolves from the protections of the Act in all or parts of 16 southern and eastern States where the species historically did not occur. We also established a new special rule under section 4(d) of the Act for the threatened Western DPS to increase our ability to effectively manage wolf-human conflicts outside the two experimental population areas in the Western DPS. In addition, we established a second section 4(d) rule that applied provisions similar to those previously in effect in Minnesota to most of the Eastern DPS. These two special rules were codified in 50 CFR 17.40(n) and (o), respectively. In that final rule (on page 15806), we included a detailed summary of the previous Federal actions completed prior to publication of that final rule. The final rule is available at *http://www.fws.gov/midwest/wolf/esa-status/Reclass-final-fr.PDF*. Therefore, we will not repeat the details of that history in this proposal.

On January 31, 2005, and August 19, 2005, the U.S. District Courts in Oregon and Vermont, respectively, concluded that the 2003 final rule was "arbitrary and capricious" and violated the ESA (*Defenders of Wildlife* v. *Norton*, 03–1348–JO, D. OR 2005; *National Wildlife Federation* v. *Norton*, 1:03–CV–340, D. VT. 2005). The courts' rulings invalidated the April 2003 changes to the ESA listing for the gray wolf. These rulings had the effect of eliminating the three DPS listings and reverting all gray wolves south of Canada to endangered status, except those wolves in Minnesota retained their threatened status and the experimental population wolves in the northern U.S. Rockies and the Southwest retained their "nonessential experimental" status. These rulings also vacated the 2003 special rules under section 4(d) that authorized lethal control of problem wolves in the Eastern and Western DPSs. Because we had subsequently used the Eastern DPS as the basis for a July 21, 2004, gray wolf delisting proposal (69 FR 43664), that proposal could not be finalized.

On March 1, 2000, we received a petition from Mr. Lawrence Krak of Gilman, Wisconsin, and on June 28, 2000, we received a petition from the Minnesota Conservation Federation. Mr. Krak's petition requested the delisting of gray wolves in Minnesota, Wisconsin, and Michigan. The Minnesota Conservation Federation requested the delisting of gray wolves in a Western Great Lakes DPS. Because the data reviews resulting from the processing of these petitions would be a subset of the review begun by our July 13, 2000, proposal (65 FR 43450) to revise the current listing of the gray wolf across most of the conterminous United States, we did not initiate separate reviews in response to those two petitions. While we addressed these petitions in our July 21, 2004, proposed rule (69 FR 43664), this rule was mooted by the Court rulings. Therefore, this delisting proposal restates our 90-day findings that the action requested by each of the petitions may be warranted, as well as our 12-month finding that the action requested by each petition is warranted.

**Distinct Vertebrate Population Segment Policy Overview**

Pursuant to the ESA, we consider for listing any species, subspecies, or, for vertebrates, any DPS of these taxa if there is sufficient information to indicate that such action may be warranted. To interpret and implement the DPS provision of the ESA and Congressional guidance, the Service and the National Marine Fisheries Service (NMFS) published, on December 21, 1994, a draft Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the ESA and invited public comments on it (59 FR 65884). After review of comments and further consideration, the Service and NMFS adopted the interagency policy as issued in draft form, and published it in the **Federal Register** on February 7, 1996 (61 FR 4722). This policy addresses the recognition of a

DPS for potential listing, reclassification, and delisting actions.

Under our DPS policy, three factors are considered in a decision regarding the establishment and classification of a possible DPS. These are applied similarly for additions to the list of endangered and threatened species, reclassification of already listed species, and removals from the list. The first two factors—discreteness of the population segment in relation to the remainder of the taxon (i.e., *Canis lupus*) and the significance of the population segment to the taxon to which it belongs (i.e., *Canis lupus*)—bear on whether the population segment is a valid DPS. If a population meets both tests, it is a DPS and then the third factor is applied—the population segment's conservation status in relation to the ESA's standards for listing, delisting, or reclassification (i.e., is the population segment endangered or threatened).

**Analysis for Discreteness**

Under our Policy Regarding the Recognition of Distinct Vertebrate Population Segments, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions—(1) It is markedly separated from other populations of the same taxon (i.e., *Canis lupus*) as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA.

*Markedly Separated From Other Populations of the Taxon*—The western edge of the proposed Western Great Lakes Distinct Population Segment is approximately 400 mi (644 km) from the nearest known wolf packs in Wyoming and Montana. The distance between those western packs and the nearest packs within the proposed WGL DPS is nearly 600 miles (966 km). The area between Minnesota packs and Northern Rocky Mountain packs largely consists of unsuitable habitat, with only scattered islands of possibly suitable habitat, such as the Black Hills of eastern Wyoming and western South Dakota. There are no known gray wolf populations to the south or east of this proposed WGL DPS.

As discussed in the previous section, gray wolves are known to disperse over vast distances, but straight line documented dispersals of 400 mi (644 km) or more are very rare. Wolf dispersal is expected to continue but unless they return to a core recovery population and join or start a pack there, they are unlikely to contribute to long-term maintenance of recovered wolf populations. Dispersing wolves may encounter a mature wolf of the opposite sex outside the core wolf areas, but the lack of large expanses of unfragmented public land make it unlikely that any wolf packs will persist in these areas. While we cannot rule out the possibility of a Midwest wolf traveling 600 miles or more and joining or establishing a pack in the Northern Rockies, such a movement has not been documented and is expected to happen very infrequently, if at all. As the discreteness criterion requires that the DPS be "markedly separated" from other populations of the taxon rather than requiring complete isolation, this high degree of physical separation satisfies the discreteness criterion.

*Delimited by International Boundaries with Significant Management Differences Between the United States and Canada*—This border has been used as the northern boundary of the listed entity since gray wolves were reclassified in the 48 states and Mexico in 1978. There remain significant cross-border differences in exploitation, management, conservation status, and regulatory mechanisms. More than 50,000 wolves exist in Canada, where suitable habitat is abundant, human harvest of wolves is common, Federal protection is absent, and provincial regulations provide widely varying levels of protection. In general, Canadian wolf populations are sufficiently large and healthy so that harvest and population regulation, rather than protection and close monitoring, is the management focus. There are an estimated 4,000 wolves in Manitoba (Manitoba Conservation undated). Hunting is allowed nearly province-wide, including in those provincial hunting zones adjoining northwestern Minnesota, with a current season that runs from August 29, 2005, through March 31, 2006 (Manitoba Conservation 2005a). Trapping wolves is allowed province-wide except in and immediately around Riding Mountain Provincial Park (southwestern Manitoba), with a current season running from October 14, 2005, through February 28 or March 31, 2006 (varies with trapping zone) (Manitoba Conservation 2005b). The Ontario Ministry of Natural Resources estimates there are 8,850 wolves in the province, based on prey composition and abundance, topography, and climate. Wolf numbers in most parts of the province are believed to be stable or increasing since about 1993 (Ontario Ministry of Natural Resources (MNR) 2005a). In 2005 Ontario limited hunting and trapping of wolves by closing the season from April 1 through September 14 in central and northern Ontario (Ontario MNR 2005b). In southern Ontario (the portion of the province that is adjacent to the proposed WGL DPS), wolf hunting and trapping is permitted year around except within, and immediately around, Algonquin Provincial Park in southeastern Ontario (north of Lake Ontario) where seasons are closed all year (Ontario MNR 2005c).

We, therefore, conclude that the above described proposed WGL DPS boundary would satisfy both conditions that can be used to demonstrate discreteness of a potential DPS.

**Analysis for Significance**

If we determine a population segment is discrete, we next consider available scientific evidence of its significance to the taxon (i.e., *Canis lupus*) to which it belongs. Our DPS policy states that this consideration may include, but is not limited to, the following—(1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range; and/or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. Below we address Factors 1 and 2. Factors 3 and 4 do not apply to the proposed WGL wolf DPS and thus are not included in our analysis for significance.

*Unusual or Unique Ecological Setting*—Wolves within the proposed WGL DPS occupy the Laurentian Mixed Forest Province, a biotic province that is transitional between the boreal forest and the broadleaf deciduous forest. Laurentian Mixed Forest consists of mixed conifer-deciduous stands, pure deciduous forest on favorable sites, and pure coniferous forest on less favorable sites. Within the United States this biotic province occurs across northeastern Minnesota, northern Wisconsin, the UP, and the NLP, as well as the eastern half of Maine, and portions of New York and Pennsylvania (Bailey 1995). In the Midwest, current wolf distribution closely matches this

province, except for the NLP and the Door Peninsula of Wisconsin, where wolf packs currently are absent. To the best of our knowledge, wolf packs currently do not inhabit the New England portions of the Laurentian Mixed Forest Province. Therefore, WGL wolves represent the only wolves in the United States occupying this province. Furthermore, WGL wolves represent the only use by gray wolves of any form of eastern coniferous or eastern mixed coniferous-broadleaf forest in the United States.

*Significant Gap in the Range of the Taxon*—This factor may be primarily of value when considering the initial listing of a taxon under the Act to prevent the development of a major gap in a taxon's range ("* * * loss * * * would result in a significant gap in the range of the taxon" (71 FR 6641)). However, this successful restoration of a viable wolf metapopulation to large parts of Minnesota, Wisconsin, and Michigan has filled a significant gap in the historical range of the wolf in the United States, and it provides an important extension of the range of the North American gray wolf population. Without the recovered Western Great Lakes wolf metapopulation, there would not be a wolf population in the conterminous States east of the Rocky Mountains except for the red wolves being restored along the Atlantic Coast.

*Conclusion*

We conclude, based on our review of the best available scientific information, that the proposed WGL DPS is discrete from other wolf populations as a result of physical separation and the international border with Canada. The proposed DPS is significant to the taxon to which it belongs because it is the only occurrence of the species in the Laurentian Mixed Forest Biotic Province in the United States, it contains a wolf metapopulation that fills a large gap in the historical range of the taxon, and it contains the majority of the wolves in the conterminous States. Therefore, we have determined that this population of wolves satisfies the discreteness and significance criteria required to designate it as a DPS. The evaluation of the appropriate conservation status for the WGL DPS is found below.

Delineating the WGL Gray Wolf Population DPS

To delineate the boundary of the WGL DPS, we considered the current distribution of the wolves in those areas we consider significant in the population and the potential dispersal distance wolves may travel from those core population areas. The WGL DPS boundary includes all of Minnesota, Wisconsin, and Michigan; the part of North Dakota that is north and east of the Missouri River upstream as far as Lake Sakakawea and east of Highway 83 from Lake Sakakawea to the Canadian border; the part of South Dakota that is north and east of the Missouri River; the parts of Iowa, Illinois, and Indiana that are north of Interstate Highway 80; and the part of Ohio north of Interstate Highway 80 and west of the Maumee River (at Toledo). (See Figure 1.) As discussed below, this DPS has been delineated to include the core recovered wolf population plus a zone around the core wolf populations. This geographic delineation is not intended to include all areas where wolves have dispersed from. Rather, it includes the area currently occupied by wolf packs in MN, WI, and MI; the nearby areas in these States, including the Northern Lower Peninsula of Michigan, in which wolf packs may become established in the foreseeable future; and a surrounding area into which MN, WI, and MI wolves disperse but where persistent packs are not expected to be established. The area surrounding the core wolf populations includes the locations of most known dispersers from the core populations, especially the shorter and medium-distance dispersers that are most likely to survive and potentially return to the core areas.

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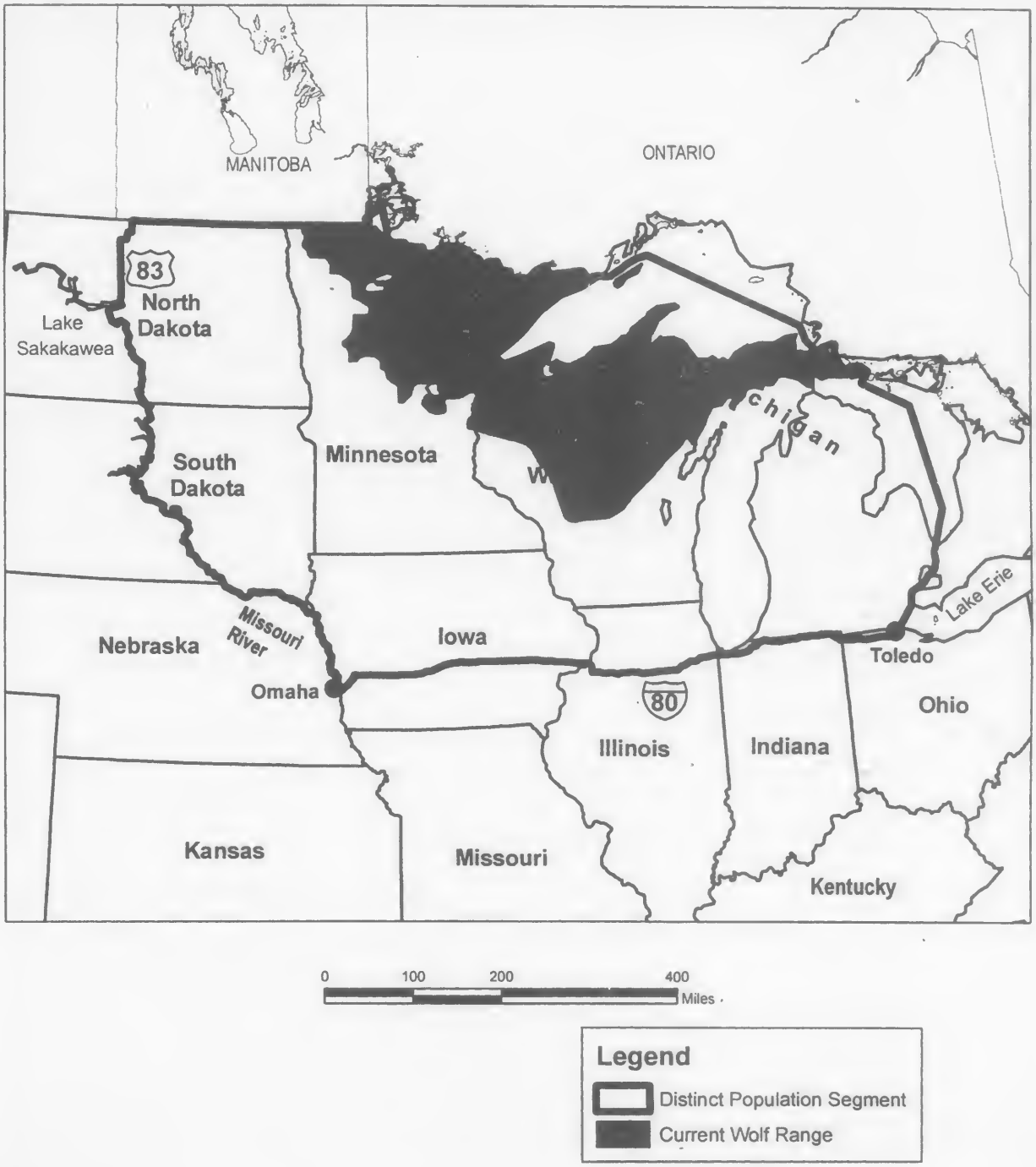
## Figure 1. Western Great Lakes Distinct Population Segment

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The WGL areas that are regularly occupied by wolf packs are well documented in Minnesota (Erb and Benson 2004), Wisconsin (Wydeven et al. 2006), and the Upper Peninsula of Michigan (Huntzinger et al 2005). Wolves have successfully colonized most, perhaps all, suitable habitat in Minnesota. Minnesota data from the winter of 2003–2004 indicate that wolf numbers and density either have

continued to increase slowly or have stabilized since 1997–1998, and there was no expansion of occupied range in the State (Erb and Benson 2004). Wisconsin wolves now occupy most habitat areas believed to have a high probability of wolf occurrence except for some areas of northeastern Wisconsin, and the State's wolf population continues to annually increase in numbers and, to a lesser degree, in area (Wydeven and Wiedenhoeft 2005). The Upper Peninsula of Michigan has wolf packs throughout, although current population remains well below the estimated biological carrying capacity and will likely continue to increase in numbers in the UP for at least several more years (Mladenoff et al. 1997).

When delineating the WGL DPS, we had to consider the high degree of mobility shown by wolves. The dispersal of wolves from their natal packs and territories is a normal and important behavioral attribute of the species that facilitates the formation of new packs, the occupancy of vacant territories, and the expansion of occupied range by the "colonization" of vacant habitat. Data on wolf dispersal rates from numerous North American studies (Fuller et al. 2003, Boyd and Pletscher 1991) shows dispersal rates of 13 to 48 percent of the individuals in a pack. Sometimes the dispersal is temporary, and the wolf ends its extra-territorial movement by returning to a location in or near its natal territory. In some cases a wolf may continue its movement for scores or even hundreds of miles until it locates suitable habitat, where it may establish a territory or join an existing pack. In other cases, a wolf may die while apparently continuing its dispersal movement, leaving unanswered the questions of how far it would have gone and whether it eventually would have returned to its natal area or population.

Published and unpublished scientific data provide a great deal of insight into the magnitude of extra-territorial movements, and document the following:

*Minnesota*—The current record for a documented extra-territorial movement by a gray wolf in North America is held by a Minnesota wolf that moved a straight line distance of at least 550 mi. (886 km) northwest into Saskatchewan (Fritts 1983). Nineteen other primarily MN movements summarized by Mech (2005 in litt.) averaged 154 mi (248 km). Their straight-line distance of travel (i.e., from known starting location to most distant known location) ranged from 32–532 mi (53–886 km) with the straight-line maximum dispersal distance shown by known returning wolves ranging from 54 mi (90 km) to 307 mi (494 km).

*Michigan*—Drummer et al. (2002) reported 10 instances involving UP wolves. One of these wolves moved to northcentral Missouri and another to southeastern Wisconsin, both beyond the core wolf areas in the WGL. The average straight-line distance traveled by those two wolves was 377 mi (608 km), while the average straight-line distance for all 10 of these wolves was 232 mi. (373 km). Their straight-line distances ranged from 41 to 468 mi. (66 to 753 km).

*Wisconsin*—In 2004 a wolf tagged in Michigan was killed by a vehicle in Rusk County in northwestern Wisconsin, 295 miles (475 km) west of his original capture location in the eastern UP (Wydeven et al. 2005). A similar distance (298 mi, 480 km) was traveled by a north-central Wisconsin yearling female wolf that moved to the Rainy Lake region of Ontario during 1988–1989 (Wydeven et al. 1995).

In December 2002 a wolf was shot and killed in Marshall County, Illinois. This wolf likely dispersed from the Wisconsin wolf population, nearly 200 miles (322 km) to the north (Great Lakes Directory 2003). Another wolf known to have come from a central Wisconsin wolf pack was found shot in Randolph County in east central Indiana about 12 miles from the Ohio border in June 2003. It had traveled a minimum distance of at least 420 miles (676 km) to get around Lake Michigan; it likely traveled much father than that unless it went through the city or suburbs of Chicago (Wydeven et al. 2004). Another likely Wisconsin wolf was shot in Pike County, Illinois, in late 2005. This animal was about 300 mi (180 km) from the nearest wolf packs in central Wisconsin.

*North Dakota, South Dakota, and Nebraska*—Licht and Fritts (1994) tabulated 10 gray wolves found dead in ND and SD from 1981 through 1992. Seven of these are believed to have originated from Minnesota, based on skull morphometrics. (Another probably originated in Manitoba and the likely origins of the other two wolves are unknown.) Although none of these wolves were marked or radio-tracked, making it impossible to determine the point of initiation of their journey, a minimum straight-line travel distance can be determined from the nearest wolf breeding range in MN. For the seven, the average distance to the nearest wolf breeding range was 160 mi (257 km) and ranged from 29 to 329 mi (46 to 530 km). One of these seven wolves moved west of the Missouri River before it died.

Genetic analysis of a wolf killed in Harding County, in extreme northwestern South Dakota, in 2001 indicated that it originated from the Minnesota-Wisconsin-Michigan wolf population (Straughan and Fain 2002). The straight-line travel distance to the nearest Minnesota wolf pack is nearly 400 miles (644 km).

A wolf illegally killed near Spalding, Nebraska, in December of 2002 also originated from the Minnesota-Wisconsin-Michigan wolf population, as determined by genetic analysis (Anschutz, in litt. 2003). The nearest Minnesota wolf pack is nearly 350 miles (563 km) from this location.

*Other notable extra-territorial movements*—Notable are several wolves whose extra-territorial movements were radio-tracked in sufficient detail to provide insight into their actual travel routes and total travel distances for each trek, rather than only documenting straight-line distance from beginning to end-point. Merrill and Mech (2000) reported on four such Minnesota wolves with a documented travel distance ranging from 305 to 2641 mi (490 to 4251 km) and an average travel route length of 988 mi (1590 km). Wydeven (1994) described a WI wolf that moved from northwestern WI to the northern suburbs of St. Paul, Minnesota, for 2 weeks (apparently not seen or reported to authorities by the local residents), then moved back to north-central WI. The total travel distance was 278 mi (447 km) from her natal pack to the north-central WI location where she settled down.

From these extra-territorial movement records we conclude that gray wolf movements of over 200 miles (320 km) straight-line distance have been documented on numerous occasions, while shorter distance movements are more frequent. Movements of 300 miles (480 km) straight-line distance or more are less common, but include one Minnesota wolf that journeyed a straight-line distance of 300 mi (480 km) and a known minimum distance of 2,550 mi (4251 km) before it reversed direction, as determined by its satellite-tracked collar. This wolf returned to a spot only 24 mi (40 km) from its natal territory (Merrill and Mech 2000). While much longer movements have been documented, including some by WGL wolves, return movements to the vicinity of natal territories have not been documented for extra-territorial movements beyond 300 mi (480 km).

Based on extra-territorial movement data, we conclude that affiliation with the midwestern wolf population has

diminished and is essentially lost at a distance of 250 to 300 miles (400 to 480 km) beyond the outer edge of the areas of the WGL that are largely continuously occupied by wolf packs. Although some WGL wolves will move beyond this distance, available data indicate that longer distance dispersers are unlikely to return to their natal population. Furthermore, wolves moving this distance outward from the core areas of Minnesota, Wisconsin, and Michigan will encounter landscape features that not only provide clear borders to delineate a DPS, but which are also at least partial barriers to further wolf movement, and that may—if crossed—impede attempts of wolves to return toward the WGL core areas. These landscape features are the Missouri River in North Dakota and downstream to Omaha, Nebraska, and Interstate Highway 80 from Omaha eastward through Illinois, Indiana, and into Ohio, ending where this highway crosses the Maumee River in Toledo, Ohio. Although there is evidence that two Minnesota wolves have crossed the Missouri River and some wolves have crossed interstate highways, there is also evidence that some wolves are hesitant to cross highways (Kohn et al. 2000, Licht and Fritts 1994, Merrill and Mech 2000, Whittington et al. 2004, Wydeven et al. 2005a, but see Blanco et al. 2005). Interstate highways and smaller roads are a known mortality factor for wolves, adding to their function as a partial barrier to wolf movements (Blanco et al. 2005).

**Summary of Factors Affecting the Species**

Section 4 of the ESA and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the ESA set forth the procedures for listing, reclassifying, and delisting species. Species may be listed as threatened or endangered if one or more of the five factors described in section 4(a)(1) of the ESA threaten the continued existence of the species. A species may be delisted, according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened because of (1) extinction, (2) recovery, or (3) error in the original data used for classification of the species.

A recovered population is one that no longer meets the ESA's definition of threatened or endangered. The ESA defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become endangered in the foreseeable future throughout all or a significant portion of its range. Determining whether a species is recovered requires consolidation of the same five categories of threats specified in section 4(a)(1). For species that are being considered for delisting, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that could potentially affect the species in the foreseeable future after its delisting and the consequent removal of the Act's protections.

For the purposes of this notice, we consider "foreseeable future" to be 30 years. This is a period for which we can make reasonable assumptions, based on recent and current observations, regarding the continuation of current trends in human attitudes and behaviors, regulatory mechanisms, and environmental factors that will be the primary determinants of threats to wolf populations in the future.

For the purposes of this notice, the "range" of wolves in this WGL DPS is the area within the DPS boundaries where viable populations of the species now exist. However, a species' historical range is also considered because it helps inform decisions on the species' status in its current range. While wolves historically occurred throughout the geographic area of the DPS, large portions of its historical range are no longer able to support viable wolf populations.

Significance of a portion of the range is viewed in terms of biological significance rather than in quantitative terms. A portion of a species' range that is so important to the continued existence of the species that threats to the species in that area can threaten the viability of the species, subspecies, or DPS as a whole is considered to be a significant portion of the range. In regard to the WGL DPS, the significant portions of the gray wolf's range are those areas that are important or necessary for maintaining a viable, self-sustaining, and evolving representative meta-population or multiple separate populations in order for the WGL DPS to persist into the foreseeable future.

The following analysis examines all significant factors currently affecting wolf populations or likely to affect wolf populations within the foreseeable future. Factor A considers all factors affecting both currently occupied and potentially suitable habitat (defined below in Factor A). The issues discussed under Factors B, C, and E are analyzed throughout the entire DPS. Adequate regulatory mechanisms (Factor D) are discussed for each of the States within the DPS, with an emphasis on the three States with enough suitable habitat to sustain viable wolf populations (Minnesota, Wisconsin, and Michigan).

*A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range*

A common misperception is that wolves inhabit only remote portions of pristine forests or mountainous areas, where human developments and other activities have produced negligible change to the natural landscape. Their extirpation south of Canada and Alaska, except for the heavily forested portions of northeastern Minnesota, reinforced this popular belief. Wolves, however, survived in those areas not because those were the only places with the necessary habitat conditions, but because only in those remote areas were they sufficiently free of the human persecution that elsewhere killed wolves faster than the species could reproduce (Mech 1995).

In the western Great Lakes region, wolves in the densely forested northeastern corner of Minnesota have expanded into the more agricultural portions of central and northwestern Minnesota, northern and central Wisconsin, and the entire Upper Peninsula of Michigan. Habitats currently being used by wolves span the broad range from the mixed hardwood-coniferous forest wilderness area of northern Minnesota, through sparsely settled, but similar habitats in Michigan's Upper Peninsula and northern Wisconsin, and into more intensively cultivated and livestock-producing portions of central and northwestern Minnesota and central Wisconsin.

Wolf research and the expansion of wolf range over the last three decades have shown that wolves can successfully occupy a wide range of habitats, and they are not dependent on wilderness areas for their survival (Mech 1995). In the past, gray wolf populations occupied nearly every type of habitat north of mid-Mexico that contained large ungulate prey species, including bison, elk, white-tailed deer, mule deer, moose, and woodland caribou; thus, wolves historically occupied the entire Midwest. An inadequate prey density and a high level of human persecution appear to be the only factors that limit wolf distribution (Mech 1995).

An indication of the availability of suitable habitat in portions of historical range is the increase in Midwest wolf population levels. In Minnesota, four comparable surveys of wolf numbers and range have been carried out since 1979. These surveys estimated that there

were 1,235, 1,500–1,750, 2,445, and 3020 wolves in Minnesota in 1979, 1989, 1998, and 2004 respectively (Berg and Kuehn 1982, Fuller *et al.* 1992, Berg and Benson 1999, Erb and Benson 2004) (see "Recovery in the Western Great Lakes DPS," above, for additional details on the increase in numbers and range of Minnesota wolves).

Hearne et al. (2003), determined that a viable wolf population (that is, having less than 10 percent chance of extinction over 100 years) should consist of at least 175 to 225 wolves, and they modeled various likely scenarios of habitat conditions in the Upper Peninsula of Michigan and northern Wisconsin through the year 2020 to determine whether future conditions would support a wolf population of that size. Most scenarios of future habitat conditions resulted in viable wolf populations in each State through 2020. When the model analyzed the future conditions in the two States combined, all scenarios produced a viable wolf population through 2020. Their scenarios included increases in human population density, changes in land ownership that may result in decreased habitat suitability, and increased road density.

Federal Lands

National forests, and the prey species found in their various habitats, have been important to wolf conservation and recovery in the core areas of the WGL DPS. There are five national forests with resident wolves (Superior, Chippewa, Chequamegon-Nicolet, Ottawa, and Hiawatha National Forests) in Minnesota, Wisconsin and Michigan. Their wolf populations range from approximately 20 on the Nicolet portion of the Chequamegon-Nicolet National Forest in northeastern Wisconsin, to 160–170 on the UP's Ottawa National Forest, to an estimated 465 (in winter of 2003–04) on the Superior National Forest in northeastern Minnesota (Lindquist in litt. 2005). Nearly half of the wolves in Wisconsin currently use the Chequamegon portion of the Chequamegon-Nicolet National Forest.

Voyageurs National Park, along Minnesota's northern border, has a land base of nearly 882 $km^2$ (340 $mi^2$). There are 40 to 55 wolves within 7 to 11 packs that exclusively or partially reside within the park, and at least 4 packs are located wholly inside the Park boundaries (Holbeck, Voyageurs NP, in litt. 2005, based on 2000–2001 data).

In the WGL DPS, we currently manage seven units within the National Wildlife Refuge System with significant wolf activity. Primary among these are Agassiz National Wildlife Refuge (NWR), Tamarac NWR, and Rice Lake NWR in Minnesota; Seney NWR in the Upper Peninsula of Michigan; and Necedah NWR in central Wisconsin. Agassiz NWR has had as many as 20 wolves in 2 to 3 packs in recent years. In 1999, mange and illegal shootings reduced them to a single pack of five wolves and a separate lone wolf. Since 2001, however, two packs with a total of 10 to 12 wolves have been using the refuge. About 60 percent of the packs' territories are located on the Refuge or on adjacent State-owned wildlife management area (Gary Huschle, USFWS, in litt. 2005). Tamarac NWR has 2 packs, with a 15-year average of 12 wolves in one pack; adults and an unknown number of pups comprise the second pack (Barbara Boyle, USFWS, in litt. 2005). Rice Lake NWR, in Minnesota, has one pack of nine animals using the refuge in 2004; in 2005, the pack had at least 6 individuals. Other single or paired wolves pass through the refuge frequently (Mary Stefanski, USFWS, pers. comm. 2004; Michelle McDowell, USFWS, in litt. 2005). In 2003, Seney NWR had one pack with two adults and two pups; in 2005 there were two pairs of wolves and several lone individuals using the Refuge (Dave Olson, USFWS, in litt. 2005). Necedah NWR currently has 2 packs with at least 13 wolves in the packs (Joel Trick, USFWS, in litt. 2005). Over the past 10 years, Sherburne and Crane Meadows NWRs in central Minnesota have had intermittent, but reliable, observations and signs of individual wolves each year. To date, no established packs have been documented on either of those refuges. The closest established packs are within 15 miles of Crane Meadows NWR at Camp Ripley Military Installation and 30 miles north of Sherburne NWR at Mille Lacs State Wildlife Management Area (Jeanne Holler, USFWS, in litt. 2005).

Suitable Habitat Within the Western Great Lakes Gray Wolf DPS

Various researchers have investigated habitat suitability for wolves in the eastern portion of the United States. In recent years, most of these efforts have focused on using human density, deer density or deer biomass, and road density, or have used road density alone to identify areas where wolf populations are likely to persist or become established (Mladenoff et al. 1995, 1997, 1998, 1999; Harrison and Chapin 1998; Wydeven et al. 2001; Potvin et al. in press).

Road density has largely been adopted as the best predictor of habitat suitability in the Northeast and Midwest due to the connection between roads and human-related wolf mortality. Several studies demonstrated that wolves generally did not maintain breeding packs in areas with a road density greater than about 0.9 to 1.1 linear miles per square mile (0.6 to 0.7 $km/km^2$) (Thiel 1985; Jensen et al. 1986; Mech et al. 1988; Fuller et al. 1992). Work by Mladenoff and associates indicated that colonizing wolves in Wisconsin preferred areas where road densities were less than 0.7 mi/sq mi (0.45 km/sq km) (Mladenoff et al. 1995). However, recent work in the UP of Michigan indicates that in some areas with low road densities, low deer density appears to separately limit wolf occupancy (Potvin et al. in press) and may prevent recolonization of portions of the UP.

Road density increases various forms of other human-related wolf mortality factors. A rural area with more roads generally has a greater human density, more vehicular traffic, greater access by hunters and trappers, more farms and residences, and more domestic animals. As a result, there is a greater likelihood that wolves in such an area will encounter humans, domestic animals, and various human activities. These encounters may result in wolves being hit by motor vehicles, being controlled by government agents after becoming involved in depredations on domestic animals, being shot intentionally by unauthorized individuals, being trapped or shot accidentally, or contracting diseases from domestic dogs (Mech et al. 1988; Mech and Goyal 1983; Mladenoff et al. 1995). Based on mortality data from radio-collared Wisconsin wolves from 1979 to 1999, natural causes of death predominate (57 percent of mortalities) in areas with road densities below 1.35 mi/sq mi (0.84 km/sq km), but human-related factors produced 71 percent of the wolf deaths in areas with higher road densities (Wydeven et al. 2001).

Some researchers have used a road density of 1 mi/sq mi (0.6 km/sq km) of land area as an upper threshold for suitable wolf habitat. However, the common practice in more recent studies is to use road density to predict probabilities of persistent wolf pack presence in an area. Areas with road densities less than 0.7 mi/sq mi (0.45 km/sq km) are estimated to have a greater than 50 percent probability of wolf pack colonization, and areas where road density exceeded 1 mi/sq mi (0.6 km/sq km) have less than a 10 percent probability of occupancy (Mladenoff et al 1995; Mladenoff and Sickley 1998; Mladenoff et al. 1999; Wydeven et al. 2001). The territories of packs that do

occur in areas of high road density, and hence with low expected probabilities of occupancy, are generally near broad areas of more suitable areas that are likely serving as a source of wolves, thereby assisting in maintaining wolf presence in the higher road density, less suitable, areas (Mech 1989; Wydeven et al. 2001).

Recent surveys for Wisconsin wolves and wolf packs show that wolves have now recolonized the areas predicted by habitat models to have high and moderate probability of occupancy (primary and secondary wolf habitat) (Wisconsin DNR 1999). The late winter 2004–05 Wisconsin wolf survey identified packs occurring throughout the central Wisconsin forest area and across the northern forest zone, with highest pack densities in the northwest and north central forest; pack densities are lower, but increasing, in the northeastern corner of the State (Wydeven and Wiedenhoeft 2005b). Michigan wolf surveys in winter 2003–04 and 2004–05 continue to show wolf pairs or packs (defined by Michigan DNR as three or more wolves traveling together) in every UP county except Keweenaw County, which probably lacks a suitable ungulate prey base during winter months (Huntzinger et al. 2005).

Habitat suitability studies in the Upper Midwest indicate that the only large areas of suitable or potentially suitable habitat areas that are currently unoccupied by wolves are located in the Northern Lower Peninsula (NLP) of Michigan (Mladenoff et al. 1997; Mladenoff et al 1999; Potvin 2003; Gehring and Potter, in press, Wildlife Soc. Bull.). One Michigan study (Gehring and Potter, in press) estimates that these areas could host 46 to 89 wolves; a masters degree thesis investigation (Potvin 2003) estimates that 110–480 wolves could exist in the NLP. The NLP is separated from the UP by the Straits of Mackinac, whose 4-mile width freezes during mid- and late-winter during some years. In recent years there have been two documented occurrences of wolves in the NLP (the last recorded wolf in the LP was in 1910). In the first instance a radio-collared female wolf from the central UP was trapped and killed by a coyote trapper in Presque Isle County in late October 2004. In late November 2004, tracks from two wolves were verified in the same NLP county. Follow-up winter surveys by the DNR in early 2005 failed to find additional wolf tracks in the NLP (Huntzinger et al. 2005); additional surveys are being conducted in February and March 2006. However, it probably is only a matter of several years before wolf pup production is documented in the NLP.

These NLP patches of suitable habitat contain a great deal of private land, are small in comparison to the occupied habitat on the UP and in MN and WI, and are intermixed with agricultural and higher road density areas (Gehring and Potter in press). Therefore, continuing wolf immigration from the UP may be necessary to maintain an NLP population. The Gehring and Potter study concludes that NLP suitable habitat (i.e., areas with greater than a 50 percent probability of wolf occupancy) amounts to 850 sq mi (2,198 sq km). Potvin, using deer density in addition to road density, believes there are about 3,090 sq mi (8,000 sq km) of suitable habitat in the NLP. Gehring and Potter exclude from their calculations those NLP low road density patches that are less than 19 sq mi (50 sq km), while Potvin does not limit habitat patch size in his calculations (Gehring and Potter in press; Potvin 2003). Both of these area estimates are well below the minimum area described in the Federal Recovery Plan, which states that 10,000 sq mi (25,600 sq km) of contiguous suitable habitat is needed for a viable isolated gray wolf population, and half that area (5,000 sq mi or 12,800 sq km) is needed to maintain a viable wolf population that is subject to wolf immigration from a nearby population (USFWS 1992).

It is generally recognized that Minnesota, Wisconsin, and Michigan, provide the only sufficiently large areas with adequate wild ungulate prey base and low road and human density within this proposed DPS (USFWS 1992). The only other area within the proposed WGL DPS that potentially might hold wolves on a frequent or possibly constant basis is the Turtle Mountain region that straddles the international border in north central North Dakota. Road densities within the Turtle Mountains are below the thresholds believed to limit colonization by wolves. However, this habitat area is only on the order of 579 sq mi (1,500 sq km), with approximately 394 sq mi (1,020 sq km) in North Dakota, and roughly 185 sq mi (480 sq km) in Manitoba (Licht and Huffman 1996). This area is far less than the recommendation in the Recovery Plan for the Eastern Timber Wolf as the minimum area of habitat necessary to support a wolf population (FWS 1992). Furthermore, the Manitoba portion of the Turtle Mountains is outside the currently listed area for the gray wolf and outside this proposed WGL DPS. While this area may provide a small area of marginal wolf habitat and may support limited and occasional wolf reproduction, the Turtle Mountain area within the United States is not a significant portion of the range of gray wolves within the WGL DPS, because of its very small area and its setting as an island of forest surrounded by a landscape largely modified for agriculture and grazing (Licht and Huffman 1996).

It appears that essentially all suitable habitat in Minnesota is now occupied, and the wolf population within the State may have slowed its increase or has stabilized (Erb and Benson 2004). In Wisconsin, suitable habitat is largely occupied, but there are some gaps in the northeastern part of the State where there appears to be room for additional packs to occupy areas between existing packs (Wydeven et al. 2005a). Similarly, in the UP of Michigan, wolf pairs or packs occur throughout the area identified as suitable (i.e., a high probability of wolf pack occupancy; Mladenoff et al. 1995, Potvin et al. in press), including every county of the UP except possibly Keweenaw. Wolf density is lower in the northern and eastern portions of the UP where lower deer numbers may prevent establishment of packs in some areas (Potvin et al. in press), but over the next several years packs may be able to fill in some of the currently unoccupied areas. The NLP of Michigan appears to have the only unoccupied, but potentially suitable, wolf habitat in the Midwest that is of sufficient size to maintain wolf packs (Gehring and Potter in press; Potvin 2000), although its small size and fragmented nature may mean that NLP wolf population viability may be dependent upon continuing immigration from the UP. Other potentially suitable wolf habitat areas within the proposed DPS boundary, including the Turtle Mountains in North Dakota, are too small to consistently support a viable resident wolf population, and cannot be considered a significant portion of wolf range in the WGL DPS.

Based on the biology of the gray wolf and conservation biology principles, the Recovery Plan (USFWS 1992) specifies that two populations (or a single metapopulation) are needed to ensure long-term viability. The Recovery Plan indicates the importance of a large wolf population in Minnesota Wolf Management Zones 1 through 4 (identical to Zone A in the 2001 Minnesota Wolf Management Plan) and the need for a second wolf population occupying 10,000 $mi^2$ or 5,000 $mi^2$ elsewhere in the eastern United States (depending on its isolation from the Minnesota wolf population. Based on

these recovery criteria, the portions of the range that support these two wolf populations are a Significant Portion of the Range (SPR) in the WGL DPS.

The Recovery Plan also discusses the importance of low road density areas, the importance of minimizing wolf–human conflicts, and the maintenance of an adequate natural prey base in the areas hosting these two necessary wolf populations. The Recovery Plan, along with numerous other scientific publications, supports the need to manage and reduce wolf–human conflicts. The Recovery Plan specifically recommends managing against wolves in large areas of unsuitable habitat, stating that Minnesota Zone 5 should be managed with a goal of zero wolves there, because "Zone 5 is not suitable for wolves. Wolves found there should be eliminated by any legal means." (USFWS 1992, p 20). Therefore, the Recovery Plan views Zone 5's roughly 60 percent of the State as not an important part of the range of the gray wolf.

Similarly, other portions of the WGL DPS that lack suitable habitat, or only have areas of suitable habitat that are below the areal thresholds specified in the Recovery Plan and/or are highly fragmented, cannot be considered a significant portion of the range of the gray wolf in the WGL DPS. These areas include North Dakota, South Dakota, Iowa, Illinois, Indiana, Ohio, Wisconsin Wolf Management Zones 3 and 4 (WI DNR 1999), and most of the Lower Peninsula of Michigan.

The only part of Michigan's Lower Peninsula that warrants any consideration for inclusion in the SPR for the WGL DPS is composed of those areas of fragmented habitat studied by Gehring and Potter (in press) and Potvin (2003). However, this amounts to less than half of the areal thresholds identified by the Recovery Plan for the establishment of viable populations, so these NLP areas may have difficulty maintaining wolf populations even with the help of occasional immigration of wolves from the UP (see F. Suitable Habitat Within the WGL DPS for additional discussion). These potentially suitable habitat areas are not likely to substantially contribute to maintaining a viable wolf population in Michigan, and they are not necessary to maintain a second viable wolf population in the WGL DPS. In fact, while the UP wolves will be significant to any NLP wolf population that may develop, the reverse will not be true. Thus, we conclude that the NLP is not a significant part of the range of the gray wolf in the WGL DPS.

Based on three decades of wolf research and implementing wolf recovery actions, the Recovery Plan, our analysis of five categories of threats and potential threats to the species, and the numerical growth and geographic expansion of the Midwest's wolf population, we have concluded that the wolf population has expanded to the extent that it now occupies the SPR within the DPS. The species has expanded to the extent that the currently occupied range in the WGL DPS exceeds that portion of the species' historical range in the DPS that is necessary to avoid the likelihood of extinction in the DPS for the foreseeable future.

While there are large areas of historical range within the DPS that are unoccupied by the species, these areas are almost completely lacking suitable habitat, and there is little likelihood that they can play a meaningful role in ensuring the persistence of a viable wolf population in the WGL DPS. We have assessed the threats to wolves throughout the DPS, and we have determined that the existing and likely future threats to wolves outside the currently occupied areas, and especially to wolves outside of Minnesota, Wisconsin, and the UP, do not rise to the level that they threaten the long-term viability of wolf populations in Minnesota, Wisconsin, and the Upper Peninsula of Michigan. Therefore, the large areas of unsuitable habitat in the eastern Dakotas; the northern portions of Iowa, Illinois, Indiana, and Ohio; and the southern areas of Minnesota, Wisconsin, and Michigan; as well as the relatively small areas of unoccupied potentially suitable habitat, do not constitute a significant portion of the range for the WGL DPS.

In summary, wolves currently occupy the vast majority of the suitable habitat in the WGL DPS. Unoccupied potentially suitable habitat exists in small and fragmented parcels and would neither make a substantial contribution to wolf population viability in the DPS nor constitute a biologically significant portion of gray wolf range in the WGL DPS. Furthermore, threats to wolves in the unoccupied portions of the DPS are inconsequential to the long-term viability of wolf populations in the DPS. Therefore, within the WGL DPS, gray wolves are not in danger of extinction now, nor are they likely to be so in the foreseeable future, in all or in a significant portion of their range due to inadequate or threatened suitable habitat or contraction of their range.

Prey

Wolf density is heavily dependent on prey availability (e.g., expressed as ungulate biomass, Fuller 1989), but prey availability is not likely to threaten wolves in the WGL DPS. Conservation of primary wolf prey in the WGL DPS, white-tailed deer and moose, is clearly a high priority for State conservation agencies. As Minnesota DNR points out in its wolf management plan (MN DNR 2001:25), it manages ungulates to ensure a harvestable surplus for hunters, nonconsumptive users, and to minimize conflicts with humans. To ensure a harvestable surplus for hunters, MN DNR must account for all sources of natural mortality, including loss to wolves, and adjust hunter harvest levels when necessary. For example, after severe winters in the 1990's, MN DNR modified hunter harvest levels to allow for the recovery of the local deer population (MN DNR 2001). In addition to regulation of human harvest of deer and moose, MN DNR also plans to continue to monitor and improve habitat for these species. Land management carried out by other public agencies and by private land owners in Minnesota's wolf range, including timber harvest and prescribed fire, incidentally and significantly improves habitat for deer, the primary prey for wolves in the State. The success of these measures is apparent from the continuing high deer densities in the Forest Zone of Minnesota, and the fact that the State's three largest deer harvests have occurred in the last three years. Approximately one-half of the MN deer harvest is in the Forest Zone, which encompasses most of the occupied wolf range in the State (Lennarz 2005). There is no indication that harvest of deer and moose or management of their habitat will significantly depress abundance of these species in Minnesota's core wolf range. Therefore, prey availability is not likely to endanger gray wolves in the foreseeable future in the State.

Similarly, the deer populations in Wisconsin and the Upper Peninsula of Michigan are at historically high levels. Wisconsin's pre-season deer population has exceeded 1 million animals since 1984, and hunter harvest has exceeded 400,000 deer in 7 of the last 10 years. A record harvest of 517,169 deer occurred in the 2004 deer season (WI DNR web site, accessed Jan. 27, 2006). Michigan's pre-season deer population was approximately 1.7 million deer, with about 336,000 residing in the UP. Currently MI DNR is proposing revised deer management goals to guide management of the deer population

through 2010. The proposed UP goal range is 323,000 to 411,000 (MI DNR 2005 web site accessed Jan. 31, 2006), which would maintain, or possibly increase, the current ungulate prey base for UP wolves. Short of a major, and unlikely, shift in deer management and harvest strategies, there will be no shortage of prey for Wisconsin and Michigan wolves for the foreseeable future.

*Summary of Factor A*—The wolf population in the WGL DPS currently occupies all the suitable habitat area identified for recovery in the Midwest in the 1978 and 1992 Recovery Plans and most of the suitable habitat in the WGL DPS. Unsuitable habitat, and small, fragmented areas of suitable habitat away from these core areas, largely represent geographic locations where wolf packs cannot persist. Although they may have been historical habitat, many of these areas are no longer suitable; none of them are important or necessary for maintaining a viable, self-sustaining, and evolving representative wolf population in the WGL DPS into the foreseeable future, and they are not a significant portion of the range of the WGL DPS.

The WGL DPS wolf population exceeds its numerical, temporal, and distributional goals for recovery. A delisted wolf population would be safely maintained above recovery levels for the foreseeable future, because much important wolf habitat is in public ownership, the states will continue to manage for high ungulate populations, and the States, Tribes, and Federal land management agencies will adequately regulate human-caused mortality of wolves and wolf prey. This will allow these three States to easily support a recovered and viable wolf metapopulation into the foreseeable future

*B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

Since their listing under the Act, no gray wolves have been legally killed or removed from the wild in any of the nine States included in the WGL DPS for either commercial or recreational purposes. Some wolves may have been illegally killed for commercial use of the pelts and other parts, but we think that illegal commercial trafficking in wolf pelts or parts and illegal capture of wolves for commercial breeding purposes is rare. State wolf management plans for Minnesota, Wisconsin, and Michigan ensure that wolves will not be killed for these purposes for at least several years following Federal delisting, so these forms of mortality will not emerge as new threats upon delisting. See Factor D for a detailed discussion of State wolf management plans, and for applicable regulations in States lacking wolf management plans.

We do not expect the use of wolves for scientific purposes to increase in proportion to total wolf numbers in the WGL DPS after delisting. Prior to delisting, the intentional or incidental killing, or capture and permanent confinement, of endangered or threatened gray wolves for scientific purposes has only legally occurred under permits or subpermits issued by the Service (under section 10(a)(1)(A)) or by a State agency operating under a cooperative agreement with the Service pursuant to section 6 of the Act (50 CFR 17.21(c)(5) and 17.31(b)). Although exact figures are not available, throughout the coterminous 48 States, such removals of wolves from the wild have been very limited and probably comprise an average of not more than two animals per year since the species was first listed as endangered. In the WGL DPS, these animals were either taken from the Minnesota wolf population during long-term research activities (about 15 gray wolves) or were accidental takings as a result of research activities in Wisconsin (4 to 5 mortalities and 1 long-term confinement) and in Michigan (2 mortalities) (William Berg, MN DNR, *in litt.* 1998; Mech, *in litt.* 1998; Wydeven 1998; Roell, *in litt.* June 22, 2004 & July 19, 2005).

The Minnesota DNR plans to encourage the study of wolves with radio-telemetry after delisting, with an emphasis on areas where they expect wolf-human conflicts and where wolves are expanding their range (MN DNR 2001). Similarly, Wisconsin and Michigan DNRs will continue to trap wolves for radio-collaring, examination, and health monitoring for the foreseeable future (WI DNR 1999, WI DNR 1997). The continued handling of wild wolves for research, including the administration of drugs, may result in some accidental deaths of wolves. We believe that capture and radio-telemetry-related injuries or mortalities will not increase significantly above the level observed before delisting in proportion to wolf abundance; adverse effects to wolves associated with such activities has been minimal (see below) and would not constitute a threat to the WGL DPS.

No wolves have been legally removed from the wild for educational purposes in recent years. Wolves that have been used for such purposes are the captive-reared offspring of wolves that were already in captivity for other reasons, and this is not likely to change as a result of Federal delisting. We do not expect taking for educational purposes to constitute any threat to Midwest wolf populations for the foreseeable future.

See Factor E for a discussion of taking of gray wolves by Native Americans for religious, spiritual, or traditional cultural purposes. See the Depredation Control Programs sections under Factor D for discussion of other past, current, and potential future forms of intentional and accidental take by humans, including depredation control, public safety, and under public harvest. While public harvest may include recreational harvest, it is likely that public harvest will also serve as a management tool, so it is discussed in Factor D.

Summary of Factor B—Threats to wolves resulting from scientific or educational purposes are not likely to increase substantially following delisting of the DPS, and any increased use for these purposes will be regulated and monitored by the States and Tribes in the core recovery areas. Taking wolves for scientific or educational purposes in the other WGL DPS States may not be regulated or closely monitored in the future, but the threat to wolves in those States will not be significant to the long-term viability of the wolf population in the WGL DPS. The potential limited commercial and recreational harvest that may occur in the DPS will be regulated by State and/or Tribal conservation agencies and is discussed under Factor D.

*C. Disease or predation*

Disease

Many diseases and parasites have been reported for the gray wolf, and several of them have had significant impacts during the recovery of the species in the 48 conterminous United States (Brand *et al.* 1995, WI DNR 1999). If not monitored and controlled by States, these diseases and parasites, and perhaps others, may threaten gray wolf populations in the future. Thus, to avoid a future decline caused by diseases or parasites, States and their partners will have to diligently monitor the prevalence of these pathogens in order to effectively respond to significant outbreaks.

*Canine parvovirus* (CPV) is a relatively new disease that infects wolves, domestic dogs, foxes, coyotes, skunks, and raccoons. Recognized in the United States in 1977 in domestic dogs, it appeared in Minnesota wolves (based upon retrospective serologic evidence) live-trapped as early as 1977 (Mech *et al.* 1986). Minnesota wolves, however, may have been exposed to the virus as

early as 1973 (Mech and Goyal 1995). Serologic evidence of gray wolf exposure to CPV peaked at 95 percent for a group of Minnesota wolves live-trapped in 1989 (Mech and Goyal 1993). In a captive colony of Minnesota wolves, pup and yearling mortality from CPV was 92 percent of the animals that showed indications of active CPV infections in 1983 (Mech and Fritts 1987), demonstrating the substantial impacts this disease can have on young wolves. It is believed that the population impacts of CPV occur via diarrhea-induced dehydration leading to abnormally high pup mortality (WI DNR 1999). CPV has been detected in nearly every wolf population in North America including Alaska (Bailey *et al.* 1995) and exposure in wolves is now believed to be almost universal.

There is no evidence that CPV has caused a population decline or has had a significant impact on the recovery of the Minnesota gray wolf population. Mech and Goyal (1995), however, found that high CPV prevalence in the wolves of the Superior National Forest in Minnesota occurred during the same years in which wolf pup numbers were low. Because the wolf population did not decline during the study period, they concluded that CPV-caused pup mortality was compensatory, that is, it replaced deaths that would have occurred from other causes, especially starvation of pups. They theorized that CPV prevalence affects the amount of population increase and that a wolf population will decline when 76 percent of the adult wolves consistently test positive for CPV exposure. Their data indicate that CPV prevalence in adult wolves in their study area increased by an annual average of 4 percent during 1979–93 and was at least 80 percent during the last 5 years of their study (Mech and Goyal 1995). Additional unpublished data gathered since 1995 indicate that CPV had reduced wolf population growth in that area from 1979 to 1989, but not since that period (Mech *in litt.* 1999). These data provide strong justification for continuing population and disease monitoring.

Wisconsin DNR, in conjunction with the U.S. Geological Survey National Wildlife Health Center in Madison, Wisconsin, (formerly the National Wildlife Health Laboratory) has an extensive dataset on the incidence of wolf diseases, beginning in 1981. Canine parvovirus exposure was evident in 5 of 6 wolves tested in 1981, and probably stalled wolf population growth in Wisconsin during the early and mid-1980s when numbers there declined or were static; at that time 75 percent of 32 wolves tested positive for CPV. During the following years of population increase (1988–96) only 35 percent of the 63 wolves tested positive for CPV (WI DNR 1999). More recent exposure rates for CPV continue to be high in Wisconsin wolves, with annual rates ranging from 60 to 100 percent among wild wolves handled from 2001 through mid-2005. Part of the reason for high exposure percentages is likely an increased emphasis in sampling pups and Central Forest wolves starting in 2001, so comparisons of post- and pre-2001 data are of limited value. CPV appears not to be a significant cause of mortality, as only a single wolf (male pup) is known to have died from CPV during this period (Wydeven and Wiedenhoeft 2002a, 2003a, 2004a, 2005). While the difficulty of discovering CPV-killed pups must be considered, and it is possible that CPV-caused pup mortality is being underestimated, the continuing increase of the Wisconsin wolf population indicates that CPV mortality is no longer impeding wolf population growth in the State. It may be that many Wisconsin wolves have developed some degree of resistance to CPV, and this disease is no longer a significant threat in the State.

Canine parvovirus, hypothesized to have been introduced to the island by a dog whose owners visited the island over the Fourth of July holiday, is considered to have been the cause of the precipitous decline of the isolated Isle Royale, Michigan, population in 1981–82. The island's gray wolf population dropped from 30 wolves in 1981 to only 14 in 1982, due in large part to 100 percent pup mortality (at least 9 pups) in 1981 (Peterson and Vucetich 2002). CPV appears to have disappeared from the island by 1989, but the wolf population remained low through 1995, before commencing an increase that continued into 2005 (Peterson and Vucetich 2005). Factors other than disease, however, may have caused, or contributed to, high mortality and a low level of reproductive success post-CPV decline, including a low level of genetic diversity and a prey population composed of young healthy moose that may make it difficult to secure sufficient prey for pups (Peterson et al. 1998).

Similar to Wisconsin wolves, serological testing of Michigan wolves captured from 1992 through 2001 (most recent available data) shows that the majority of Upper Peninsula wolves have been exposed to CPV. Fifty-six percent of 16 wolves captured from 1992 to 1999 and 83 percent of 23 wolves captured in 2001 showed antibody titers at levels established as indicative of previous CPV exposure that may provide protection from future infection from CPV (Kerry Beheler, WI DNR Wildlife Health Specialist, *in litt.* undated and April 14, 2004). There are no data showing any CPV-caused wolf mortality or population impacts to the gray wolf population on the Upper Peninsula, but few wolf pups are handled in the UP (Peterson *et al.* 1998, Hammill pers. comm. 2002, Beyer *in litt.* 2006), so low levels of CPV-caused pup mortality may go undetected there. Mortality data are primarily collected from collared wolves, which until recently received CPV inoculations. Therefore, mortality data for the Upper Peninsula should be interpreted cautiously.

Sarcoptic mange is caused by a mite (*Sarcoptes scabiei*) infection of the skin. The irritation caused by the feeding and burrowing mites results in scratching and then severe fur loss, which in turn can lead to mortality from exposure during severe winter weather. The mites are spread from wolf to wolf by direct body contact or by common use of "rubs" by infested and uninfested animals. Thus, mange is frequently passed from infested females to their young pups, and from older pack members to their pack mates. In a long-term Alberta, Canada, wolf study, higher wolf densities were correlated with increased incidence of mange, and pup survival decreased as the incidence of mange increased (Brand et al. 1995).

From 1991 to 1996, 27 percent of live-trapped Wisconsin wolves exhibited symptoms of mange. During the winter of 1992–93, 58 percent showed symptoms, and a concurrent decline in the Wisconsin wolf population was attributed to mange-induced mortality (WI DNR 1999). Seven Wisconsin wolves died from mange from 1993 through October 15, 1998, and severe fur loss affected five other wolves that died from other causes. During that period, mange was the third largest cause of death in Wisconsin wolves, behind trauma (usually vehicle collisions) and shooting (Nancy Thomas *in litt.* 1998). Largely as a result of mange, pup survival was only 16 percent in 1993, compared to a normal 30 percent survival rate from birth to one year of age.

Mange continues to be prevalent in Wisconsin, especially in the central Wisconsin wolf population. Mortality data from closely monitored radio-collared wolves provides a relatively unbiased estimate of mortality factors, especially those linked to disease or illegal actions, because nearly all carcasses are located within a few days of deaths. (Diseased wolves suffering from hypothermia or nearing death

generally crawl into dense cover and may go undiscovered if they are not radio-tracked (Shelley and Gehring 2002).) Such data show that over the last six years mange has killed as many wolves as were killed by illegal shooting, making them the two highest causes of wolf mortality in the State. Based on mortality data from closely monitored radio-collared wolves, mange mortality ranged from 14 percent of deaths in 2002 to 30 percent of deaths in 2003, totaling 27 percent of radio-collared wolf deaths for this period. Illegal shootings resulted in the death of an identical percentage of wolves (Wydeven and Wiedenhoeft 2001, 2002a, 2003a, 2004a, 2005). Mange mortality does not appear to be declining in Wisconsin, and the incidence of mange may be on the increase among central Wisconsin wolf packs (Wydeven et al. 2005b). However, not all mangy wolves succumb; other observations showed that some mangy wolves are able to survive the winter (Wydeven *et al.* 2000, 2001).

The survival of pups during their first winter is believed to be strongly affected by mange. The highest to date wolf mortality (30 percent of radio-collared wolves) from mange in Wisconsin in 2003 may have had more severe effects on pup survival than in previous years (Wydeven and Wiedenhoeft 2004). The prevalence of the disease may have contributed to the relatively small population increase in 2003 (2.4 percent in 2003 as compared to the average 18 percent to that point since 1985). However, mange has not caused a decline in the State's wolf population, and even though the rate of population increase has slowed in recent years, the wolf population continues to increase despite the continued prevalence of mange in Wisconsin wolves. Although mange mortality may not be the primary determinant of wolf population growth in the State, the impacts of mange in Wisconsin need to be closely monitored as identified and addressed in the Wisconsin wolf management plan (WI DNR 1999).

Seven wild Michigan wolves died from mange during 1993–97, making it responsible for 21 percent of all mortalities, and all disease-caused deaths, during that period (MI DNR 1997). During bioyears (mid-April to mid-April) 1999–04, mange-induced hypothermia killed 9 of the 11 radio-collared Michigan wolves whose cause of death was attributed to disease, and it represented 17 percent of the total mortality during those years. Mange caused the death of 31 percent of radio-collared wolves during the 1999–2001 bioyears, but that rate decreased to 11 percent during the 2001–2004 bioyears. However, the sample sizes are too small to reliably detect a trend (MI DNR, unpublished data). Before 2004, MI DNR treated all captured wolves with Ivermectin if they showed signs of mange. In addition, MI DNR vaccinated all captured wolves against CPV and canine distemper virus (CDV) and administered antibiotics to combat potential leptospirosis infections. These inoculations were discontinued in 2004 to provide more natural biotic conditions and to provide biologists with an unbiased estimate of disease-caused mortality rates in the population (Roell *in litt.* 2005).

Wisconsin wolves similarly had been treated with Ivermectin and vaccinated for CPV and CDV when captured, but the practice was stopped in 1995 to allow the wolf population to experience more natural biotic conditions. Since that time, Ivermectin has been administered only to captured wolves with severe cases of mange. In the future, Ivermectin and vaccines will be used sparingly on Wisconsin wolves, but will be used to counter significant disease outbreaks (Wydeven *in litt.* 1998).

Among Minnesota wolves, mange may always have been present at low levels. However, based on observations of wolves trapped under the Federal wolf depredation control program, mange appears to have become more widespread in the State during the 1999–2005 period. Data from Wildlife Services trapping efforts showed only wolves showing symptoms of mange were trapped during a 22-month period in 1994–96; in contrast, Wildlife Services trapped 10, 6, and 19 mangy wolves in 2003, 2004, and 2005, respectively (2005 data run through November 22 only). These data indicate that 12.6 percent of Minnesota wolves were showing symptoms of mange in 2005, (Paul 2005 *in litt.*). However, the thoroughness of these observations may not have been consistent over this 11-year period. In a separate study, mortality data from 12 years (1994–2005) of monitoring radio-collared wolves in 7–9 packs in north-central Minnesota show that 11 percent died from mange (DelGiudice, MN DNR *in litt.* 2005). However, the sample size (17 total mortalities, 2 from mange in 1998 and 2004) is far too small to deduce trends in mange mortality over time. Furthermore, these data are from mange mortalities, while the Wildlife Services' data are based on mange symptoms, not mortalities.

It is hypothesized that the current incidence of mange is more widespread than it would have otherwise been, because the WGL wolf range has experienced a series of mild winters beginning with the winter of 1997–1998 (Van Deelen 2005). Mange-induced mortality is chiefly a result of winter hypothermia, thus the less severe winters resulted in higher survival of mangy wolves, and increased spread of mange to additional wolves during the following spring and summer. The high wolf population, and especially higher wolf density on the landscape, may also be contributing to the increasing occurrence of mange in the WGL wolf population. There has been speculation that 500 or more Minnesota wolves died as a result of mange over the last 5 to 6 years, causing a slowing or cessation of previous wolf population increase in the State (Paul, *in litt.* 2005).

Lyme disease, caused by the spirochete (*Borrelia burgdorferi*), is another relatively recently recognized disease, first documented in New England in 1975; although it may have occurred in Wisconsin as early as 1969. It is spread by ticks that pass the infection to their hosts when feeding. Host species include humans, horses, dogs, white-tailed deer, white-footed mice, eastern chipmunks, coyotes, and wolves. The prevalence of Lyme disease exposure in Wisconsin wolves averaged 70 percent of live-trapped animals in 1988–91, dropped to 37 percent during 1992–97 and was back up to 56 percent (32 of 57 tested) in 2002–04 (Wydeven and Wiedenhoeft 2004b, 2005). Clinical symptoms have not been reported in wolves, but infected dogs can experience debilitating conditions, and abortion and fetal mortality have been reported in infected humans and horses (Kreeger 2003). It is possible that individual wolves may be debilitated by Lyme disease, perhaps contributing to their mortality; however, Lyme disease is not believed to be a significant factor affecting wolf populations.

The dog louse (*Trichodectes canis*) has been detected in wolves in Ontario, Saskatchewan, Alaska, Minnesota, and Wisconsin (Mech *et al.* 1985, Kreeger 2003, Paul *in litt.* 2005). Dogs are probably the source of the initial infections, and subsequently wild canids transfer lice by direct contact with other wolves, particularly between females and pups (Brand *et al.* 1995). Severe infestations result in irritated and raw skin, substantial hair loss, particularly in the groin. However, in contrast to mange, lice infestations generally result in loss of guard hairs but not the insulating under fur, thus, hypothermia is less likely to occur and much less likely to be fatal. Even though observed in nearly 4 percent in a sample of 391 Minnesota wolves in 2003–05

(Paul 2005 *in litt.*), dog lice infestations have not been confirmed as a cause of wolf mortality, and are not expected to have a significant impact even at a local scale.

Canine distemper virus (CDV) is an acute disease of carnivores that has been known in Europe since the sixteenth century and is now infecting dogs worldwide (Kreeger 2003). CDV generally infects dog pups when they are only a few months old, so mortality in wild wolf populations might be difficult to detect (Brand *et al.* 1995). CDV mortality among wild wolves has been documented only in two littermate pups in Manitoba (Carbyn 1982), in two Alaskan yearling wolves (Peterson *et al.* 1984), and in a single Wisconsin pup (Wydeven and Wiedenhoeft 2003b). Carbyn (1982) concluded that CDV was a contributor to a 50 percent decline of the wolf population in Riding Mountain National Park (Manitoba, Canada) in the mid-1970s. Serological evidence indicates that exposure to CDV is high among some Midwest wolves—29 percent in northern Wisconsin wolves and 79 percent in central Wisconsin wolves in 2002–2004 (Wydeven and Wiedenhoeft 2004b, 2005). However, there has been only a single CDV mortality documented among Midwestern wolves (Wydeven and Wiedenhoeft 2003b), and continued strong recruitment in Wisconsin and elsewhere in North American wolf populations indicates that distemper is not likely a significant cause of mortality (Brand 1995).

Other diseases and parasites, including rabies, canine heartworm, blastomycosis, bacterial myocarditis, granulomatous pneumonia, brucellosis, leptospirosis, bovine tuberculosis, hookworm, coccidiosis, and canine hepatitis have been documented in wild gray wolves, but their impacts on future wild wolf populations are not likely to be significant (Brand *et al.* 1995, Hassett *in litt.* 2003, Johnson 1995, Mech and Kurtz 1999, Mech *et al.* 1985, Thomas *in litt.* 1998, WI DNR 1999, Kreeger 2003). Continuing wolf range expansion, however, likely will provide new avenues for exposure to several of these diseases, especially canine heartworm, rabies, and bovine tuberculosis (Thomas *in litt.* 2000), further emphasizing the need for disease monitoring programs. In addition, the possibility of new diseases developing and existing diseases, such as chronic wasting disease, West Nile Virus and canine influenza (Crawford *et al.* 2005), moving across species barriers or spreading from domestic dogs to wolves must all be taken into account, and monitoring programs will need to address such threats.

In aggregate, diseases and parasites were the cause of 21 percent of the diagnosed mortalities of radio-collared wolves in Michigan from 1999 through 2004 (MI DNR unpublished data 2005) and 27 percent of the diagnosed mortalities of radio-collared wolves in Wisconsin and adjacent Minnesota from October 1979 through June 2005 (Wydeven and Wiedenhoeft 2005).

Many of the diseases and parasites are known to be spread by wolf-to-wolf contact. Therefore, their incidence may increase as wolf densities increase in the more recently colonized areas. Because wolf densities generally are relatively stable following the first few years of colonization, wolf-to-wolf contacts will not likely lead to a continuing increase in disease prevalence in areas that have been occupied for several years or more and are largely saturated with wolf packs (Mech *in litt.* 1998).

Disease and parasite impacts may increase because several wolf diseases and parasites are carried and spread by domestic dogs. This transfer of pathogens from domestic dogs to wild wolves may increase as gray wolves continue to colonize non-wilderness areas (Mech *in litt.* 1998). Heartworm, CPV, and rabies are the main concerns (Thomas *in litt.* 1998) but dogs may become significant vectors for other diseases with potentially serious impacts on wolves in the future (Crawford *et al.* 2005). However, to date wolf populations in Wisconsin and Michigan have continued their expansion into areas with increased contacts with dogs and have shown no adverse pathogen impacts since the mid-1980s impacts from CPV.

Disease and parasite impacts are a recognized concern of the Minnesota, Michigan, and Wisconsin DNRs. The Michigan Gray Wolf Recovery and Management Plan states that necropsies will be conducted on all dead wolves, and that all live wolves that are handled will be examined, with blood, skin, and fecal samples taken to provide disease information (MI DNR 1997). Similarly, the Wisconsin Wolf Management Plan states that as long as the wolf is State-listed as a threatened or endangered species, the WI DNR will conduct necropsies of dead wolves and test a sample of live-captured wolves for diseases and parasites, with a goal of screening 10 percent of the State wolf population for diseases annually. However, the plan anticipates that after State delisting (which occurred on March 24, 2004), disease monitoring will be scaled back because the percentage of the wolf population that is live-trapped each year will decline. To date, however, the number of wolves subject to disease testing has not been reduced, with 27 wolves captured and tested in the 9 months of 2004 following State delisting, compared to 22 in 2002 and 19 in 2003 (Wydeven and Wiedenhoeft 2004b, 2005). The State will continue to test for disease and parasite loads through periodic necropsy and scat analyses. The plan also recommends that all wolves live-trapped for other studies should have their health monitored and reported to the WI DNR wildlife health specialists (WI DNR 1999).

The Minnesota Wolf Management Plan (MN DNR 2001) states that MN DNR "will collaborate with other investigators and continue monitoring disease incidence, where necessary, by examination of wolf carcasses obtained through depredation control programs, and also through blood/tissue physiology work conducted by DNR and the U.S. Geological Survey. DNR will also keep records of documented and suspected incidence of sarcoptic mange." In addition, it will initiate "(R)egular collection of pertinent tissues of live captured or dead wolves" and periodically assess wolf health "when circumstances indicate that diseases or parasites may be adversely affecting portions of the wolf population." Unlike Michigan and Wisconsin, Minnesota has not established minimum goals for the proportion of its wolves that will be assessed for disease nor does it plan to treat any wolves, although it does not rule out these measures. Minnesota's less intensive approach to disease monitoring and management seems warranted in light of its much greater abundance of wolves than in the other two States.

In areas within the WGL DPS, but outside Minnesota, Wisconsin, and Michigan, we lack data on the incidence of diseases or parasites in transient wolves. However, the WGL DPS boundary is laid out in a manner such that the vast majority of, and perhaps all, wolves that will occur in the DPS in the foreseeable future will have originated from the Minnesota-Wisconsin-Michigan wolf metapopulation. Therefore, they will be carrying the "normal" complement of Midwest wolf parasites, diseases, and disease resistance with them. Any new pairs, packs, or populations that develop within the DPS are likely to experience the same low to moderate adverse impacts from pathogens that have been occurring in the core recovery areas. The most likely exceptions to this generalization would arise from

exposure to sources of novel diseases or more virulent forms that are being spread by other canid species that might be encountered by wolves dispersing into currently unoccupied areas of the DPS. To increase the likelihood of detecting such novel, or more virulent, diseases and thereby reduce the risk that they might pose to the core metapopulation after delisting, we will encourage these States and Tribes to provide wolf carcasses or suitable tissue, as appropriate, to the USGS Madison Wildlife Health Center or the Service's National Wildlife Forensics Laboratory for necropsy. This practice should provide an early indication of new or increasing pathogen threats before they reach the core metapopulation or impact future transient wolves to those areas.

Disease summary—We believe that several diseases have had noticeable impacts on wolf population growth in the Great Lakes region in the past. These impacts have been both direct, resulting in mortality of individual wolves, and indirect, by reducing longevity and fecundity of individuals or entire packs or populations. Canine parvovirus stalled wolf population growth in Wisconsin in the early and mid-1980s and has been implicated in the decline of the isolated Isle Royale wolf population in Michigan. Sarcoptic mange has affected wolf recovery in Michigan's Upper Peninsula and in Wisconsin over the last ten years, and it is recognized as a continuing problem. Despite these and other diseases and parasites, the overall trend for wolf populations in the WGL DPS continues to be upward. Wolf management plans for Minnesota, Michigan, and Wisconsin include disease monitoring components that we expect will identify future disease and parasite problems in time to allow corrective action to avoid a significant decline in overall population viability. We conclude that diseases and parasites will not prevent the continuation of wolf recovery or the maintenance of viable wolf populations in the DPS. Delisting wolves in the WGL DPS will not significantly change the incidence or impacts of disease and parasites on these wolves.

Predation

No wild animals habitually prey on gray wolves. Large prey, such as deer, elk, or moose (Mech and Nelson 1989, Smith et al. 2001), or other predators, such as mountain lions (*Felis concolor*) or grizzly bears (*Ursus arctos horribilis*) where they are extant (USFWS 2005), occasionally kill wolves, but this has only been rarely documented. This very small component of wolf mortality will not increase with delisting.

Wolves frequently are killed by other wolves, most commonly when packs encounter and attack a dispersing wolf as an intruder or when two packs encounter each other along a territorial boundary. This form of mortality is likely to increase as more of the available wolf habitat becomes saturated with wolf pack territories, as is the case in northeastern Minnesota, but such a trend is not yet evident from Wisconsin or Michigan data. From October 1979 through June 1998, seven (12 percent) of the mortalities of radio-collared Wisconsin wolves resulted from wolves killing wolves, and 8 of 73 (11 percent) mortalities were from this cause during 2000–05 (Wydeven 1998, Wydeven and Wiedenhoeft 2001a, 2002, 2003a, 2004a, 2005). Gogan *et al.* (1997) studied 31 radio-collared wolves in northern Minnesota from 1987–91 and found that 3 (10 percent) were killed by other wolves. Intra-specific strife was the primary cause of mortality within Voyageurs National Park. The Del Giudice data (*in litt.* 2005) show a 17 percent mortality rate from other wolves in another study area in north central Minnesota from 1994–2005. This behavior is normal in healthy wolf populations and is an expected outcome of dispersal conflicts and territorial defense, as well as occasional intra-pack strife. This form of mortality is something that the species has evolved with and it should not pose a threat to wolf populations in the WGL DPS following delisting.

Humans have functioned as highly effective predators of the gray wolf in North America for several hundred years. European settlers in the Midwest attempted to eliminate the wolf entirely in earlier times, and the United States Congress passed a wolf bounty that covered the Northwest Territories in 1817. Bounties on wolves subsequently became the norm for States across the species' range. In Michigan, an 1838 wolf bounty became the ninth law passed by the First Michigan Legislature; this bounty remained in place until 1960. A Wisconsin bounty was instituted in 1865 and was repealed about the time wolves were extirpated from the State in 1957. Minnesota maintained a wolf bounty until 1965.

Subsequent to the gray wolf's listing as a federally endangered species, the Act and State endangered species statutes prohibited the killing of wolves except under very limited circumstances, such as in defense of human life, for scientific or conservation purposes, or under special regulations intended to reduce wolf depredations of livestock or other domestic animals. The resultant reduction in human-caused wolf mortality is the main cause of the wolf's reestablishment in large parts of its historical range. It is clear, however, that illegal killing of wolves has continued in the form of intentional mortality and incidental deaths.

Illegal killing of wolves occurs for a number of reasons. Some of these killings are accidental (*e.g.*, wolves are hit by vehicles, mistaken for coyotes and shot, or caught in traps set for other animals); some of these accidental killings are reported to State, Tribal, and Federal authorities. It is likely that most illegal killings, however, are intentional and are never reported to government authorities. Because they generally occur in remote locations and the evidence is easily concealed, we lack reliable estimates of annual rates of intentional illegal killings.

In Wisconsin, all forms of human-caused mortality accounted for 54 percent of the diagnosed deaths of radio-collared wolves from October 1979 through June 2005. Thirty percent of the diagnosed mortalities, and 55 percent of the human-caused mortalities, were from shooting (firearms and bows). Another 14 percent of all the diagnosed mortalities (25 percent of the human-caused mortalities) resulted from vehicle collisions. (These percentages and those in the following paragraphs exclude two radio-collared Wisconsin wolves that were killed in depredation control actions by USDA–APHIS–Wildlife Services in 2003–04. The wolf depredation control programs in the Midwest are discussed separately under Depredation Control, below.)

As the Wisconsin population has increased in numbers and range, vehicle collisions have increased as a percentage of radio-collared wolf mortalities. During the October 1979 through June 1995 period, only 1 of 27 (4 percent) known mortalities was from that cause; but from July 1995 through June 1998, 5 of the 26 (19 percent) known mortalities resulted from vehicle collisions (WI DNR 1999, Wydeven 1998). From 2002 through 2004, 7 of 45 (16 percent) known mortalities were from that cause (Wydeven and Wiedenhoeft 2003a, 2004a, 2005).

A comparison over time for diagnosed mortalities of radio-collared Wisconsin wolves shows that 18 of 57 (32 percent) were illegally shot from October 1979 through 1998, while 12 of 42 (29 percent) were illegally shot from 2002 through 2004 (Wisconsin DNR 1999; Wydeven and Wiedenhoeft 2003a, 2004a, 2005).

It appears that in Wisconsin, vehicle collision has been an increasing mortality factor, while illegal shooting has not increased, and shooting may have declined slightly in recent years. All human-caused mortality factors (excluding 2 depredation control actions) resulted in 35 of 57 (61 percent) diagnosed deaths of radio-collared wolves from October 1979 through 1998, but only 20 of 41 deaths (49 percent) from 2002 through 2005 (Wisconsin DNR 1999; Wydeven and Wiedenhoeft 2003a, 2004a, 2005).

In the Upper Peninsula of Michigan, human-caused mortalities accounted for 75 percent of the diagnosed mortalities, based upon 34 wolves recovered from 1960 to 1997, including mostly non-radio-collared wolves. Twenty-eight percent of all the diagnosed mortalities and 38 percent of the human-caused mortalities were from shooting. In the Upper Peninsula during that period, about one-third of all the known mortalities were from vehicle collisions (MI DNR 1997). During the 1998 Michigan deer hunting season, 3 radio-collared wolves were shot and killed, resulting in one arrest and conviction (Hammill *in litt.* 1999, Michigan DNR 1999). During the subsequent 3 years, 8 additional wolves were killed in Michigan by gunshot, and the cut-off radio-collar from a ninth animal was located, but the animal was never found. These incidents resulted in 6 guilty pleas, with 3 cases remaining open. Data collected from radio-collared wolves from the 1999 to 2004 bioyears (mid-April to mid-April) show that human-caused mortalities still account for the majority of the wolf mortalities (60 percent) in Michigan. Deaths from vehicular collisions were about 15 percent of total mortality (25 percent of the human-caused mortality) and showed no trend over this six-year period. Deaths from illegal killing constituted 38 percent of all mortalities (65 percent of the human-caused mortality) over the period. From 1999 through 2001 illegal killings were 31 percent of the mortalities, but this increased to 42 percent during the 2002 through 2004 bioyears (MI DNR, unpublished data).

North-central Minnesota data from 16 diagnosed mortalities of radio-collared wolves over a 12-year period (1994–2005) show that human-causes resulted in 69 percent of the diagnosed mortalities. This includes 1 wolf accidentally snared, 2 vehicle collisions, and 8 (50 percent of all diagnosed mortalities) that were shot (Del Giudice, *in litt.* 2005). However, this data set of only 16 mortalities over 12 years is too small for reliable comparison to Wisconsin and Michigan data.

A smaller mortality dataset is available from a 1987–1991 study of wolves in, and adjacent to, Minnesota's Voyageurs National Park, along the Canadian border. Of 10 diagnosed mortalities, illegal killing outside the Park was responsible for 60 percent of the deaths (Gogan et al. 1997).

Two Minnesota studies provide some limited insight into the extent of human-caused wolf mortality before and after the species' listing. On the basis of bounty data from a period that predated wolf protection under the Act by 20 years, Stenlund (1955) found an annual human-caused mortality rate of 41 percent. Fuller (1989) provided 1980–86 data from a north-central Minnesota study area and found an annual human-caused mortality rate of 29 percent, a figure that includes 2 percent mortality from legal depredation control actions. Drawing conclusions from comparisons of these two studies, however, is difficult due to the confounding effects of habitat quality, exposure to humans, prey density, differing time periods, and vast differences in study design. Although these figures provide support for the contention that human-caused mortality decreased after the wolf's protection under the Act, it is not possible at this time to determine if human-caused mortality (apart from mortalities from depredation control) has significantly changed over the 30-year period that the gray wolf has been listed as threatened or endangered.

Wolves were largely eliminated from the Dakotas in the 1920s and 1930s and were rarely reported from the mid-1940s through the late 1970s. Ten wolves were killed in these two States from 1981 to 1992 (Licht and Fritts 1994). Six more were killed in North Dakota since 1992, with four of these mortalities occurring in 2002 and 2003; in 2001, one wolf was killed in Harding County in extreme northwestern South Dakota. The number of reported sightings of gray wolves in North Dakota is increasing. From 1993–98, six wolf depredation reports were investigated in North Dakota, and adequate signs were found to verify the presence of wolves in two of the cases. A den with pups was also documented in extreme north-central North Dakota near the Canadian border in 1994. From 1999–2003, 16 wolf sightings/depredation incidents in North Dakota were reported to USDA–APHIS–Wildlife Services, and 9 of these incidents were verified. Additionally, one North Dakota wolf sighting was confirmed in early 2004, and two wolf depredation incidents were verified north of Garrison in late 2005. USDA–APHIS–Wildlife Services also confirmed a wolf sighting along the Minnesota border near Gary, South Dakota, in 1996, and a trapper with the South Dakota Game, Fish, and Parks Department sighted a lone wolf in the western Black Hills in 2002. Several other unconfirmed sightings have been reported from these States, including two reports in South Dakota in 2003. Wolves killed in North and South Dakota are most often shot by hunters after being mistaken for coyotes, or were killed by vehicles. The 2001 mortality in South Dakota and one of the 2003 mortalities in North Dakota were caused by M–44 devices that had been legally set in response to complaints about coyotes.

In and around the core recovery areas in the Midwest, a continuing increase in wolf mortalities from vehicle collisions, both in actual numbers and as a percent of total diagnosed mortalities, is expected as wolves continue their colonization of areas with more human developments and a denser network of roads and vehicle traffic. In addition, the growing wolf populations in Wisconsin and Michigan are producing greater numbers of dispersing individuals each year, and this also will contribute to increasing numbers of wolf-vehicle collisions. This increase would be unaffected by a removal of WGL DPS wolves from the protections of the Act.

In those areas of the WGL DPS that are beyond the areas currently occupied by wolf packs in Minnesota, Wisconsin, and the UP, we expect that human-caused wolf mortality in the form of vehicle collisions, shooting, and trapping have been removing all, or nearly all, the wolves that disperse into these areas. We expect this to continue after Federal delisting. Road densities are high in these areas, with numerous interstate highways and other freeways and high-speed thoroughfares that are extremely hazardous to wolves attempting to move across them. Shooting and trapping of wolves also is likely to continue as a threat to wolves in these areas for several reasons. Especially outside of Minnesota, Wisconsin, and the Upper Peninsula, hunters will not expect to encounter wolves, and may easily mistake them for coyotes from a distance, resulting in unintentional shootings.

It is important to note that, despite the difficulty in measuring the extent of illegal killing of wolves, all sources of wolf mortality, including legal (e.g., depredation control) and illegal human-caused mortality, have not been of sufficient magnitude to stop the continuing growth of the wolf

population in Wisconsin and Michigan, nor to cause a wolf population decline in Minnesota. This indicates that total gray wolf mortality does not threaten the continued viability of the wolf population in these three States, or in the WGL DPS.

*Predation summary*—The high reproductive potential of wolves allows wolf populations to withstand relatively high mortality rates, including human-caused mortality. The principle of compensatory mortality is believed to occur in wolf populations. This means that human-caused mortality is not simply added to "natural" mortality, but rather replaces a portion of it. For example, some of the wolves that are killed during depredation control actions would have otherwise died during that year from disease, intraspecific strife, or starvation. Thus, the addition of intentional killing of wolves to a wolf population will reduce one or more mortality rates that wolf population experiences. Based on 19 studies by other wolf researchers, Fuller et al. (2003) concludes that human-caused mortality can replace about 70 percent of other forms of mortality.

Fuller et al. (2003) has summarized the work of various researchers in estimating mortality rates, especially human harvest, that would result in wolf population stability or decline. They provide a number of human-caused and total mortality rate estimates and the observed population effects in wolf populations in the United States and Canada. While variability is apparent, in general, wolf populations increased if their total average annual mortality was 30 percent or less, and populations decreased if their total average annual mortality was 40 percent or more. Four of the cited studies showed wolf population stability or increases with human-caused mortality rates of 24 to 30 percent. The clear conclusion is that a wolf population with high pup productivity—the normal situation in a wolf population—can withstand levels of overall and of human-caused mortality without suffering a long-term decline in numbers.

The wolf populations in Minnesota, Wisconsin, and Michigan will stop growing at some point when they have saturated the suitable habitat and are curtailed in less suitable areas by natural mortality (disease, starvation, and intraspecific aggression), depredation management, incidental mortality (e.g., road kill), illegal killing, and other means. At that time, we should expect to see population declines in some years followed by short-term increases in other years, resulting from fluctuations in birth and mortality rates. Adequate wolf monitoring programs, however, as described in the Michigan, Wisconsin, and Minnesota wolf management plans are likely to identify high mortality rates and/or low birth rates that warrant corrective action by the management agencies. The goals of all three State wolf management plans are to maintain wolf populations well above the numbers recommended in the Federal Eastern Recovery Plan to ensure long-term viable wolf populations. The State management plans recommend a minimum wolf population of 1,600 in Minnesota, 350 in Wisconsin, and 200 in Michigan.

Despite human-caused mortalities of wolves in Minnesota, Wisconsin, and Michigan, these wolf populations have continued to increase in both numbers and range. If wolves in the WGL DPS are delisted, as long as other mortality factors do not increase significantly and monitoring is adequate to document, and if necessary counteract, the effects of excessive human-caused mortality should that occur, the Minnesota-Wisconsin-Michigan wolf population will not decline to nonviable levels in the foreseeable future as a result of human-caused killing or other forms of predation either within the core wolf populations or in all other parts of the DPS.

*D. The Adequacy or Inadequacy of Existing Regulatory Mechanisms*

Human activities may adversely affect wolf abundance and population viability in a variety of ways—by degrading or reducing the wolf habitat and range (Factor A); by excessive mortality via commercial or recreational harvest (Factor B); by acting as a predator of wolves and killing them for other reasons, to reduce perceived competition for wild ungulates, or in the interests of human safety; by serving as a vector for wolf-impacting diseases or parasites (Factor C); and in other ways (Factor E). Following Federal delisting under the Act, many of these human activities would be regulated or prohibited by various regulatory mechanisms implemented by State, Federal, or Tribal agencies. Therefore, the remaining human activities with the potential to impact wolf populations are discussed under this factor (Factor D). We will compare current regulatory mechanisms within the DPS with the future mechanisms that will provide the framework for wolf management after delisting.

Regulatory Assurances in States Within the Significant Portion of the Range

*State Wolf Management Planning.* In late 1997, the Michigan Wolf Management Plan was completed and received the necessary State approvals. The Wisconsin Natural Resources Board approved the Wisconsin Wolf Management Plan in October 1999. The MN DNR prepared a Wolf Management Plan and an accompanying legislative bill in early 1999 and submitted them to the Minnesota Legislature. The Legislature, however, failed to approve the Minnesota Plan in the 1999 session. In early 2000, the MN DNR drafted a second bill that would have resulted in somewhat different wolf management and protection than the 1999 bill. The legislature did not pass the 2000 Minnesota wolf management bill, but instead passed separate legislation directing the DNR to prepare a new management plan based upon various new regulatory provisions that addressed wolf protection and the take of wolves. The MN DNR completed the Minnesota Wolf Management Plan (MN Plan) in early 2001 (MN DNR 2001).

*The Minnesota Wolf Management Plan.* The MN Plan is based, in part, on the recommendations of a State wolf management roundtable and on a State wolf management law enacted in 2000. This law and the Minnesota Game and Fish Laws constitute the basis of the State's authority to manage wolves. The Plan's stated goal is "to ensure the long-term survival of wolves in Minnesota while addressing wolf—human conflicts that inevitably result when wolves and people live in the same vicinity." It establishes a minimum goal of 1,600 wolves in the State. Key components of the plan are population monitoring and management, management of wolf depredation of domestic animals, management of wolf prey, enforcement of laws regulating take of wolves, public education, and increased staffing to accomplish these actions. Following delisting, Minnesota DNR's management of wolves would differ from their current management while listed as threatened under the Act. Most of these differences deal with the control of wolves that attack or threaten domestic animals. Additional aspects of the Minnesota Plan are discussed here.

The Minnesota Plan divides the State into two wolf management zones-Zones A and B (see Figure 2 below). Zone A corresponds to wolf management zones 1 through 4 (an approximately 30,000 $mi^2$ area in northeastern Minnesota) in the Service's Eastern Recovery Plan, whereas Zone B constitutes zone 5 in the Eastern Recovery Plan. Within Zone

A, wolves would receive strong protection by the State, unless they were involved in attacks on domestic animals. The rules governing the take of wolves to protect domestic animals in Zone B would be less protective than in Zone A.

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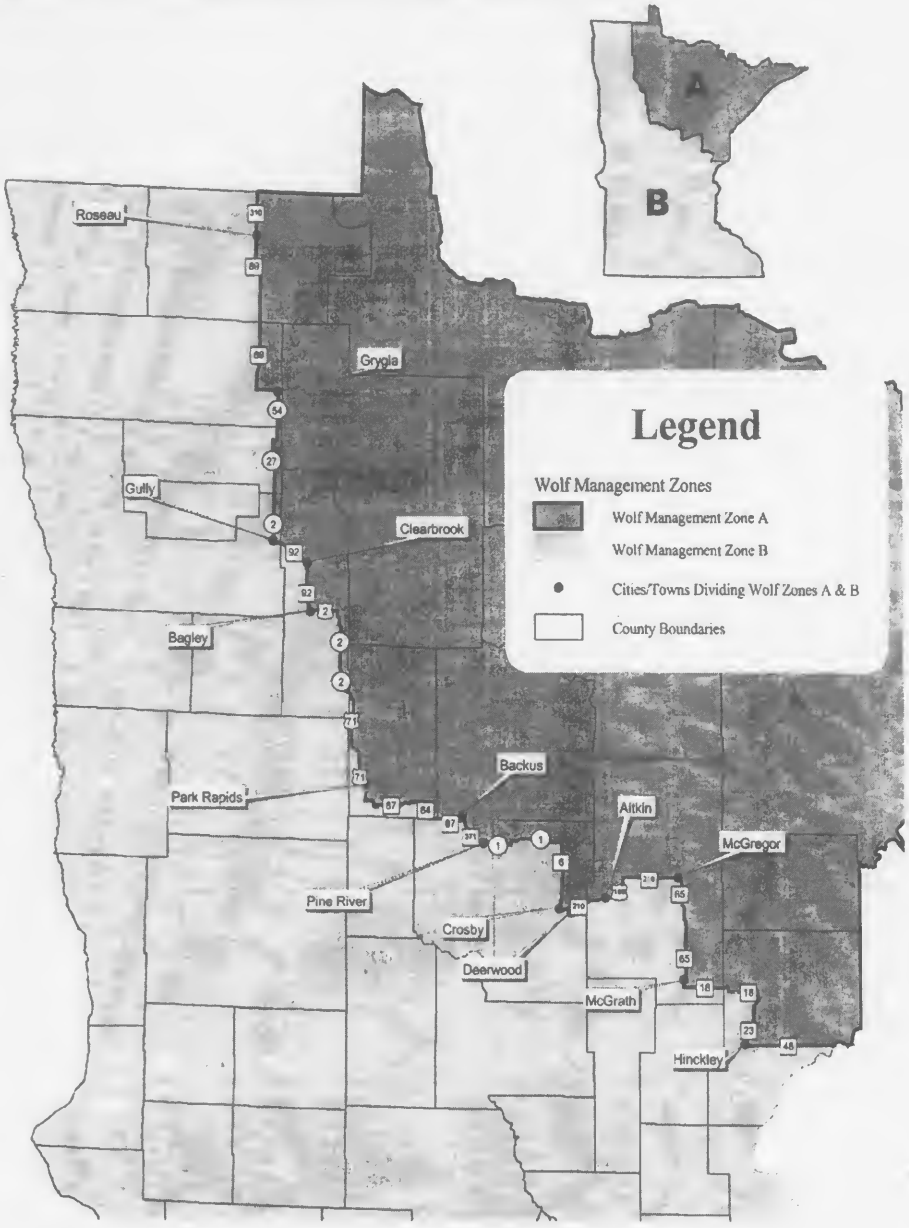
Figure 2. Minnesota wolf management zones.



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MN DNR plans to allow wolf numbers and distribution to naturally expand, and if any winter population estimate is below 1,600 wolves, it would take actions to "assure recovery" to 1,600 wolves. MN DNR will continue to monitor wolves in Minnesota to determine whether such intervention is necessary. The MN DNR will conduct a statewide population survey no later than the fifth year after delisting and at subsequent five-year intervals. In addition to these statewide population surveys, MN DNR annually reviews data on depredation incident frequency and locations provided by Wildlife Services and winter track survey indices (Erb 2005) to help ascertain annual trends in wolf population or range.

Minnesota (MN DNR 2001) plans to reduce or control illegal mortality of wolves through education, increased enforcement of the State's wolf laws and regulations, by discouraging new road access in some areas, and by maintaining a depredation control program that includes compensation for livestock losses. MN DNR plans to use a variety of methods to encourage and support education of the public about the effects of wolves on livestock, wild ungulate populations, and human activities and the history and ecology of wolves in the State (MN DNR 2001). These are all measures that have been in effect for years in Minnesota, although "increased enforcement" of State laws against take of wolves (MN DNR 2001) would replace enforcement of the Act's take prohibitions. Financial compensation for livestock losses has been increased in recent years to the full market value of the animal, replacing previous caps of $400 and $750 per animal. We do not expect the State's efforts will result in the reduction of illegal take of wolves from existing levels, but these measures may be crucial in ensuring that illegal mortality does not significantly increase following Federal delisting.

The likelihood of illegal take increases in relation to road density and human population density, but changing attitudes towards wolves may allow them to survive in areas where road and human densities were previously thought to be too high (Fuller et al. 2003). MN DNR does not plan to reduce current levels of road access, but would encourage managers of land areas large enough to sustain one or more wolf packs to "be cautious about adding new road access that could exceed a density of one mile of road per square mile of land, without considering the potential effect on wolves" (MN DNR 2001).

MN DNR acknowledges that increased enforcement of the State's wolf laws and regulations would be dependent on increases in staff and resources, additional cross-deputization of tribal law enforcement officers, and continued cooperation with Federal law enforcement officers. They specifically propose after delisting to add three Conservation Officers "strategically located within current gray wolf range in Minnesota" whose priority duty would be to implement the gray wolf management plan (MN DNR 2001).

Minnesota DNR will consider wolf population management measures, including public hunting and trapping seasons and other methods, in the future. However, State law and the MN Plan state that such consideration will occur no sooner than five years after Federal delisting, and there would be opportunity for full public comment on such possible changes at that time (MN Statutes 97B.645 Subdiv. 9; MN DNR 2001). The MN Plan requires that these population management measures have to be implemented in such a way to maintain a statewide late-winter wolf population of at least 1,600 animals, well above the Federal Recovery Plan's 1250–1400 for the State (USFWS 1992).

Depredation Control in Minnesota

Wolves that have attacked domestic animals in Minnesota have been killed by designated government employees under the authority of a special regulation under section 4(d) of the Act since the 1978 reclassification of wolves to threatened status. During the period from 1980–2004, the federal Minnesota wolf depredation control program euthanized from 20 (in 1982) to 216 (in 1997) gray wolves annually. Annual averages (and percentage of statewide populations) were 30 (2.2 percent) wolves killed from 1980 to 1984, 49 (3.0 percent) from 1985 to 1989, 115 (6.0 percent) from 1990 to 1994, and 152 (6.7 percent) from 1995 to 1999. During 2000–04 an average of 127 wolves (4.2 percent of the wolf population, based on the 2003–2004 statewide estimate) were killed under the program annually. Since 1980, the lowest annual percentage of Minnesota wolves killed under this program was 1.5 percent in 1982; the highest percentage was 9.4 in 1997 (Paul 2004).

This level of wolf removal for depredation control has not interfered with wolf recovery in Minnesota, although it may have slowed the increase in wolf numbers in the State, especially since the late-1980s, and may be contributing to the possibly stabilized Minnesota wolf population suggested by the 2003–04 estimate (see additional information in Recovery). Minnesota wolf numbers grew at an average annual rate of nearly 4 percent between 1989 and 1998 while the depredation control program was taking its highest percentages of wolves (Paul 2004).

Under a Minnesota statute, the Minnesota Department of Agriculture (MDA) compensates livestock owners for full market value of livestock that wolves have killed or severely injured. A university extension agent or conservation officer must confirm that wolves were responsible for the depredation. The agent or officer also evaluates the livestock operation for conformance to a set of Best Management Practices (BMPs) designed to minimize wolf depredation and provides operators with an itemized list of any deficiencies relative to the BMPs. The Minnesota statute also requires MDA to periodically update its BMPs to incorporate new practices that it finds would reduce wolf depredation.

Following Federal delisting, depredation control would be authorized under Minnesota State law and conducted in conformance to the Minnesota Wolf Management Plan (MN DNR 2001). The Minnesota Plan divides the State into Wolf Management Zones A and B. Zone A comprises the current Federal Wolf Management Zones 1–4, covering 30,728 sq. mi., approximately the northeastern third of the State. Zone B is identical to the current Federal Wolf Management Zone 5, and contains the 48,889 sq. mi. that make up the rest of the State (MN DNR 2001). The statewide survey conducted during the winter of 2003–04 provided an estimate that there were approximately 2,570 wolves in Zone A and 450 in Zone B (J. Erb, MN DNR, *in litt.* 2005). As discussed in Recovery, the Federal planning goal for Zones 1–4 is 1251–1400 wolves and no wolves in Zone 5 (USFWS 1992).

Currently, while federally-protected as a threatened species in Minnesota, no control of depredating wolves is allowed in Zone 1. In Zones 2 through 5 employees or agents of the Service (including USDA–APHIS–Wildlife Services) or MN DNR may take wolves in response to depredations of domestic animals within one-half mile of the depredation site. Young-of-the-year captured on or before August 1 of that year must be released. The regulations that allow for this take (50 CFR 17.40(d)(2)(i)(B)(4)) do not specify a maximum duration for depredation control, but Wildlife Services personnel follow informal guidelines under which they trap for no more than 10–15 days, except at sites with repeated or chronic

depredation, where they may trap for up to 30 days (Paul, pers. comm. 2004).

Post-Delisting Depredation Control in Minnesota

Upon Federal delisting, wolf depredation control would be modified under Minnesota's Wolf Management Plan, with the greatest change occurring in Zone B. In Zone A, if DNR verifies that a wolf destroyed any livestock, domestic animal, or pet, trained and certified predator controllers may take wolves within a one-mile radius of the depredation site for up to 60 days. In Zone B, predator controllers may take wolves for up to 214 days after MN DNR opens a depredation control area, depending on the time of year. The DNR may open a control area in Zone B anytime within five years of a verified depredation loss upon request of the landowner.

The Minnesota plan would also allow for private wolf depredation control throughout the State. Persons may shoot or destroy a gray wolf that poses an immediate threat to their livestock, guard animals, or domestic animals on lands that they own, lease, or occupy. Immediate threat is defined as "stalking, attacking, or killing." Owners of domestic pets may also kill wolves posing an immediate threat to pets under their supervision on lands that they do not own or lease, although such actions are subject to local ordinances, trespass law, and other applicable restrictions. MN DNR will investigate any private taking of wolves in Zone A. The Minnesota Plan would also allow persons to harass wolves anywhere in the State within 500 yards of "people, buildings, dogs, livestock, or other domestic pets or animals" (MN DNR 2001). Harassment may not include physical injury to a wolf.

To protect their domestic animals in Zone B, individuals do not have to wait for an immediate threat in order to take wolves. At anytime in Zone B, persons who own, lease, or manage lands may shoot wolves on those lands to protect livestock, domestic animals, or pets. They may also employ a predator controller to trap a gray wolf on their land or within one mile of their land (with permission of the landowner) to protect their livestock, domestic animals, or pets.

This expansion of depredation control activities will not threaten the conservation of wolves in the State. Significant changes in wolf depredation control under State management would primarily be restricted to Zone B, which is outside of the area that our Recovery Plan found was necessary for wolf recovery (USFWS 1992), and wolves may still persist in Zone B despite the likely increased take there. The Eastern Timber Wolf Recovery Team concluded that the changes in wolf management in the State's Zone A would be "minor" and would not likely result in "significant change in overall wolf numbers in Zone A." They found that, despite an expansion in the depredation control area from approximately 1 to 3 square miles and an extension of the control period to 60 days, depredation control will remain "very localized" in Zone A. The requirement that depredation control activities be conducted only in response to verified wolf depredation in Zone A played a key role in the team's evaluation (R. Peterson, *in litt.* 2001). Depredation control would be allowed throughout Zone A, which includes an area (Federal Wolf Management Zone 1) where such control has not been permitted under Federal protection. Depredation in Zone 1, however, has been limited to 3 to 6 reported incidents per year, mostly of wolves killing dogs (Paul, pers. comm. 2004), although some dog kills in this zone probably go unreported. There are few livestock in Zone 1; therefore, the number of verified depredation incidents in that Zone is expected to be low, resulting in a correspondingly low number of depredating wolves being killed there after delisting.

Within Zone B, the Minnesota wolf management plan would provide broad authority to landowners and land managers to shoot wolves at any time to protect their livestock, pets, or other domestic animals on land owned, leased, or managed by the individual. Such takings can occur in the absence of wolf attacks on the domestic animals. Thus, the estimated 450 wolves in Zone B could be potentially subject to substantial reduction in numbers, and one could even argue that at the extreme, wolves could be eliminated from Zone B. However, there is no way to reasonably evaluate in advance the extent to which residents of Zone B will use this new authority, and any estimate of future wolf numbers in Zone B would be highly speculative at this time. The fact that this broad authority is limited to Zone B is consistent with the Federal Recovery Plan's advice that wolves should be restored to the rest of Minnesota but not to Zone B (Federal Zone 5) because that area "is not suitable for wolves." The Federal Recovery Plan envisioned that the Minnesota numerical recovery goal would be achieved solely in Zone A (Federal Zones 1–4) (USFWS 1992), and that has occurred. Therefore, there is no need to maintain significant protection for wolves in Zone B in order to maintain a Minnesota wolf population that continues to satisfy the Federal recovery goals after Federal delisting.

The proposed changes in the control of depredating wolves in Minnesota under State management emphasize the need for post-delisting monitoring. Minnesota will continue to monitor wolf populations throughout the State and will also monitor all depredation control activities in Zone A (MN DNR 2001). These and other activities contained in their plan would be essential in meeting their population goal of a minimum statewide winter population of 1,600 wolves, which exceeds the Recovery Plan's criteria of 1,251 to 1,400 wolves.

**The Wisconsin Wolf Management Plan**

Both the Wisconsin and Michigan Wolf Management Plans are designed to manage and ensure the existence of wolf populations in the States as if they are isolated populations and are not dependent upon immigration of wolves from an adjacent State or Canada. Thus, even after Federal wolf delisting, each State will be managing for a wolf population at, or in excess of, the 200 wolves identified in the Federal Recovery Plan as necessary for a viable isolated wolf population. We support this approach and believe it provides strong assurances that the gray wolf will remain a viable component of the WGL DPS for the foreseeable future. The WI Plan updates are expected to be completed and approved by the Natural Resources Board in mid-2006 (Wydeven, pers. comm. 2006).]

At the time the Wisconsin Wolf Management Plan was completed, it recommended immediate reclassification from State-endangered to State-threatened status because Wisconsin's wolf population had already exceeded its reclassification criterion of 80 wolves for 3 years; that State reclassification occurred in 1999, after the population exceeded that level for 5 years. The Plan further recommends the State manage for a gray wolf population of 350 wolves outside of Native American reservations, and specifies that the species should be delisted by the State once the population reaches 250 animals outside of reservations. The species was proposed for State delisting in late 2003, and the State delisting process was completed in 2004. Upon State delisting, the species was classified as a "protected nongame species," a designation that continues State prohibitions on sport hunting and trapping of the species (Wydeven and Jurewicz 2005). The Wisconsin Plan

includes criteria that would trigger State relisting to threatened (a decline to fewer than 250 wolves for 3 years) or endangered status (a decline to fewer than 80 wolves for 1 year). The Wisconsin Plan will be reviewed annually by the Wisconsin Wolf Advisory Committee and will be reviewed by the public every 5 years.

The WI Plan sets a management goal of 350 wolves, well above the 200 wolves specified in the Federal recovery plan for a viable isolated wolf population. The WI Plan is currently being updated to reflect current wolf numbers, additional knowledge, and issues that have arisen since its 1999 completion. This update will be put into service in the form of one or more appendices to the 1999 plan, rather than as a major revision to the plan. Several components of the plan that are key to our evaluation are not expected to change; specifically, the State wolf population goal of 350 animals, the boundaries of the four wolf management zones, and the guidelines for the wolf depredation control program will not undergo significant alteration during the update process (Wydeven pers. comm. 2005, Jurewicz pers. comm. 2005, Wydeven 2006).

An important component of the WI Plan is the annual monitoring of wolf populations by radio collars and winter track surveys in order to provide comparable annual data to assess population size and growth for at least 5 years after Federal delisting. This monitoring will include health monitoring of captured wolves and necropsies of dead wolves that are found. Wolf scat will be collected and analyzed to monitor for canine viruses and parasites. Health monitoring will be part of the capture protocol for all studies that involve the live capture of Wisconsin wolves.

Cooperative habitat management will be promoted with public and private landowners to maintain existing road densities in Zones 1 and 2 (see Figure 3), protect wolf dispersal corridors, and manage forests for deer and beaver. Furthermore, in Zone 1, a year-around prohibition on tree harvest within 330 feet of den and rendezvous sites, and seasonal restrictions to reduce disturbance within one-half mile, will be DNR policy on public lands and will be encouraged on private lands.

BILLING CODE 4310–55–P

Figure 3. Wisconsin wolf management zones.


BILLING CODE 4310–55–C

The WI Plan contains other recommendations that would provide protection to assist maintenance of a viable wolf population in the State: (1) Continue the protection of the species as a "protected wild animal" with penalties similar to those for unlawfully killing large game species (fines of $1000–2000, loss of hunting privileges for 3–5 years, and a possible 6-month jail sentence), (2) maintain closure zones where coyotes cannot be shot during deer hunting season in Zone 1, (3) legally protect wolf dens under the Wisconsin Administrative Code, (4) require State permits to possess a wolf or wolf-dog hybrid, and (5) establish a restitution value to be levied in addition to fines and other penalties for wolves that are illegally killed.

The WI Plan emphasizes the continuing need for public education efforts that focus on living with a recovered wolf population, ways to manage wolves and wolf-human conflicts, and the ecosystem role of wolves. The plan recommends reimbursement for depredation losses, citizen stakeholder involvement in the wolf management program, and coordination with the Tribes in wolf management and investigation of illegal killings.

A public harvest of gray wolves is not included in the Wisconsin Plan, and is not advocated in the most recent draft update of the Wisconsin Plan (WI DNR 1999, Wydeven 2006). The plan briefly discusses (Appendix D) the possibility of a public harvest after the Statewide (outside Indian reservations) wolf population reaches 350, but it takes no steps to begin establishing a public harvest. Public attitudes toward a wolf population in excess of 350 would have to be fully evaluated, as would the impacts from other mortalities, before a public harvest could be initiated. A public harvest must be preceded by a citizen review process, including public hearings, as well as approvals by the State legislature and by the Natural Resources Board. The fact that the

Wisconsin Plan calls for State relisting of the wolf as a threatened species if the population falls to fewer than 250 for 3 years provides a strong assurance that any future public harvest is not likely to threaten the persistence of the population.

Given the likely decline and ultimate termination in Federal funding for wolf monitoring in the future, Wisconsin and Michigan DNRs are seeking an effective, yet cost-efficient, method for detecting wolf population changes to replace the current labor-intensive and expensive monitoring protocols. A methodology similar to that implemented in Minnesota was tested in Wisconsin during the winter of 2003–04, but the results of the comparison were inconclusive, so wolf population monitoring methodology likely will remain unchanged.

The WI Plan allows for differing levels of protection and management within four separate management zones (see figure 3). The Northern Forest Zone (Zone 1) and the Central Forest Zone (Zone 2) now contain most of the wolf population, with less than 5 percent of the Wisconsin wolves in Zones 3 and 4. Zones 1 and 2 have all the larger unfragmented areas of suitable habitat, so most of the State's wolf packs will continue to inhabit those parts of Wisconsin for the foreseeable future.

*Depredation Control in Wisconsin*

The rapidly expanding Wisconsin wolf population has resulted in increased depredation problems. From 1979 through 1989, there were only five cases (an average of 0.4 per year) of verified wolf depredations in Wisconsin. Between 1990 and 1997, there were 27 verified depredation incidents in the State (an average of 3.4 per year), and 82 incidents (an average of 16.4 per year) occurred from 1998–2002. Depredation incidents increased to 23 cases (including 50 domestic animals killed and 4 injured) in 2003, and to 35 cases (53 domestic animals killed, 3 injured, and 6 missing) in 2004 (Wydeven and Wiedenhoeft 2004a, 2005a). In 2005, depredation grew to 45 cases, with 53 domestic animals killed and 11 injured. The number of farms experiencing wolf depredations on livestock grew from 8 in 2002, to 14 in 2003, to 22 in 2004, and to 25 in 2005 (Wydevin and Jurewicz, 2005).

Over the several years that lethal depredation control has been conducted in Wisconsin, there is no indication that it has adversely impacted the ability to maintain a viable wolf population in the State. As a result of depredation control actions, 17 wolves were euthanized in 2003, 24 were euthanized in 2004, and 29 (plus 6 presumed wolf-dog hybrids) were euthanized in 2005. This represents 5.1 percent, 6.4 percent, and 6.8 percent, respectively, of the late winter population of Wisconsin wolves during the previous winter. (Note that some of the wolves euthanized after August 1 were young-of-the-year who were not present during the late winter survey, so the cited percentages are overestimates.) Following this level of lethal depredation control, the WI wolf population increased 11 percent from 2003 to 2004, and 14 percent from 2004 to 2005, indicating a continuing healthy rate of population increase (Wydeven and Jurewicz 2005, Wydeven et al 2005b).

A significant portion of depredation incidents in Wisconsin involve attacks on dogs engaged in bear hunting activities or dogs being trained in the field for hunting. Attacks on other dogs occur much less frequently. The frequency of attacks on hunting dogs has increased as the State's wolf population has grown. In 2004, 13 dogs involved in bear hunting or training were killed by wolves and 2 dogs not involved in hunting/training were killed. These incidents were believed to involve 7 different wolf packs, or 8 percent of the 108 packs in Wisconsin in 2004. In 2005, 17 dogs were killed and 6 injured by wolves, including 12 dogs killed and 3 injured during bear/coyote hunting and training (Wydeven pers. comm. January 22, 2006). While Wisconsin DNR compensates dog owners for mortalities and injuries to their dogs, DNR takes no action against the depredating pack. Instead, the DNR issues press releases to warn bear hunters and bear dog trainers of the areas where wolf packs have been attacking bear dogs (WI DNR 2002) and provides maps and advice to hunters on the DNR web site.

*Post-delisting Depredation Control in Wisconsin*

Following Federal delisting, wolf depredation control in Wisconsin would be carried out according to the Wisconsin Wolf Management Plan (WI DNR 1999), Wisconsin guidelines for conducting depredation control (Wisconsin DNR 2005), and any Tribal wolf management plans or guidelines that may be developed in the future for reservations in occupied wolf range. While the Wisconsin Wolf Management Plan is currently being updated by the DNR, these updates are not expected to significantly change the State Plan, and there are no plans to change the wolf management goal of 350 wolves nor the depredation management program (Randall Jurewicz, WI DNR, pers. comm. December 5, 2005; Wydeven, pers. comm. December 6, 2005; Wydeven 2006). Verification of wolf depredation incidents will continue to be conducted by USDA–APHIS–Wildlife Services, working under a cooperative agreement with WI DNR, or at the request of a Tribe, depending on the location of the reported incident. Following verification, one or more of several options will be implemented to address the depredation problem. Technical assistance, consisting of advice or recommendations to reduce wolf conflicts, will be provided. Technical assistance may also include providing to the landowner various forms of non-injurious behavior modification materials, such as flashing lights, noise makers, temporary fencing, and fladry. For depredation incidents in Wisconsin Zones 1 through 3, where all wolf packs currently reside, wolves may be trapped and translocated and released at a point distant from the depredation site. As noted above, translocating depredating wolves has become increasingly difficult in Wisconsin and is likely to be used infrequently in the future. In most wolf depredation cases where technical assistance and non-lethal methods of behavior modification are judged to be ineffective, wolves will be trapped and euthanized or shot by Wildlife Services or DNR personnel.

Following Federal delisting, in certain circumstances, Wisconsin landowners will be able to obtain permits from WI DNR to kill depredating wolves. In Zones 1 and 2, where over 95 percent of wolves currently reside, these permits will be available to private landowners if their property has had a history of recurring wolf depredation problems and if the WI DNR believes that additional depredation is likely to occur. These permits will primarily be issued in response to livestock depredations, but may be infrequently issued in response to repeated instances of, or high likelihood of, depredation on confined pets. The permits will be of short duration and will place a limit on the number of wolves to be killed. Based on wolf depredation data from recent years, there currently are 10 to 12 Wisconsin farms that have such a history and would likely qualify for landowner permits to kill depredating wolves. In Zone 3 (currently has less than 5 percent of the State's wolves) and Zone 4 (currently has no wolf packs), landowners will be able to get DNR permits to kill depredating or nuisance wolves on their property if wolf depredation has been verified at the site, but there is no history of recurring

depredation incidents (WI DNR 1999, Wydeven pers. comm. 2006).

In Zones 3 and 4, following Federal delisting, proactive control (that is, removing wolves before depredation occurs) or initiating intensive control to reduce the wolf population in a limited area may be conducted by WI DNR and Wildlife Services. This would be done only in areas lacking large expanses of public land and where wolf habitat is marginal; it would occur in Zone 3 only if the wolf population is above the State management goal of 350. Proactive control may also be carried out in Zones 1 and 2, but it would not be carried out on large public land areas, and only if the wolf population exceeds 350 and the DNR determines that local population reduction is desirable. Proactive controls would be allowed in Zones 1, 2, and 3 only if the population exceeds 350 outside of Indian reservations, and such controls would cease if the population declines below 350 wolves (WI DNR 1999, Wydeven pers. comm. 2006).

In Zones 3 and 4, and in urban areas within Zones 1 and 2, local law enforcement officials may be allowed to kill wolves that appear to be losing a fear of humans, but have not exhibited a clear threat to human safety (WI DNR 1999, Wydeven pers. comm. 2006). A more flexible system such as this for controlling bold wolves in urban areas would also allow easier control of wolf-dog hybrids that frequently escape or are released to the wild (Wydeven and Wiedenhoeft 2005). These hybrids have not been as readily controlled in the past due to concerns about shooting endangered wolves.

We have evaluated future lethal depredation control based upon verified depredation incidents over the last decade and the impacts of the implementation of similar lethal control of depredating wolves under 50 CFR 17.40(o) and section 10(a)(1)(A) of the Act. Under those authorities, WI DNR and Wildlife Services trapped and euthanized 17 wolves in 2003, 24 in 2004, and 29 (including several possible hybrids) in 2005. For 2003, 2004, and 2005 this represents 5.1 percent, 6.4 percent, and 6.8 percent (including several possible wolf-dog hybrids), respectively, of the late winter population of Wisconsin wolves during the previous winter. As stated above, this level of lethal depredation control was followed by a wolf population increase of 11 percent from 2003 to 2004, and 14 percent from 2004 to 2005. (Wydeven and Jurewicz 2005, Wydeven et al 2005b). (Data from the winter survey for 2005–2006 are not yet available.) This provides strong evidence that this form of depredation control will not adversely impact the viability of the Wisconsin wolf population.

One significant change to lethal control that likely would result from Federal delisting would be the ability of a small number of private landowners, whose farms have a history of recurring wolf depredation, to obtain DNR permits to kill depredating wolves. We estimate that up to 3 wolves from each of 5 to 10 farms may be killed annually under these permits in the several years immediately after delisting. Because the late-winter 2004–05 Wisconsin wolf population exceeded 400 animals, the death of these 5 to 30 additional wolves will not affect the viability of the population. Another significant change would be proactive trapping or intensive control in limited areas. While it is not possible to estimate the number of wolves that might be killed via these actions, we are confident that they will not impact the long-term viability of the Wisconsin wolf population because they would be carried out only if the State's late-winter wolf population exceeds 350 animals.

In recent years the number of dogs attacked by gray wolves in Wisconsin has increased, with 33 dogs killed and 9 dogs injured in 2001–03. In almost all cases, these have been hunting dogs that were being used for, or being trained for, hunting bears and bobcats at the time they were attacked. It is believed that the dogs entered the territory of a wolf pack and may have been close to a den, rendezvous site, or feeding location, thus triggering an attack by wolves defending their territory or pups. The Wisconsin Wolf Management Plan states that "generally only wolves that are habitual depredators on livestock will be euthanized" (WI DNR 1999). Furthermore, the State's guidelines for conducting depredation control actions on wolves currently listed as Federally threatened say that no control trapping will be conducted on wolves that kill "dogs that are free-roaming or roaming at large." Lethal control will only be conducted on wolves that kill dogs that are "leashed, confined, or under the owner's control on the owner's land" (Wisconsin DNR 2005). Because of these State-imposed limitations, we do not believe that lethal control of wolves depredating on hunting dogs will be a significant additional source of mortality in Wisconsin.

Lethal control of wolves that attack captive deer is included in the WI DNR depredation control program, because farm-raised deer are considered to be livestock under Wisconsin law. However, Wisconsin regulations for deer farms fencing have recently been strengthened, and it is unlikely that more than an occasional wolf will need to be killed to resolve depredation inside deer farms in the foreseeable future. Claims for wolf depredation compensation are rejected if the claimant is not in compliance with regulations regarding farm-raised deer fencing or livestock carcass disposal (Wisconsin Statutes 90.20 & 90.21, Wisconsin Administrative Code 12.53)

Data from verified wolf depredations in recent years indicate that depredation on livestock is likely to increase as long as the Wisconsin wolf population increases in numbers and range. Most large areas of forest land and public lands are included in Wisconsin Wolf Management Zones 1 and 2, and they have already been colonized by wolves. Therefore, new areas likely to be colonized by wolves in the future will be in Zones 3 and 4, where they will be exposed to much higher densities of farms, livestock, and residences. During the period from July 2004 through June 2005, 29 percent (8 of 28) of farms experiencing wolf depredation were in Zone 3, yet only 4 percent of the State wolf population occurs in this zone (Wydeven and Wiedenhoeft 2005). Further expansion of wolves into Zone 3 would likely lead to an increase in depredation incidents and an increase in lethal control actions against wolves. These incidents, and resultant wolf mortalities, can be expected to increase at a rate that exceeds the wolf population increase. However, it is likely that these mortalities will have no impact on wolf population viability in Wisconsin because of the wolf populations in Zones 1 and 2. For the foreseeable future, the wolf population in Zones 1 and 2 will continue to greatly exceed the Federal recovery goal of 200 late winter wolves for an isolated population and 100 wolves for a subpopulation connected to the larger Minnesota population, regardless of the extent of wolf mortality in Zones 3 and 4.

The possibility of a public harvest of wolves is acknowledged in the Wisconsin Wolf Management Plan and in plan update drafts (WI DNR 1999, Wydeven 2006). However, the question of whether a public harvest will be initiated and the details of such a harvest are far from resolved. Establishing a public harvest would be preceded by extensive public input and would require legislative authorization and approval by the Wisconsin Natural Resources Board. Because of the steps that must precede a public harvest of wolves and the uncertainty regarding the possibility of, and the details of, any

such program, it is not possible to evaluate the potential impacts of the public harvest of wolves. Therefore, we consider public harvest of Wisconsin wolves to be highly speculative at this time. The Service will closely monitor any steps taken by States and/or Tribes within the WGL DPS to establish any public harvest of gray wolves in the foreseeable future. Based on wolf population data, the current WI Plan, and the draft updates, the Service believes that any public harvest plan would continue to maintain wolf populations well above the recovery goal of 200 wolves in late winter.

The WI DNR compensates livestock and pet owners for confirmed losses to depredating wolves. The compensation is made at full market value of the animal (up to a limit of $2500 for hunting dogs and pets) and can include veterinarian fees for the treatment of injured animals (Wisconsin Admin. Rules 12.54). Compensation costs have been funded from the endangered resources tax check-off and sales of the endangered resources license plates. Current Wisconsin law requires the continuation of the compensation payment for wolf depredation regardless of Federal listing or delisting of the species (WI Admin. Rules 12.53). In recent years depredation compensation payments have ranged from $23,000 to over $76,000.

**Michigan Wolf Management Plan**

The Michigan Gray Wolf Recovery and Management Plan (MI Plan) details wolf recovery and management actions needed and wolf recovery goals in the Upper Peninsula (UP) of Michigan. It does not address the potential need for wolf recovery or management in the Lower Peninsula, nor wolf management within Isle Royale National Park (where the wolf population is protected by the National Park Service). Necessary wolf management actions detailed in the plan include public education and outreach activities, annual wolf population and health monitoring, research, depredation control, and habitat management.

As with the WI Plan, MI DNR has chosen to manage the State's wolves as though they are an isolated population that receives no genetic or demographic benefits from immigrating wolves. Therefore, the MI Plan contains a long-term minimum goal of 200 wolves on the UP (excluding Isle Royale wolves), which is the population level established in the Federal Recovery Plan for a viable isolated wolf population (USFWS 1992). We strongly support this approach, as it provides additional assurance that a viable wolf population will remain in the UP regardless of the future fate of wolves in Wisconsin or Ontario.

The MI plan identifies 800 wolves as the estimated biological carrying capacity of suitable areas on the Upper Peninsula (MI DNR 1997). ("Carrying capacity" is the number of animals that an area is able to support over the long term; for wolves, it is primarily based on the availability of prey animals and competition from other wolf packs.) Under the MI Plan, wolves in the State would be considered recovered when a sustainable population of at least 200 wolves is maintained for 5 consecutive years. The Upper Peninsula has had more than 200 wolves since the winter of 1999–2000. Therefore, Michigan reclassified wolves from endangered to threatened in June 2002, and the gray wolf became eligible for State delisting under the MI Plan's criteria in 2004. In Michigan, however, State delisting cannot occur until after Federal delisting. During the State delisting process, Michigan intends to amend its Wildlife Conservation Order to grant "protected animal" status to the gray wolf. That status would "prohibit take, establish penalties and restitution for violations of the Order, and detail conditions under which lethal depredation control measures could be implemented" (Rebecca Humphries, MI DNR, *in litt.* 2004). Population management, except for depredation control, is not addressed in the MI Plan beyond statements that the wolf population may need to be controlled by lethal means at some future time, when the cultural carrying capacity is reached or approached.

Similar to the Wisconsin Plan, the 1997 MI Plan recommends high levels of protection for wolf den and rendezvous sites, whether on public or private land. Both State plans recommend that most land uses be prohibited at all times within 330 feet (100 meters) of active sites. Seasonal restrictions (March through July) should be enforced within 0.5 mi (0.8 km) of these sites, to prevent high-disturbance activities such as logging from disrupting pup-rearing activities. These restrictions should remain in effect even after State delisting occurs (MI DNR 1997).

The MI Plan calls for re-evaluation of the plan at 5-year intervals. The MI DNR initiated this process in 2001, with the appointment of a committee to evaluate wolf recovery and management. As a result of that review, MI DNR concluded that a revision of the 1997 Plan is needed, and a more formal review, including extensive stakeholder input, was recently initiated. Recognizing that wolf recovery has been achieved in Michigan, additional scientific knowledge has been gained, and new social issues have arisen since the 1997 Plan was drafted, the DNR intends that revised plan to be more of a wolf management document than a recovery plan. The DNR is convening a Michigan Wolf Management Roundtable to assist in this endeavor. The Roundtable will be a diverse group of citizens drawn from organizations spanning the spectrum of those interested in, and impacted by, wolf recovery and management in Michigan, including Tribal entities and organizations focused on agriculture, hunting/trapping, the environment, animal protection, law enforcement and public safety, and tourism. The Roundtable is being asked to engage in strategic planning for long-term wolf management. This will include an evaluation of the current wolf management goal and setting priorities for management issues to be addressed by subsequent, more detailed operational planning by the DNR. The Roundtable may also provide recommendations on whom the DNR should address the priorities it identifies. The revised Michigan wolf management plan will be implemented when the species has been Federally delisted, at which time the wolf would become a protected non-game species under State law. The DNR's goal is to "ensure the wolf population remains viable and above a level that would require either Federal or State reclassification as a threatened or endangered species" (MI DNR 2006).

At this time, the MI DNR is developing a "white paper" to guide and help the Roundtable with its strategic planning by identifying specific wolf issues and providing background information and data for each issue. The Roundtable is being given a December 15, 2006, deadline to draft a strategic plan that outlines goals and policies for managing Michigan wolves. That draft will then be subject to public review and subsequent revision by the Roundtable prior to its approval and use by MI DNR to develop operational wolf management guidelines. Because the plan revision process will not be completed prior to 2007, we cannot evaluate the strategies or activities that it will contain. However, MI DNR's written commitment to ensure the continued viability of a Michigan wolf population above a level that would trigger State or Federal listing as threatened or endangered is sufficient for us to conclude that both the current MI Plan,

and a revised plan to be developed under the January 12, 2006, instructions to the Roundtable, will provide adequate regulatory mechanisms for Michigan wolves (MI DNR 1997, 2006).

Michigan has not experienced as high a level of attacks on dogs by wolves as Wisconsin, although a slight increase in such attacks has occurred over the last decade. The number of dogs killed in the State was one in 1996, one in 1999, three in 2001, four in 2002, and eight in 2003. Similar to Wisconsin, MI DNR has guidelines for their depredation control program. The Michigan guidelines state that lethal control will not be used when wolves kill dogs that are free-roaming, hunting, or training on public lands. Lethal control of wolves, however, would be considered if wolves have killed confined pets and remain in the area where more pets are being held (MI DNR 2005a).

*Depredation Control in Michigan*

Data from Michigan show a similar increase in confirmed wolf depredations on livestock and dogs: 1 in 1996, 3 in 1998, 3 in 1999, 5 in 2000, 6 in 2001, 21 in 2003, and 15 in 2004 (MI DNR unpublished data). As in Wisconsin, the number of verified depredation incidents is increasing much faster than the increase in the State wolf population. The 46 depredations on livestock occurred at 34 different UP farms; nearly three-quarters of the depredations were on cattle. Of the 24 dogs killed by wolves in the last decade, half were hounds being used to hunt bear, and most of the rest were pets attacked near homes.

During the several years that lethal control of depredating wolves had been conducted in Michigan, there is no evidence of resulting adverse impacts to the maintenance of a viable wolf population in the Upper Peninsula. Four, six, and two wolves, respectively, were euthanized in 2003, 2004, and 2005. This represents 1.2 percent, 1.7 percent, and 0.5 percent, respectively, of the UP's late winter population of wolves during the previous winter. Following this level of lethal depredation control, the UP wolf population increased 12 percent from 2003 to 2004, and 13 percent from 2004 to 2005, demonstrating that the wolf population continues to increase at a healthy rate (Huntzinger *et al.* 2005). Data from the winter survey for 2005–2006 are not yet available.

*Post-Delisting Depredation Control in Michigan*

Following Federal delisting, wolf depredation control in Michigan would be carried out according to the Michigan Wolf Management Plan (MI DNR 1997) and any Tribal wolf management plans that may be developed in the future for reservations in occupied wolf range. However, the current MI Plan was written well before Federal delisting was envisioned; it contains no guidance on post-delisting depredation control and it restricts control actions to trapping and translocation of problem wolves. The Michigan Wolf Management Plan is currently being updated by the MI DNR, and a revised management plan is unlikely to be completed before 2007. A series of public meetings were held to gather public input, and a Wolf Management Roundtable is being convened by MI DNR. The Roundtable will represent the full spectrum of wolf stakeholder interests and will be charged with developing recommended goals and policies for wolf management in the State following Federal delisting (MI DNR 2006). Until such time as the Roundtable recommends, and MI DNR adopts, changes to wolf depredation control measures, the following practices will be used following Federal delisting.

To provide depredation control guidance when lethal control is an option, MI DNR has developed detailed instructions for incident investigation and response (MI DNR 2005). Verification of wolf depredation incidents will be conducted by MI DNR or USDA–APHIS–Wildlife Services personnel (working under a cooperative agreement with MI DNR or at the request of a Tribe, depending on the location) who have been trained in depredation investigation techniques. MI DNR specifies that the verification process will use the investigative techniques that have been developed and successfully used in Minnesota by Wildlife Services (MI DNR 2005a, esp. Append. B). Following verification, one or more of several options will be implemented to address the depredation problem. Technical assistance, consisting of advice or recommendations to reduce wolf conflicts, will be provided. Technical assistance may also include providing to the landowner various forms of non-injurious behavior modification materials, such as flashing lights, noise makers, temporary fencing, and fladry.

Trapping and translocating depredating wolves has been used in the past and may be used in the future, but as with Wisconsin, suitable relocation sites are becoming rarer, and there is local opposition to the release of translocated depredators. Furthermore, none of the past 24 translocated depredators have remained near its release site, making this a questionable method to end the depredation behaviors of these wolves (MI DNR 2005a).

Lethal control of depredating wolves is likely to be the most common future response in situations when improved livestock husbandry and wolf behavior modification techniques (*e.g.*, flashing lights, noise-making devices) are judged to be inadequate. However, based on nearly 3 years of depredation control when lethal control was used (April 1, 2003, to September 13, 2005), only 12 depredating wolves were euthanized. These deaths constituted less than 2 percent of the UP wolf population, based on previous late-winter surveys. As wolf numbers continue to increase on the UP, the number of verified depredations will also increase, and will probably do so at a rate that exceeds the rate of wolf population increase. This will occur as wolves increasingly disperse into and occupy areas of the UP with more livestock and more human residences, leading to additional exposure to domestic animals. In a recent application for a lethal take permit under section 10(a)(1)(A) of the Act, MI DNR requested authority to euthanize up to 10 percent of the late-winter wolf population annually (MI DNR 2005b). However, based on 2003–2005 depredation data, it is likely that significantly less than 10 percent lethal control will be needed in 2006, or in the next several years.

The Michigan Wolf Management Roundtable has been asked to develop goals and policies to guide management of various conflicts caused by wolf recovery, including depredation on livestock and pets, human safety, and public concerns regarding wolf impacts on other wildlife. The Roundtable is being asked to provide recommendations on "the selection of intervention methods to control wolf problems" (MI DNR 2006). While it is possible that the Roundtable may recommend management and control methods such as private landowner authority to kill wolves, preventative trapping by government trappers, and public harvest of wolves, at this time we can do no more than speculate on what will be recommended by the Roundtable and what measures might ultimately be adopted by the MI DNR. However, based on the current plan and stated goals for maintaining wolf populations at or above recovery goals, the Service believes these changes will not result in significant reductions in MI wolf populations. At this time, MI DNR remains committed to ensuring a viable wolf population above a level that would trigger Federal relisting as either

threatened or endangered in the future (MI DNR 2006).

Similar to Wisconsin, Michigan livestock owners are compensated when they lose livestock as a result of a confirmed wolf depredation. Currently there are two complementary compensation programs in Michigan, one funded by the MI DNR and implemented by Michigan Department of Agriculture (MI DA) and another set up through donations and held by the International Wolf Center (IWC), a non-profit organization. From the inception of the program to 2000, MI DA has paid 90 percent of full market value of depredated livestock value at the time of loss. The IWC account was used to pay the remaining 10 percent from 2000 to 2002 when MI DA began paying 100 percent of the full market value of depredated livestock. Neither of these programs provide compensation for pets or for veterinary costs to treat wolf-inflicted livestock injuries. The MI DNR plans to continue cooperating with MI DA and other organizations to maintain the wolf depredation compensation program (Pat Lederle, MI DNR, pers. comm. 2004).

The complete text of the Wisconsin, Michigan, and Minnesota wolf plans, as well as our summaries of those plans, can be found on our Web site (see **FOR FURTHER INFORMATION CONTACT** section above).

*Regulatory Assurances in Other States and Tribal Areas Within the WGL DPS*

North Dakota and South Dakota

North Dakota lacks a State endangered species law or regulations. Any gray wolves in the State currently are classified as furbearers, with a closed season. If wolves in all or part of the State are Federally delisted, North Dakota Game and Fish Department is unlikely to change the species' State classification. Wolves are included in the State's July 2004 list of 100 Species of Conservation Concern as a "Level 3" species. Level 3 species are those "having a moderate level of conservation priority, but are believed to be peripheral or do not breed in North Dakota." Placement on this list gives species greater access to conservation funding, but does not afford any additional regulatory or legislative protection (Bicknell *in litt.* 2005).

Currently any wolves that may be in South Dakota are not State listed as threatened or endangered, nor is there a hunting or trapping season for them. If wolves are Federally delisted in all or part of South Dakota, they would fall under general protections afforded all State wildlife. These protections require specific provisions—seasons and regulations—be established prior to initiating any form of legal take. Thus, the State could choose to implement a hunting or trapping season; however, absent some definitive action to establish a season, wolves would remain protected. Once Federally delisted, any verified depredating wolves would likely be trapped and killed by the USDA–APHIS–Wildlife Services program (Scott Larson, USFWS, Pierre, SD, *in litt.*, 2005). Therefore, following Federal delisting, non-depredating wolves in North and South Dakota would continue to receive protection by the States' wildlife protection statutes unless specific action is taken to open a hunting or trapping season or otherwise remove existing protections.

*Post-Delisting Depredation Control in North and South Dakota*

Since 1993, five incidents of verified wolf depredation have occurred in North Dakota, with the most recent occurring in September 2003, and two more in December 2005. There have been no verified wolf depredations in South Dakota in recent decades. Upon Federal delisting it is likely that lethal control of a small number of depredating wolves will occur in one or both of these States. Lethal control of depredating wolves may have adverse impacts on the ability of wolves to occupy any small areas of suitable or marginally suitable habitat that may exist in the States. However, lethal control of depredating wolves in these two States will have no adverse affects on the long-term viability of wolf populations in the WGL DPS as a whole.

Other States in the Proposed DPS

This proposed DPS includes the portion of Iowa that is north of Interstate Highway 80, which is approximately 60 percent of the State. The Iowa Natural Resource Commission currently lists gray wolves as furbearers, with a closed season (Daryl Howell, Iowa DNR, *in litt.* 2005). If the State retains this listing following Federal delisting of this proposed DPS, wolves dispersing into northern Iowa will be protected by State law.

The portion of Illinois that is north of Interstate Highway 80, less than one-fifth of the State, is included in this proposed DPS, and would be part of the geographic area where wolves are delisted and removed from Federal protection. Gray wolves are currently protected in Illinois as a threatened species under the Illinois Endangered Species Protection Act (520 ILCS 10). Thus, following Federal delisting, wolves dispersing into northern Illinois will continue to be protected from human take by State law.

The extreme northern portions of Indiana and northwestern Ohio are included within this proposed DPS, and any wolves that are found in this area would not be federally protected under the Act. The State of Ohio classifies the gray wolf as "extirpated," and there are no plans to reintroduce or recover the species in the State. The species lacks State protection, but State action is likely to apply some form of protection if wolves begin to disperse into the State (Caldwell, *in litt.* 2005). Indiana DNR lists the gray wolf as extirpated in the State, and the species would receive no State protection under this classification if Federal protection is removed. The only means to provide State protection would be to list them as State-endangered, but that is not likely to occur unless wolves become resident in Indiana (Scott Johnson, IN DNR, *in litt.* 2005 and 2006). Thus, Federally delisted wolves that might disperse into Indiana and Ohio would lack State protection there, unless these two States take specific action to provide new protections.

Because the portions of Iowa, Illinois, Indiana, and Ohio within the WGL DPS do not contain suitable habitat or currently established packs, depredation control in these States will not affect the continued viability of the WGL DPS wolf populations.

Tribal Management and Protection of Gray Wolves

Native American tribes and multi-tribal organizations have indicated to the Service that they will continue to conserve wolves on most, and probably all, Native American reservations in the core recovery areas of the WGL DPS. The wolf retains great cultural significance and traditional value to many Tribes and their members (additional discussion is found in Factor E), and to retain and strengthen cultural connections, many tribes oppose unnecessary killing of wolves on reservations and on ceded lands, even if wolves were to be delisted in the future (Eli Hunt, Leech Lake Tribal Council, *in litt.* 1998; Mike Schrage, Fond du Lac Resource Management Division, *in litt.* 1998a; James Schlender, Great Lakes Indian Fish and Wildlife Commission, *in litt.* 1998). Some Native Americans view wolves as competitors for deer and moose, whereas others are interested in harvesting wolves as furbearers (Schrage, *in litt.* 1998a). Many tribes intend to sustainably manage their natural resources, wolves among them, to ensure that they are available to their

descendants. Traditional natural resource harvest practices, however, often include only a minimum amount of regulation by the Tribal government (Hunt *in litt.* 1998).

Although the Tribes with wolves that visit or reside on their reservations do not yet have management plans specific to the gray wolf, several Tribes have informed us that they have no plans or intentions to allow commercial or recreational hunting or trapping of the species on their lands after Federal delisting. The Service has recently provided the Little Traverse Bay Band of Odawa Indians (Michigan) with a grant funding to develop a gray wolf monitoring and management plan. The Service has also awarded a grant to the Ho-Chunk Nation to identify wolf habitat on reservation lands.

As a result of many past contacts with, and previous written comments from, the Midwestern Tribes and their off-reservation natural resource management agencies—the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), the 1854 Authority, and the Chippewa Ottawa Treaty Authority (CORA)—it is clear that their predominant sentiment is strong support for the continued protection of wolves at a level that ensures that viable wolf populations remain on reservations and throughout the treaty-ceded lands surrounding the reservations. While several Tribes stated that their members may be interested in killing small numbers of wolves for spiritual or other purposes, this would be carried out in a manner that would not impact reservation or ceded territory wolf populations.

The Tribal Council of the Leech Lake Band of Minnesota Ojibwe (Council) approved a resolution that describes the sport and recreational harvest of gray wolves as an inappropriate use of the animal. That resolution supports limited harvest of wolves to be used for traditional or spiritual uses by enrolled Tribal members if the harvest is done in a respectful manner and would not negatively affect the wolf population. The Council is revising the Reservation Conservation Code to allow Tribal members to harvest some wolves after Federal delisting (George Googgleye, Jr. Leech Lake Band Tribal Council Chairman, in litt. 2004). In 2005, the Leech Lake Reservation was home to an estimated 75 gray wolves, the largest population of wolves on a Native American reservation in the 48 conterminous States (Steve Mortensen, Leech Lake Reservation, pers. comm. 2006; Peter White, Leech Lake Tribal Council, *in litt.* 2003).

The Red Lake Band of Chippewa Indians (Minnesota) has indicated that it is likely to develop a wolf management plan that will be very similar in scope and content to the plan developed by the MN DNR. The Band's position on wolf management is "wolf preservation through effective management," and the Band is confident that wolves will continue to thrive on their lands (Lawrence Bedeau, DNR Director, Red Lake Band of Chippewa Indians, *in litt.* 1998). The Reservation currently has nine packs with an estimated 15–30 wolves within its boundaries (Jay Huseby, Red Lake Band of Chippewa Indians, pers. comm.. 2006).

The Fond du Lac Band (Minnesota) believes that the "well being of the wolf is intimately connected to the well being of the Chippewa People" (Schrage *in litt.* 2003). In 1998, the Band passed a resolution opposing Federal delisting and any other measure that would permit trapping, hunting, or poisoning of the gray wolf (Schrage *in litt.* 1998b, *in litt.* 2003). If this prohibition is rescinded, the Band's Resource Management Division will coordinate with State and Federal agencies to ensure that any wolf hunting or trapping would be "conducted in a biologically sustainable manner" (Schrage *in litt.* 2003).

The Red Cliff Band (Wisconsin) strongly opposes State and Federal delisting of the gray wolf. Current Tribal law protects gray wolves from harvest, although harvest for ceremonial purposes would likely be permitted after delisting (Matt Symbal, Red Cliff Natural Resources Department, *in litt.* 2003).

The Keweenaw Bay Indian Community (Michigan) will continue to list the gray wolf as a protected animal under the Tribal Code even if it is Federally delisted, with hunting and trapping prohibited (Mike Donofrio, Keweenaw Bay Indian Community Biological Services, pers. comm. 1998). Furthermore, the Keweenaw Bay Community plans to develop a Protected Animal Ordinance that will address gray wolves (Donofrio *in litt.* 2003).

While we have not received any past written comments from the Menominee Indian Tribe of Wisconsin, the Tribe has shown a great deal of interest in wolf recovery and protection in recent years. In 2002 the Tribe offered their Reservation lands as a site for translocating seven depredating wolves that had been trapped by WI DNR and Wildlife Services. Tribal natural resources staff participated in the soft release of the wolves on the Reservation and helped with the subsequent radio-tracking of the wolves. Although by early 2005 the last of these wolves died on the reservation, the tribal conservation department continues to monitor another pair that has moved onto the Reservation, as well as other wolves near the reservation (Wydeven *in litt.* 2006).

Several Midwestern tribes (*e.g.*, the Bad River Band of Lake Superior Chippewa Indians and the Little Traverse Bay Bands of Odawa Indians) have expressed concern regarding the possibility of Federal delisting resulting in increased mortality of gray wolves on reservation lands, in the areas immediately surrounding the reservations, and in lands ceded by treaty to the Federal Government by the Tribes (Kiogama and Chingwa *in litt.* 2000). At the request of the Bad River Tribe of Lake Superior Chippewa Indians, we are currently working with their Natural Resource Department and WI DNR to develop a wolf management agreement for lands adjacent to the Bad River Reservation. The Tribe's goal is to reduce the threats to reservation wolf packs when they are temporarily off the reservation. Other Tribes have expressed interest in such an agreement. If this and similar agreements are implemented, they will provide additional protection to certain wolf packs in the midwestern United States.

The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) has stated its intent to work closely with the States to cooperatively manage wolves in the ceded territories in the core areas, and will not develop a separate wolf management plan (Schlender *in litt.* 1998). Furthermore, the Voigt Intertribal Task Force of GLIFWC has expressed its support for strong protections for the wolf, stating " [delisting] hinges on whether wolves are sufficiently restored and will be sufficiently protected to ensure a healthy and abundant future for our brother and ourselves" (Schlender, *in litt.* 2004).

According to the 1854 Authority, "attitudes toward wolf management in the 1854 Ceded Territory run the gamut from a desire to see total protection to unlimited harvest opportunity." However, the 1854 Authority would not "implement a harvest system that would have any long-term negative impacts to wolf populations" (Andrew Edwards, 1854 Authority Biological Services, *in litt.* 2003). In comments submitted for our 2004 delisting proposal for a larger Eastern DPS of the gray wolf, the 1854 Authority stated that the Authority does not have a wolf management plan for the 1854 Ceded Territory, but is "confident that under the control of state and tribal management, wolves

will continue to exist at a self-sustaining level in the 1854 Ceded Territory * * * Sustainable populations of wolves, their prey and other resources within the 1854 Ceded Territory are goals to which the 1854 Authority remains committed. As such, we intend to work with the State of Minnesota and other tribes to ensure successful state and tribal management of healthy wolf populations in the 1854 Ceded Territory'' (Sonny Myers, Executive Director, 1854 Authority, *in litt.* 2004).

While there are few written Tribal protections currently in place for gray wolves, the highly protective and reverential attitudes that have been expressed by Tribal authorities and members have assured us that any post-delisting harvest of reservation wolves would be very limited and would not adversely impact the delisted wolf populations. Furthermore, any off-reservation harvest of wolves by Tribal members in the ceded territories would be limited to a portion of the harvestable surplus at some future time. Such a harvestable surplus would be determined and monitored jointly by State and Tribal biologists, and would be conducted in coordination with the Service and the Bureau of Indian Affairs, as is being successfully done for the ceded territory harvest of inland and Great Lakes fish, deer, bear, moose, and furbearers in Minnesota, Wisconsin, and Michigan. Therefore, we conclude that any future Native American take of delisted wolves will not significantly impact the viability of the wolf population, either locally or across the WGL DPS.

Federal Lands

The five national forests with resident wolves (Superior, Chippewa, Chequamegon-Nicolet, Ottawa, and Hiawatha National Forests) in Minnesota, Wisconsin, and Michigan are all operating in conformance with standards and guidelines in their management plans that follow the 1992 Recovery Plan's recommendations for the Eastern Timber Wolf (USFWS 1992). Delisting is not expected to lead to an immediate change in these standards and guidelines; in fact, the Regional Forester for U.S. Forest Service Region 9 is expected to maintain the classification of the gray wolf as a Regional Forester Sensitive Species for at least 5 years after Federal delisting (Randy Moore, Regional Forester, U.S. Forest Service, *in litt.* 2003). Under these standards and guidelines, a relatively high prey base will be maintained, and road densities will be limited to current levels or decreased. On the Chequamegon-Nicolet National Forest, the standards and guidelines specifically include the protection of den sites and key rendezvous sites, in agreement with the WI Wolf Recovery Plan. The trapping of depredating wolves would likely be allowed on national forest lands under the guidelines and conditions specified in the respective State wolf management plans. However, there are relatively few livestock raised within the boundaries of national forests, so wolf depredation and lethal control of wolves is not likely to be a frequent occurrence, nor constitute a significant mortality factor, for the national forest wolf populations. Similarly, in keeping with the practice for other State-managed game species, any public hunting or trapping season for wolves that might be opened in the future by the States would likely include hunting and trapping within the national forests (Ed Lindquist, Superior NF, *in litt.* 11/18/05; Alan Williamson, Chippewa NF, *in litt.* 11/17/05; Kirk Piehler, Hiawatha NF, *in litt.* 11/23/05; Robert Evans, Ottawa NF, *in litt.* 11/21/05). The continuation of current national forest management practices will be important in ensuring the long-term viability of gray wolf populations in Minnesota, Wisconsin, and Michigan.

Gray wolves regularly use four units of the National Park System in the WGL DPS and may occasionally use three or four other units. Although the National Park Service (NPS) has participated in the development of some of the State wolf management plans in this area, NPS is not bound by States' plans. Instead, the NPS Organic Act and the NPS Management Policy on Wildlife generally require the agency to conserve natural and cultural resources and the wildlife present within the parks. Generally, National Park Service management policies require that native species be protected against harvest, removal, destruction, harassment, or harm through human action, although certain parks may allow some harvest in accordance with State management plans. Management emphasis in National Parks after delisting would continue to minimize the human impacts on wolf populations. Thus, because of their responsibility to preserve all native wildlife, units of the National Park System are often more protective of wildlife than are State plans and regulations. In the case of the gray wolf, the NPS Organic Act and NPS policies will continue to provide protection even after Federal delisting has occurred.

Management and protection of wolves in Voyageurs National Park, along Minnesota's northern border is not likely to change after delisting. The park's management policies require that ''native animals will be protected against harvest, removal, destruction, harassment, or harm through human action.'' No population targets for wolves will be established for the NP (Holbeck, *in litt.* 2005). To reduce human disturbance, temporary closures around wolf denning and rendezvous sites will be enacted whenever they are discovered in the park. Sport hunting will continue to be prohibited on park lands, regardless of what may be allowed beyond park boundaries (Barbara West, National Park Service, *in litt.* 2004). A radiotelemetry study conducted between 1987–91 of wolves living in and adjacent to the park found that all mortality inside the park was due to natural causes (e.g., killing by other wolves), whereas all mortality outside the park was human-induced (e.g., shooting and trapping) (Gogan *et al.* 1997). If there is a need to control depredating wolves outside the park, which seems unlikely due to the current absence of agricultural activities adjacent to the park, the park would work with the State to conduct control activities where necessary (West *in litt.* 2004).

The wolf population in Isle Royale National Park is described above (see Recovery of the Gray Wolf in the Western Great Lakes). The NPS has indicated that it will continue to closely monitor and study these wolves. This wolf population is very small and isolated from the other WGL DPS gray wolf populations; it is not considered to be significant to the recovery or long-term viability of the gray wolf (USFWS 1992).

Two other units of the National Park System, Pictured Rocks National Lakeshore and St. Croix National Scenic Riverway, are regularly used by wolves. Pictured Rocks National Lakeshore is a narrow strip of land along Michigan's Lake Superior shoreline. Lone wolves periodically use, but do not appear to be year-round residents of, the Lakeshore. If denning occurs after delisting, the Lakeshore would protect denning and rendezvous sites at least as strictly as the MI Plan recommends (Karen Gustin, Pictured Rocks National Lakeshore, *in litt.* 2003). Harvesting wolves on the Lakeshore may be allowed (i.e., if the Michigan DNR allows for harvest in the State), but trapping would continue to be prohibited. The St. Croix National Scenic Riverway, in Wisconsin and Minnesota, is also a mostly linear ownership. At least 18 wolves from 6 packs use the Riverway. The Riverway is likely to limit public access to denning and rendezvous sites and to follow other management and protective

practices outlined in the respective State wolf management plans, although trapping is not allowed on NPS lands except possibly by Native Americans (Robin Maercklein, National Park Service, *in litt.* 2003).

Gray wolves occurring on NWRs in the WGL DPS will be monitored, and refuge habitat management will maintain the current prey base for them for a minimum of 5 years after delisting. Trapping or hunting by government trappers for depredation control will not be authorized on NWRs. Because of the relatively small size of these NWRs, however, most or all of these packs and individual wolves also spend significant amounts of time off of these NWRs.

Gray wolves also occupy the Fort McCoy military installation in Wisconsin. In 2003, one pack containing five adult wolves occupied a territory that included the majority of the installation; in 2004, the installation had one pack with two adults. Management and protection of wolves on the installation will not change significantly after Federal and/or State delisting. Den and rendezvous sites would continue to be protected, hunting seasons for other species (*i.e.* coyote) would be closed during the gun-deer season, and current surveys would continue, if resources are available. Fort McCoy has no plans to allow a public harvest of wolves on the installation (Danny Nobles, Department of the Army, *in litt.* 2004).

The protection afforded to resident and transient wolves, their den and rendezvous sites, and their prey by five national forests, four National Parks, and numerous National Wildlife Refuges in Minnesota, Wisconsin, and Michigan would further ensure the conservation of wolves in the three States after delisting. In addition, wolves that disperse to other units of the National Refuge System or the National Park System within the WGL DPS will also receive the protection afforded by these Federal agencies. However, because these additional lands will only afford small islands of protection, suitable habitat, and adequate wild prey, they will not contribute significantly to maintaining a viable wolf population in the WGL DPS.

In summary, following Federal delisting of gray wolves in the WGL DPS, there will be varying State and Tribal classifications and protections provided to wolves. The wolf management plans currently in place for Minnesota, Wisconsin, and Michigan will be more than sufficient to retain viable wolf populations in each State that are above the Federal recovery criteria for wolf metapopulation subunits, and even for three completely isolated wolf populations. These State plans provide a very high level of assurance that wolf populations in these three States will not approach nonviable levels in the foreseeable future. Furthermore, current work on updating and revising the Wisconsin and Michigan plans, respectively, is being conducted in a manner that will not reduce the States' commitments to maintain viable wolf populations after Federal delisting. While these State plans recognize there may be a need to control or even reduce wolf populations at some future time, none of the plans include a public harvest of wolves.

If delisted, most wolves in Minnesota, Wisconsin, and Michigan will continue to receive protection from general human persecution by State laws and regulations. Michigan has met the criteria established in their management plan for State delisting and, during that delisting process, intends to amend the Wildlife Conservation Order to grant "protected animal" status to the gray wolf. That status would "prohibit take, establish penalties and restitution for violations of the Order, and detail conditions under which lethal depredation control measures could be implemented" (Rebecca Humphries, MI DNR, *in litt.* 2004). Following State delisting in Wisconsin, the wolf will be classified as a "protected wild animal," with protections that provide for fines of $1,000 to $2,000 for unlawful hunting. Minnesota DNR will consider population management measures, including public hunting and trapping, but not sooner than 5 years after Federal delisting (MN DNR 2001). In the meantime, wolves in Zone A could only be legally taken in Minnesota for depredation management or public safety, and Minnesota plans to increase its capability to enforce laws against take of wolves (MN DNR 2001).

Other States within the DPS either currently have mechanisms in place to kill depredating wolves (North Dakota and South Dakota) or can be expected to develop mechanisms following Federal delisting of the DPS, in order to deal with wolf-livestock conflicts in areas where wolf protection is no longer imposed by the Act. Aside from this change, wolves are likely to remain otherwise protected by various State designations in these portions of the proposed DPS for the immediate future, except for the very small portions of Indiana and Ohio within the DPS. Because none of these States has sufficient habitat within the DPS boundary to restore wolves, it is possible that most, or all, of these six States will eventually reduce or eliminate protections for gray wolves in the Federally delisted area. However, because these States constitute only about one-third of the land area within the proposed DPS, and contain virtually no suitable habitat of sufficient size to host viable gray wolf populations within the DPS, it is clear that even complete protection for gray wolves in these areas would not provide any significant benefits to wolf recovery in the DPS, nor to the long-term viability of the recovered populations that currently reside in the DPS. Therefore, although current and potential future regulatory mechanisms may allow the killing of gray wolves in these six states, these threats, and the area in which they would be manifest, will not significantly impact the recovered wolf populations in the DPS now or in the foreseeable future.

Finally, although to our knowledge no Tribes have completed wolf management plans at this time, based on communications with Tribes and Tribal organizations, wolves are very likely to be adequately protected on Tribal lands. Furthermore, the numerical recovery criteria in the Federal Recovery Plan would be achieved and maintained (based on the population and range of off-reservation wolves) even without Tribal protection of wolves on reservation lands. In addition, on the basis of information received from other Federal land management agencies in Minnesota, Wisconsin, and Michigan, we expect National Forests, units of the National Park System, and National Wildlife Refuges will provide protections to gray wolves after delisting that will match, and in some will cases exceed, the protections provided by State wolf management plans and State protective regulations.

*E. Other Natural or Manmade Factors Affecting Its Continued Existence*

Taking of Wolves by Native Americans for Religious, Spiritual, or Traditional Cultural Purposes

As noted elsewhere in this proposal, the wolf has great significance to many Native Americans in the Western Great Lakes area, especially to Wolf Clan members, and has a central role in their creation stories. The wolf, Ma"ingan, is viewed as a brother to the Anishinaabe people, and their fates are believed to be linked. Ma"ingan is a key element in many of their beliefs, traditions, and ceremonies, and wolf pack systems are used as a model for Anishinaabe families and communities. We are not aware of any takings of wolves in the Midwest for use in these traditions or ceremonies while the wolf has been

listed as a threatened or endangered species. While wolves have been listed as threatened in Minnesota, we have instructed Wildlife Services to provide, upon request, gray wolf pelts and other parts from wolves killed during depredation control actions to Tribes in order to partially serve these traditional needs.

Some Tribal representatives, as well as the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), have indicated that following delisting there is likely to be some interest in the taking of small numbers of wolves for traditional ceremonies (George King, Red Lake Band of Chippewa Indians, *in litt.* 2003; Peter White, Leech Lake Band of Ojibwe, *in litt.* 2003). This take could occur on reservation lands where it could be closely regulated by a Tribe to ensure that it does not affect the viability of the reservation wolf population. Such takings might also occur on off-reservation treaty lands on which certain Tribes retained hunting, fishing, and gathering rights when the land was ceded to the Federal government. Native American taking of wolves from ceded lands would only be done as part of a harvestable surplus of wolves that is established by the States in coordination with the Tribes. Such taking will not occur until such time as a harvestable surplus has been documented based on biological data, and regulations and monitoring have been established by the States and Tribes to ensure a harvest can be carried out in a manner that ensures the continued viability of the wolf population in that State.

If requested by the Tribes, multitribal natural resource agencies, and/or the States, the Service or other appropriate Federal agencies will work with these parties to help determine if a harvestable surplus exists, and if so, to assist in devising reasonable and appropriate methods and levels of harvest for delisted wolves for traditional cultural purposes.

Public Attitudes Toward the Gray Wolf

An important determinant of the long-term status of gray wolf populations in the United States will be human attitudes toward this large predator. These attitudes are based on the conflicts between human activities and wolves, concern with the perceived danger the species may pose to humans, its symbolic representation of wilderness, the economic effect of livestock losses, the emotions regarding the threat to pets, the conviction that the species should never be a target of sport hunting or trapping, wolf traditions of Native American tribes, and other factors.

We have seen indications of a change in public attitudes toward the wolf over the last few decades. Public attitude surveys in Minnesota and Michigan (Kellert 1985, 1990, 1999), as well as the citizen input into the wolf management plans of Minnesota, Wisconsin, and Michigan, have indicated strong public support for wolf recovery if the adverse impacts on recreational activities and livestock producers can be minimized (MI DNR 1997, MN DNR 1998, WI DNR 1999). In Michigan, a public attitude survey was conducted in 2002, to identify attitude changes that had occurred between the time there were only about 10 wolves in the UP to the current wolf population of about 278 on the UP. This survey suggested that the majority of Michigan residents still support wolf recovery efforts. However, Upper Peninsula residents' support for wolf recovery has declined substantially since the 1990 Kellert survey (Mertig 2004). At the same time, respondents from across the State have increased their support for killing individual problem wolves; support for lethal control of problem wolves ranges from 70 percent in the Southern Lower Peninsula to 85 percent in the UP (Mertig 2004).

It is unclear whether increased flexibility of depredation control after delisting would affect public attitudes towards wolves (i.e., decrease opposition to the local presence of wolves), due to the strong influence of other factors. A survey of 535 rural Wisconsin residents, for example, found that attitudes towards wolves were largely dependent on social group, and persons who were compensated for losses to wolves were not more tolerant of wolf presence than those who were refused compensation for reported losses (Naughton-Treves et al. 2003). Although social group was the overriding factor in determining tolerance for wolves, previous history with depredation also negatively affected tolerance; persons who had lost an animal to a wolf or other predator were less tolerant of wolves (Naughton-Treves et al. 2003). However, the survey did not directly address the question of whether control of problem wolves affected or changed individual attitudes toward wolves or local wolf presence. In an analysis of data collected in 37 surveys of public attitudes toward wolves on three continents, Williams et al. (2002) found that hunters and trappers had significantly more positive attitudes towards wolves than farmers and ranchers. In Wisconsin, however, where bear hunters have lost hounds to wolves, they were clearly less tolerant of wolves than livestock producers (Naughton-Treves et al. 2003). In addition to social group and previous losses of animals to wolves or other predators, education level, gender, age, rural residence, and income have all been found to influence attitudes towards wolves (Williams et al. 2002). Williams et al. (2002) also suggests that attitudes of individuals may not be changing, but the attitudes of various segments of society may change as their older cohorts are replaced by others whose attitudes were created during a time when public attitudes were generally more positive toward wolves.

The Minnesota DNR recognizes that to maintain public support for wolf conservation it must work to ensure that people are well informed about wolves and wolf management in the State. Therefore, MN DNR plans to provide "timely and accurate information about wolves to the public, to support and facilitate wolf education programs, and to encourage wolf ecotourism," among other activities (MN DNR 2001). Similarly, the Wisconsin and Michigan wolf management plans emphasize the need for long-term cooperative efforts with private educational and environmental groups to develop and distribute educational and informational materials and programs for public use (MI DNR 1997, WI DNR 1999). We fully expect organizations such as the International Wolf Center (Ely, MN), the Timber Wolf Alliance (Ashland, WI), Timber Wolf Information Network (Waupaca, WI), the Wildlife Science Center (Forest Lake, MN), and other organizations to continue to provide educational materials and experiences with wolves far into the future, regardless of the Federal status of wolves.

Summary of Our Five-Factor Analysis of Potential Threats

As required by the ESA, we considered the five potential threat factors to assess whether wolves are threatened or endangered throughout all or a significant portion of their range in the WGL DPS and therefore, whether the WGL DPS should be listed as threatened or endangered. In regard to the WGL DPS, a significant portion of the wolf's range is an area that is important or necessary for maintaining a viable, self-sustaining, and evolving representative meta-population in order for the WGL DPS to persist for the foreseeable future. While wolves historically occurred over most of the proposed DPS, large portions of this area are no longer able to support viable wolf populations, and the wolf

population in the WGL DPS will remain centered in Minnesota, Michigan, and Wisconsin.

While we recognize that gray wolves in the WGL DPS do not occupy all portions of their historical range, including some potentially suitable areas with low road and human density and a healthy prey base within the WGL DPS, wolves in this DPS no longer meet the definition of a threatened or endangered species. Although there may have been historic habitat, many of these areas are no longer suitable and are not important or necessary for maintaining a viable, self-sustaining, and evolving representative wolf population in the WGL DPS into the foreseeable future, and are not a significant portion of the range of the WGL DPS. We have based our determinations on the current status of, and future threats likely to be faced by, existing wolf populations within the WGL DPS.

The number of wolves in the WGL DPS greatly exceeds the recovery criteria (USFWS 1992) for (1) a secure wolf population in Minnesota, and (2) a second population of 100 wolves for 5 successive years. Thus, based on the criteria set by the Eastern Wolf Recovery Team in 1992, the DPS contains sufficient wolf numbers and distribution to ensure their long-term survival within the DPS. The maintenance and expansion of the Minnesota wolf population has maximized the genetic diversity that remained in the WGL DPS when its wolves were first protected in 1974. Furthermore, the Wisconsin-Michigan wolf population has even achieved the numerical recovery criteria for an isolated population. Therefore, even if this two-State population was to become totally isolated and wolf immigration from Minnesota or Ontario ceased, it would still remain a viable population for the foreseeable future. Finally, the wolf populations in Wisconsin and Michigan each have separately exceeded 200 animals for 7 and 6 years respectively, so if they each somehow were to become isolated, they are already above viable population levels, and each State has committed to manage its wolf population at 200 wolves or above. The wolf's numeric and distributional recovery in the WGL DPS clearly has been achieved and greatly exceeded. The wolf's recovery in numbers and distribution in the WGL DPS, together with the status of the threats that remain to, and are likely to be experienced by, the wolf within the DPS, indicates that the gray wolf is not likely to be in danger of extinction, nor likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the DPS.

Post-delisting wolf protection, management, and population and health monitoring by the States, Tribes, and Federal land management agencies—especially in Minnesota Zone A, Wisconsin Zone 1, and across the Upper Peninsula of Michigan—would ensure the continuation of viable wolf populations above the Federal recovery criteria for the foreseeable future. Post-delisting threats to wolves in Zone B in Minnesota, Zones 3 and 4 in Wisconsin, and in the Lower Peninsula of Michigan would be more substantial, and may preclude the establishment of wolf packs in most or all of these areas. Similarly, the lack of sufficient areas of suitable habitat and weaker post-delisting protections in those parts of North Dakota, South Dakota, Iowa, Illinois, Indiana, and Ohio that are within the WGL DPS are expected to preclude the establishment of viable populations in these areas, although dispersing wolves and packs may temporarily occur in some of these areas. However, wolf numbers in these areas will have no impact on the continued viability of the recovered wolf metapopulation in Minnesota Zone A, Wisconsin Zone 1, and the Upper Peninsula of Michigan. Reasonably foreseeable threats to wolves in all parts of the WGL DPS are not likely to threaten wolf population viability in Minnesota, Wisconsin, or the Upper Peninsula of Michigan for the foreseeable future.

In summary, we find that the threat of habitat destruction or degradation or a reduction in the range of the gray wolf; overutilization by humans; disease, parasites, or predatory actions by other animals or humans; inadequate regulatory measures by State, Tribal, and Federal agencies; or other threats will not individually or in combination be likely to cause the WGL DPS of the gray wolf to be in danger of extinction in the foreseeable future. Ongoing effects of recovery efforts over the past decade, which resulted in a significant expansion of the occupied range of wolves in the WGL DPS, in conjunction with future State, Tribal, and Federal agency wolf management across that occupied range, will be adequate to ensure the conservation of the WGL DPS. These activities will maintain an adequate prey base, preserve denning and rendezvous sites and dispersal corridors, monitor disease, restrict human take, and keep wolf populations well above the numerical recovery criteria established in the Federal Recovery Plan for the Eastern Timber Wolf (USFWS 1992).

After a thorough review of all available information and an evaluation of the previous five factors specified in section 4(a)(1) of the Act, as well as consideration of the definitions of "threatened" and "endangered" contained in the Act and the reasons for delisting as specified in 50 CFR 424.11(d), we conclude that removing the WGL DPS from the list of Endangered and Threatened Wildlife (50 CFR 17.11) is appropriate. Gray wolves have recovered in the WGL DPS as a result of the reduction of threats as described in the analysis of the five categories of threats.

**Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The ESA provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Most of these measures have already been successfully applied to gray wolves in the conterminous 48 States.

**Effects of the Rule**

If finalized, this rule would remove the protections of the Act from the WGL DPS. The protections of the Act would still continue to apply to the gray wolves outside the WGL DPS, where appropriate.

This proposal, if finalized, would remove the special regulations under section 4(d) of the Act for wolves in Minnesota. These regulations currently are found at 50 CFR 17.40(d).

Critical habitat was designated for the gray wolf in 1978 (43 FR 9607, March 9, 1978). That rule (codified at 50 CFR 17.95(a)) identifies Isle Royale National Park, Michigan, and Minnesota wolf management zones 1, 2, and 3, as delineated in 50 CFR 17.40(d)(1), as critical habitat. Wolf management zones 1, 2, and 3 comprise approximately 25,500 $km^2$ (9,845 $mi^2$) in northeastern and northcentral Minnesota. This proposed rule, if finalized, would remove the designation of critical habitat for gray wolves in Minnesota and on Isle Royale, Michigan.

This notice does not apply to the listing or protection of the red wolf (*Canis rufus*) or change the regulations for the three non-essential experimental populations. It is important to note that the protections of the gray wolf under

the Act do not extend to gray wolf-dog hybrids.

**Post-Delisting Monitoring**

Section 4(g)(1) of the Act, added in the 1988 reauthorization, requires us to implement a system, in cooperation with the States, to monitor for not less than 5 years the status of all species that have recovered and been removed from the Lists of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12). The purpose of this post-delisting monitoring (PDM) is to verify that a species delisted due to recovery remains secure from risk of extinction after it no longer has the protections of the Act. To do this, PDM generally focuses on evaluating (1) demographic characteristics of the species, (2) threats to the species, and (3) implementation of legal and/or management commitments that have been identified as important in reducing threats to the species or maintaining threats at sufficiently low levels. We are to make prompt use of the emergency listing authorities under section 4(b)(7) of the Act to prevent a significant risk to the well-being of any recovered species. Section 4(g) of the Act explicitly requires cooperation with the States in development and implementation of PDM programs, but we remain responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of PDM. We also will seek active participation of other entities that are expected to assume responsibilities for the species' conservation, after delisting.

We are developing a PDM plan for the gray wolves in the WGL DPS with the assistance of the Eastern Gray Wolf Recovery Team. Once completed, we will make that document available on our web site (See **FOR FURTHER INFORMATION CONTACT** section). At this time, we anticipate the PDM program will be a continuation of State monitoring activities similar to those which have been conducted by Minnesota, Wisconsin, and Michigan DNR's in recent years. These States comprise the core recovery areas within the DPS and were the only States with numerical recovery criteria in the Recovery Plan (USFWS 1992). These activities will include both population monitoring and health monitoring of individual wolves. During the PDM period, the Service and the Recovery Team annually will conduct a review of the monitoring data and program. We will consider various relevant factors (including but not limited to mortality rates, population changes and rates of change, disease occurrence, range expansion or contraction) to determine if the population of gray wolves within the DPS warrants expanded monitoring, additional research, consideration for relisting as threatened or endangered, or emergency listing.

Minnesota, Wisconsin, and Michigan DNRs have monitored wolves for several decades with significant assistance from numerous partners, including the U.S. Forest Service, National Park Service, USDA–APHIS–Wildlife Services, Tribal natural resource agencies, and the Service. To maximize comparability of future PDM data with data obtained before delisting, all three State DNRs have committed to continue their previous wolf population monitoring methodology, or will make changes to that methodology only if those changes will not reduce the comparability of pre- and post-delisting data.

In addition to monitoring population numbers and trends, the PDM will evaluate post-delisting threats, in particular human-caused mortality, disease, and implementation of legal and management commitments. If at any time during the monitoring period we detect a significant downward change in the populations or an increase in threats to the degree that population viability may be threatened, we will evaluate and change (intensify, extend, and/or otherwise improve) the monitoring methods, if appropriate, and/or consider relisting the WGL DPS, if warranted. Changes to the monitoring methods, for example, might include increased emphasis on a potentially important threat or a particular geographic area. At the end of the monitoring period, we will decide if relisting, continued monitoring, or ending monitoring is appropriate. If data show a significant population decline or increased threats, but not to the level that relisting is warranted, we will consider continuing monitoring beyond the specified period and may modify the monitoring program based on an evaluation of the results of the initial monitoring.

We anticipate that this Service monitoring program will extend for 5 years beyond the delisting date of the DPS. At the end of the 5-year period we and the Recovery Team will conduct another review and post the results on our web site. In addition to the above considerations, that review will determine whether the PDM program should be terminated or extended.

**Public Comments Solicited**

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any current or likely future threat, or lack thereof, to gray wolves in the WGL DPS;

(2) Additional information concerning the range, distribution, population size, population trends, and threats with respect to gray wolves in the WGL DPS;

(3) Current or planned activities in the WGL DPS and their possible impacts on the gray wolf and its habitat;

(4) Information concerning the adequacy of the recovery criteria described in the 1992 Recovery Plan for the Eastern Timber Wolf;

(5) The extent and adequacy of Federal, State, and Tribal protection and management that would be provided to the gray wolf in the WGL DPS as a delisted species; and

(6) The proposed geographic boundaries of the WGL DPS, and scientific and legal supporting information for alternative boundaries that might result in a larger or smaller DPS, and including information on the discreteness and significance of the proposed and alternative DPS.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet e-mail comments without any form or encryption and avoid the use of special characters. Please include "WGL Gray Wolf Delisting; RIN 1018–AU54" in your e-mail subject header and your name and return address in the body of your message. Note that the Internet e-mail address for submitting comments will be closed at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we may withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will not consider anonymous comments, however. 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. We anticipate a large public response to this proposed rule. After the comment period closes, we will organize the comments and materials received and make them available for public inspection, by appointment, during normal business hours at the following Ecological Services offices:

- Twin Cities, Minnesota Ecological Services Field Office, 4101 E. 80th Street, Bloomington, MN; 612–725–3548
- Green Bay, Wisconsin Ecological Services Field Office, 2661 Scott Tower Dr., New Franken, WI; 920–866–1717
- East Lansing, Michigan Ecological Services Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI; 517–351–2555

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

**Public Hearings**

The ESA provides for public hearings on this proposed rule. We have scheduled four public hearings on this proposed rule as specified above in **DATES** and **ADDRESSES.**

Public hearings are designed to gather relevant information that the public may have that we should consider in our rulemaking. Before each hearing, we will hold an informational meeting to present information about the proposed action. During the hearing, we invite the public to submit information and comments. Interested persons may also submit information and comments in writing during the open public comment period. We encourage persons wishing to comment at the hearing to provide a written copy of their statement at the start of the hearing. Public hearings will allow all interested parties to submit comments on the proposed rule for the gray wolf.

**Peer Review**

In accordance with the December 16, 2004, Office of Management and Budget's "Final Information Quality Bulletin for Peer Review," we will obtain comments from at least three independent scientific reviewers regarding the scientific data and interpretations contained in this proposed rule. The purpose of such review is to ensure that our delisting proposal provides to the public, and our delisting decision is based on, scientifically sound data, assumptions, and analyses. We have posted our proposed peer review plan on our web site at *http://www.fws.gov/midwest/Science/*. Public comments on our peer review were obtained through March 11, 2006, after which we finalized our peer review plan and selected peer reviewers. We will provide those reviewers with copies of this proposal as well as the data used in the proposal. Peer reviewer comments that are received during the public comment period will be considered as we make our final decision on this proposal, and substantive peer reviewer comments will be specifically discussed in the final rule.

**Required Determinations**

*Clarity of the Rule*

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following: (1) Is the discussion in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful to your understanding of the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (groupings and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand? Send a copy of any comments on how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C. Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov*.

*National Environmental Policy Act*

We have determined that an Environmental Assessment or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

*Paperwork Reduction Act*

Office of Management and Budget (OMB) regulations at 5 CFR 1320 implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal Government are not included. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act. As proposed under the *Post-delisting Monitoring* section above, gray wolf populations in the Western Great Lakes DPS will be monitored by the States of Michigan, Minnesota, and Wisconsin in accordance with their gray wolf State management plans. There may also be additional voluntary monitoring activities conducted by a small number of tribes in these three States. We do not anticipate a need to request data or other information from 10 or more persons during any 12-month period to satisfy monitoring information needs. If it becomes necessary to collect information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

*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. As this proposed rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

*Government-to-Government Relationship With Tribes*

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 are coordinating this proposed rule with the affected Tribes. Throughout several years of development of earlier related rules and this proposed rule, we have endeavored to consult with Native American tribes and Native American organizations in order to both (1) provide them with a complete

understanding of the proposed changes, and (2) to understand their concerns with those changes. We will conduct additional consultations with Native American tribes and multitribal organizations subsequent to this publication. We will fully consider all of their comments on this proposal submitted during the public comment period and will attempt to address those concerns to the extent allowed by the Act, the Administrative Procedure Act, and other applicable Federal statutes.

*References Cited*

A complete list of all references cited in this document is available upon request from the Ft. Snelling, Minnesota, Regional Office and is posted on our Web site (see **FOR FURTHER INFORMATION CONTACT** section above).

*Author*

The primary author of this rule is Ronald L. Refsnider, U.S. Fish and Wildlife Service, Ft. Snelling, Minnesota, Regional Office (see **FOR FURTHER INFORMATION CONTACT** section above).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—[AMENDED]**

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry for "Wolf, gray" under "MAMMALS" in the List of Endangered and Threatened Wildlife to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

* * * * *

(h) * * *

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| MAMMALS | | | | | | | |
| * | * | * | * | * | * | * | |
| Wolf, gray ..... | *Canis lupus* ..... | Holarctic ..... | U.S.A., conterminous (lower 48) States, except: (1) Where listed as an experimental population below, and (2) Minnesota, Wisconsin, Michigan, eastern North Dakota (that portion north and east of the Missouri River upstream to Lake Sakakawea and east of Highway 83 from Lake Sakakawea to the Canadian border), eastern South Dakota (that portion north and east of the Missouri River), northern Iowa, northern Illinois, and northern Indiana (those portions of IA, IL, and IN north of Interstate Highway 80), and northwestern Ohio (that portion north of Interstate Highway 80 and west of the Maumee River at Toledo); Mexico. | E | 1, 6, 13, 15, 35, 561, 562, 631, 745 | NA | N/A. |
| Do ..... | do ..... | do ..... | U.S.A. (WY and portions of ID and MT—see 17.84(i) and (n). | XN | 561, 562, 745 | NA | 17.84(i). 17.84(n). |
| Do ..... | do ..... | do ..... | U.S.A. (portions of AZ, NM, and TX—see 17.84(k)).. | XN | 631 | N/A | 17.84(k). |
| * | * | * | * | * | * | * | |

* * * * *

**§ 17.40 [Amended]**

3. Amend § 17.40 by removing and reserving paragraph (d).

**§ 17.95 [Amended]**

4. Amend § 17.95(a) by removing the critical habitat entry for "Gray Wolf (*Canis lupus*)."

Dated: March 1, 2006.

**H. Dale Hall,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 06–2802 Filed 3–24–06; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Monday,
March 27, 2006

Part III

# Department of Education

**Parental Information and Resource Centers; Final Priorities and Eligibility Requirements; Notice**

## DEPARTMENT OF EDUCATION

### Parental Information and Resource Centers; Final Priorities and Eligibility Requirements

**AGENCY:** Office of Innovation and Improvement, Department of Education.

**ACTION:** Notice of final priorities and eligibility requirements.

**SUMMARY:** The Assistant Deputy Secretary for Innovation and Improvement announces priorities and eligibility requirements under the Parental Information and Resource Centers (PIRC) program. The Assistant Deputy Secretary may use one or more of these priorities for and apply these eligibility requirements to competitions in fiscal year (FY) 2006 and later years. We intend these priorities and requirements to help ensure that funded projects will effectively address the purposes of the PIRC program.

**DATES:** *Effective Date:* These priorities and eligibility requirements are effective April 26, 2006.

**FOR FURTHER INFORMATION CONTACT:** Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W229, Washington, DC 20202–5970. Telephone: (202) 260–2476 or via Internet: *steve.brockhouse@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

**SUPPLEMENTARY INFORMATION:** PIRC projects help implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student academic achievement and strengthen partnerships among parents, teachers, principals, administrators, and other school personnel in meeting the education needs of children. Section 5563(b) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), describes project requirements for the recipients of PIRC grants, including requirements to serve both rural and urban areas; to use at least one-half of the funds awarded to a project to serve areas with high concentrations of low-income families; and to use at least 30 percent of the funds awarded to a project to establish, expand, or operate early childhood parent education programs.

We published a notice of proposed priorities and eligibility requirements for this program in the **Federal Register** on December 28, 2005 (70 FR 76787).

This notice of final priorities makes one change based on the recommendations of commenters. We are adding a new priority addressing the geographic distribution of awards to award additional points to each application based on the total number of students enrolled in the public schools of each State.

#### Analysis of Comments and Changes

In response to our invitation in the notice of proposed priorities and eligibility requirements, 25 parties submitted comments on one or more of the proposed priorities and eligibility requirements. An analysis of the comments and of any changes in the priorities and eligibility requirements since publication of the notice of proposed priorities and eligibility requirements follows.

We discuss substantive issues under the priority number or requirement to which they pertain.

Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize us to make under the applicable statutory authority.

#### Priority 1—Geographic Distribution of Awards

*Comment:* Nine commenters expressed support for this priority. More than half of these commenters also suggested that it would beneficial to consider making more than one award in a State, if possible, so that factors such as the size or diversity of the State's school-age population could be taken into consideration.

*Discussion:* We agree with the commenters that in making awards, we should give some consideration to other factors to help ensure that additional awards are made in States with relatively large student populations, consistent with quality. This change will help ensure that the geographic distribution of all awards targets States with larger student populations. There are no additional costs to applicants associated with this change.

*Change:* We have added a new priority to award priority points based on the number of public elementary and secondary school students enrolled in a State.

*Comment:* One commenter recommended that Priority 1 not be used. The commenter expressed concern that the priority would be detrimental to reaching the neediest populations.

*Discussion:* The priority to award a PIRC grant to the highest-ranking application in each State (provided that the application is of sufficient quality to show that it is likely to meet the purposes of the PIRC program, implement effective activities, and achieve intended results) does not adversely affect an applicant's ability to focus on needy populations. Consistent with the statutory requirement in section 5563(b)(3) of the ESEA, a PIRC project must target a minimum of 50 percent of the grant funds it receives for services to areas with high concentrations of low-income families. Further, each application must address selection criteria related to need in order to show that the application will appropriately focus on meeting the needs of disadvantaged individuals, including students at risk of educational failure.

*Change:* None.

#### Priority 2—Statewide Impact of PIRC Services

*Comment:* Eleven commenters wrote to express support for the priority. In particular, several commenters noted particular appreciation for the flexible approach contained in the priority that permits a project to include services that are tailored to specific communities, geographic regions, or local educational agencies (LEAs), where appropriate, in addition to the statewide strategies and services that a project would include.

*Discussion:* None.

*Change:* None.

*Comment:* One commenter indicated that it would have been helpful to have a list of required activities associated with the priority.

*Discussion:* The priority for statewide impact clearly focuses on an applicant's proposed plan to provide services to parents that enhance the ability of parents to participate effectively in their children's education, including their ability to communicate effectively with public school personnel in the school that their child attends. Beyond that, we believe that applicants need to have flexibility to consider the specific activities that are most appropriate to the needs of parents in the State and are likely to have a significant impact in enhancing parents' ability to participate effectively in their children's education and communicate effectively with public school personnel in the school that their child attends.

*Change:* None.

*Comment:* One commenter recommended that, in addition to making services that have a statewide impact a priority, we should also award competitive points to an application

proposing collaboration with the State educational agency (SEA).

*Discussion:* We agree with the commenter that the development of an effective collaborative relationship with the SEA is important to implementing broad Statewide strategies but we expect that applicants will address how they propose to establish this relationship in their response to this priority. As a result, we do not believe that changing the priority to require specifically that applicants address this type of collaboration is necessary for applicants to develop their PIRC applications.

*Change:* None.

*Comment:* Four commenters expressed concern that giving priority to activities that emphasize statewide approaches would have a detrimental impact on the effectiveness of projects by diluting PIRC services and inhibiting PIRCs' ability to develop and maintain effective working relationships with parents. One of these commenters specifically recommended that the priority not be implemented. Another one of the four commenters recommended a substitute approach that would give priority to those applications that propose to work with their SEA even if the proposed application did not include activities designed to have a statewide impact.

*Discussion:* The priority for statewide impact does not require that all services provided by a grantee under a PIRC project be delivered on a statewide basis. The statutory requirements for this program clearly provide that grantees must provide services to parents and local communities, so we do not believe PIRCs will be reluctant to work effectively with parents. We believe, however, that there is substantial benefit in supporting the operation of PIRC projects that include activities designed to have a statewide impact.

The priority for statewide impact is intended to help ensure that all parents from across a State have access to information and services, especially services that are designed to enhance the ability of parents to participate effectively in the education of their children. We also intend that this priority will facilitate the ability of PIRC projects to develop more effective working relationships with the State educational agency in their State.

*Change:* None.

*Comment:* Two commenters recommended that we fund one or more additional national projects to support PIRC projects. One of the commenters specifically recommended that these additional projects provide content-focused specialties to help other PIRC projects stay abreast of current research and to provide professional development to PIRC projects in translating research into practice.

*Discussion:* We decline to add funding priorities for national projects in the context of these priorities and requirements because these priorities focus to a greater extent on providing services to States and local communities. We note, however, that section 5565(c) of the ESEA authorizes the Secretary to provide technical assistance to support the operation of PIRCs. We will consider including national activities in future technical assistance grants or contracts authorized by section 5565(c).

*Change:* None.

**Priority 3—Understanding State and Local Report Cards and Opportunities for Public School Choice and Supplemental Educational Services**

*Comment:* Seven commenters wrote to express unqualified support for Priority 3. Of those commenters who discussed their reasons for supporting this priority, one observed that understanding State report cards is fundamental to parents' understanding of their State's accountability system and to empowering parents; one indicated that PIRCs are a source of unbiased information; and another noted that the subject areas addressed in the priority are essential to the role of parents as envisioned by the No Child Left Behind Act of 2001.

*Discussion:* None.

*Change:* None.

*Comment:* One commenter recommended that other PIRC program requirements be limited in order to ensure that PIRC projects had sufficient resources to meet Priority 3 and Priority 4.

*Discussion:* Section 5563(b) of the ESEA sets forth specific requirements that all applications must address, including two requirements that carry with them minimum standards for the use of funds. Specifically, section 5563(b)(3) requires that each PIRC project use at least 50 percent of the funds it receives in order to serve areas with high concentrations of low-income families. Further, section 5563(b)(10) requires each PIRC project to use at least 30 percent of the funds it receives to establish, expand, or operate an early childhood parent education program such as Parents as Teachers or Home Instruction for Pre-school Youngsters. Applications must be responsive to all of these statutory requirements. Applications may propose activities that address a priority and, at the same time, contribute towards meeting one or more of the statutory requirements in section 5563(b). For example, by focusing some or all of an applicant's proposed activities to address Priority 3 on areas with high concentrations of low-income families, an applicant could both address this priority and contribute towards meeting the requirement in section 5563(b)(3).

*Change:* None.

*Comment:* One commenter recommended that we include more specific direction concerning the production and dissemination of information to parents and sought guidance regarding whether a PIRC could work with LEAs to ensure that requirements related to public school choice, supplemental educational services, and State and local report cards are met.

*Discussion:* We do not believe that incorporation of more specific guidance into the priority is necessary. Projects may work with SEAs, LEAs, schools, parents, or other organizations, as appropriate, and may disseminate information in ways of reaching parents that are best suited to the needs and objectives of the project. As indicated in the notice of proposed priorities and eligibility requirements, guidance on the subject matter of this priority is also available on the Department's Web site as follows.

(Guidance on report cards under Title I of the ESEA is available at: *http://www.ed.gov/programs/titleiparta/reportcardsguidance.doc*; guidance on supplemental educational services is available at: *http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc*; and guidance on public school choice is available at: *http://www.ed.gov/policy/elsec/guid/schoolchoiceguid.doc.*)

*Change:* None.

**Priority 4—Technical Assistance in the Implementation of Local Educational Agency and School Parental Involvement Policy Under Section 1118 of the ESEA**

*Comment:* Ten commenters wrote to express support for Priority 4.

*Discussion:* None.

*Change:* None.

*Comment:* Two commenters recommended that we expand the language in Priority 4 to include school readiness in addition to student achievement and school performance as an area that should be targeted for improvement through the implementation of the parental involvement policy under section 1118 of the ESEA.

*Discussion:* We agree with the commenters regarding the importance of school readiness; however, the primary

focus of Priority 4 is technical assistance in implementing section 1118 of the ESEA, which requires SEAs, LEAs, and schools to develop parental involvement activities to improve student academic achievement and school performance.

As documented by the results of recent Title I monitoring activity, the need for technical assistance in this area remains substantial. We believe that adding school readiness as another focus for improvement would detract from the primary purpose of the priority. Further, section 5563(b)(10) requires PIRC projects to use a minimum of 30 percent of the funds that a project receives annually for early childhood parent education activities, making early childhood parent education programs an integral part of any PIRC project without further expansion of Priority 4.

*Change:* None.

*Comment:* One commenter recommended that Priority 4 include specific requirements related to project materials, the composition of the PIRC project staff, and the use of a statewide telephone number with multiple languages in its menu.

*Discussion:* We do not think it is necessary to add these requirements. Such specific requirements would reduce applicants' flexibility in designing technical assistance strategies and approaches that are designed to address effectively the individual needs of States and their LEAs and schools.

*Change:* None.

**Eligibility Requirements**

*Comment:* One commenter recommended that institutions of higher education be specifically excluded from serving as either applicants or fiscal agents.

*Discussion:* Institutions of higher education, like a variety of other organizations, may have specialized knowledge, interests, or programs that focus on parental involvement issues. We believe that excluding institutions of higher education that meet the eligibility requirements described in this notice would serve no beneficial purpose.

*Change:* None.

*Comment:* One commenter recommended that we add a provision that would permit an LEA to serve as the fiscal agent if the nonprofit organization provided evidence of its fiscal and program autonomy.

*Discussion:* The recommendation did not explain why a nonprofit organization that has both fiscal and program autonomy would need an LEA to serve as the fiscal agent for a project. We also believe that allowing this type of exemption would undermine the statutory eligibility requirements for the PIRC program, which provide for nonprofit organizations or consortia of applicants including nonprofit organizations to provide PIRC services.

*Change:* None.

*Comment:* Three commenters addressed the eligibility provision concerning the nonprofit organization's board of directors. All three commenters recommended that governance of the nonprofit organization by a board of directors that includes parents of pre-school and school-age children be required of all applicants. One commenter also recommended that we require that a majority of the members of a nonprofit organization's board of directors be such parents.

*Discussion:* These proposed changes would unnecessarily exclude organizations whose purpose or mission includes the types of programs and activities supported by the PIRC program, but whose boards of directors might not necessarily include parents of pre-school and school-age children.

*Change:* None.

**Other Comments**

*Comment:* Nine commenters wrote regarding the PIRC program requirement in section 5563(b)(10) of the ESEA addressing early childhood parent education programs. In particular, several commenters noted that section 5563(b)(10) requires that each PIRC project use at least 30 percent of the funds it receives annually for early childhood parent education programs and, as a result, it is important that attention be given to the quality of these programs. Four commenters specifically recommended that we add early childhood parent education activities as another priority. Four commenters also recommended that we give priority to applications that propose to use early childhood parent education programs that are either research-based or nationally recognized.

*Discussion:* We agree that the early childhood parent education programs required by section 5563(b)(10) constitute a significant part of each PIRC project. Since a substantial proportion of the funds awarded to each PIRC project must specifically focus on early childhood parent education programs and activities, it is important that plans for the use of these funds are sufficiently detailed to ensure that the program plans for addressing this aspect of a PIRC project are of high quality and designed to achieve well-defined results. Consequently, we have included a priority addressing early childhood parent education programs in the notice inviting applications for new awards for FY 2006 for the PIRC program published elsewhere in this issue of the **Federal Register**. This priority may be established without notice and comment pursuant to 34 CFR 75.105(b)(2)(iv).

*Change:* None.

*Comment:* One commenter recommended that PIRC projects be required to set aside a minimum of five percent of the funds they receive for evaluation. The commenter also recommended that we require the use of an outside evaluator by each project in order to preserve the independence of the evaluator and enhance the credibility of the evaluation.

*Discussion:* We agree that it is important for each project to include an appropriate level of support for evaluation activities in its proposed budget and, indeed, in some instances an even greater amount than that suggested by the commenter may be appropriate or necessary. We believe, however, that this question is best addressed through the selection criteria concerning adequacy of resources to determine the extent to which selected costs, including the proposed costs of evaluation, are appropriate, reasonable, and sufficient.

Regarding the recommendation that grant recipients be required to use an outside evaluator, we do not believe that this is necessary under this program.

*Change:* None.

*Comment:* One commenter recommended that funding factors include not only size of the population of a State, but also the number of parents of Title I students.

*Discussion:* The regulations in 34 CFR 75.232 require us to conduct a cost analysis before setting the amount of each award. As part of the cost analysis, we examine costs to determine that they are reasonable and that the budget proposed in the application permits project objectives to be achieved with reasonable efficiency and economy. This analysis would include consideration of the number of parents of students served under Title I of the ESEA.

*Change:* None.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**. Unless designated in this notice, when inviting applications we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority we consider only applications

that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

**Priorities**

*Priority 1—Geographic Distribution of Awards: Highest-Ranking Application in a State*

This priority supports an application that meets the following three conditions:

(1) The application is the highest-ranking application proposing to implement a PIRC project in a State, based on the selection criteria and competitive preference priorities used for this competition.

(2) The application's PIRC project proposes to provide services only in that State.

(3) The application is of sufficient quality to show that the proposed project is likely to succeed in meeting the purposes of the PIRC program, in implementing effective activities, and in achieving intended results.

For the purpose of selecting applications under this priority, we use the definition of the term "State" in 34 CFR 77.1(c).

*Priority 2—Statewide Impact of PIRC Services*

This priority supports applications that would implement broad statewide strategies to provide parents from across the State, particularly parents who are educationally or economically disadvantaged, with services that enhance their ability to participate effectively in their child's education, including their ability to communicate effectively with public school personnel in the school that their child attends.

*Priority 3—Understanding State and Local Report Cards and Opportunities for Public School Choice and Supplemental Educational Services*

This priority supports applications that would implement activities that effectively assist parents in understanding State and local report cards under Title I of the ESEA and, in cases where their child attends a school identified as in need of improvement, corrective action, or restructuring under Title I, in understanding their options for public school choice or supplemental educational services.

*Priority 4—Technical Assistance in the Implementation of Local Educational Agency and School Parental Involvement Policy Under Section 1118 of the ESEA*

This priority supports applications that would provide technical assistance in the implementation of LEA and school parental involvement policies under Title I of the ESEA in order to improve student academic achievement and school performance.

*Priority 5—Geographic Distribution of Awards: Consideration of the Size of the Student Enrollment in a State*

Under this competitive preference priority, we award additional points to applications based on the number of students enrolled in the public schools of a State.

We award additional points to each application that proposes to provide services only in a single State based on the total number of students enrolled in the public elementary and secondary schools of that State. To determine the number of such students enrolled in each State, we use the most recent data reported by States to the National Center for Education Statistics, Common Core of Data.

We award a maximum of five points to an application. We award five points to each applicant proposing to serve a State with an enrollment of 2,000,000 or more students; four points to each applicant proposing to serve a State with an enrollment between 1,500,000 students and 1,999,999 students; three points to an applicant proposing to serve a State with an enrollment between 1,000,000 students and 1,499,999 students; two points to an applicant proposing to serve a State with an enrollment between 500,000 and 999,999 students; and one point to an applicant proposing to serve a State with an enrollment of less than 500,000 students.

For the purpose of selecting applications under this priority, we use the definition of the term *State* in 34 CFR 77.1(c).

**Requirements**

*Eligibility Requirements*

We define the term *nonprofit organization* for purposes of the PIRC program as an organization that:

(1) Is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity, as set forth in 34 CFR part 77; and

(2) Represents the interests of parents of pre-school and school-age children (including parents who are educationally or economically disadvantaged); or is governed by a board of directors whose membership includes such parents.

For an application submitted by a consortium that includes a nonprofit organization and one or more LEAs the nonprofit organization must serve as the applicant and fiscal agent for the consortium. State and local governments, including LEAs, intermediate school districts, and schools, are not eligible to submit an application on behalf of a consortium or serve as the fiscal agent of a PIRC grant.

*Executive Order 12866*

This notice of final priorities and eligibility requirements has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priorities and eligibility requirements are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priorities and eligibility requirements, we have determined that the benefits of the final priorities and eligibility requirements justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

*Summary of potential costs and benefits:* There are no potential additional costs associated with the one change to these final priorities. The change will help to target assistance to areas of greatest need.

*Intergovernmental Review*

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Electronic Access to This Document*

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

You may also view this document in text or PDF at the following site: *http://www.ed.gov/programs/pirc/applicant.html.*

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

(Catalog of Federal Domestic Assistance Number 84.310A Parental Information and Resource Centers)

**Program Authority:** 20 U.S.C. 7273 *et seq.*

Dated: March 22, 2006.

**Christopher J. Doherty,**

*Acting Assistant Deputy Secretary for Innovation and Improvement.*

[FR Doc. 06–2935 Filed 3–24–06; 8:45 am]

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Federal Register

Monday,
March 27, 2006

Part IV

# Department of Education

**Office of Innovation and Improvement; Overview Information; Parental Information and Resource Centers (PIRC); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006; Notice**

## DEPARTMENT OF EDUCATION

### Office of Innovation and Improvement; Overview Information; Parental Information and Resource Centers (PIRC); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.310A.

**DATES:** Applications Available: March 27, 2006.

Deadline for Notice of Intent to Apply: April 24, 2006.

Deadline for Transmittal of Applications: May 15, 2006.

Deadline for Intergovernmental Review: July 14, 2006.

*Eligible Applicants:* Nonprofit organizations, or consortia of nonprofit organizations and local educational agencies (LEAs). Faith-based and community organizations are eligible to apply for funding provided that they are nonprofit organizations, as defined elsewhere in this notice.

For an application submitted by a consortium that includes a nonprofit organization and one or more LEAs the nonprofit organization must serve as the applicant and fiscal agent for the consortium. State and local governments, including LEAs, intermediate school districts, and schools, are not eligible to submit an application on behalf of a consortium or serve as the fiscal agent of a PIRC grant.

**Note:** We define the term *nonprofit organization* for purposes of the PIRC program as an organization that—

(1) Is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity, as set forth in 34 CFR part 77; and

(2) Represents the interests of parents of pre-school and school-age children (including parents who are educationally or economically disadvantaged); or is governed by a board of directors whose membership includes such parents.

*Estimated Available Funds:* $38,100,000.

*Estimated Range of Awards:* $250,000–$950,000 per year.

*Estimated Average Size of Awards:* $585,000 per year.

*Estimated Number of Awards:* 65.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to five years.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the PIRC program is to help implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student academic achievement and strengthen partnerships among parents, teachers, principals, administrators, and other school personnel in meeting the educational needs of children.

The PIRC program supports school-based and school-linked parental information and resource centers that—

(1) Help implement effective parental involvement policies, programs, and activities that will improve children's academic achievement;

(2) Develop and strengthen partnerships among parents (including parents of children from birth through age five), teachers, principals, administrators, and other school personnel in meeting the educational needs of children;

(3) Develop and strengthen the relationship between parents and their children's school;

(4) Further the developmental progress of children assisted under the program;

(5) Coordinate activities funded under the program with parental involvement initiatives funded under section 1118 and other provisions of the Elementary and Secondary Education Act of 1965, as amended (ESEA); and

(6) Provide a comprehensive approach to improving student learning, through coordination and integration of Federal, State, and local services and programs.

The Secretary reminds all applicants that section 5563(b) of the ESEA, as amended, requires each PIRC grantee to meet several specific conditions. The Secretary strongly encourages all applicants to review each of these conditions carefully to ensure that their applications appropriately address each of the areas addressed by section 5563(b).

*Priorities:* We have established seven competitive preference priorities and one invitational priority that are explained in the following paragraphs. One competitive preference priority is from the regulations in 34 CFR 75.225, another competitive preference priority is from the statute for this program, and the other five competitive preference priorities are from the notice of final priorities and eligibility requirements (NFP) for this program, published elsewhere in this issue of the **Federal Register**.

*Competitive Preference Priorities:* The competitive preference priorities are explained in the following paragraphs.

*Competitive Preference Priority 1—Novice Applicants*

In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from the regulations in 34 CFR 75.225. For FY 2006 this priority is a competitive preference priority. We give 5 additional points to each novice applicant. These points will be in addition to any points the applicant earns under the selection criteria and other competitive preference priorities.

For the purposes of this grant competition a novice applicant is—

(1) An applicant for a grant from the Department that—

(a) Has never received a grant or subgrant under the program from which it seeks funding;

(b) Has never been a member of a group application, submitted in accordance with 34 CFR 75.127–75.129, that received a grant under the program from which it seeks funding; and

(c) Has not had an active discretionary grant from the Federal Government in the 5 years before the deadline date for applications under the program.

(2) In the case of a group application submitted in accordance with 34 CFR 75.127–75.129, a group that includes only parties that meet the requirements of paragraphs (1)(a) through (c) of this priority.

For the purposes of paragraph (c) of this priority, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

*Competitive Preference Priority 2—Early Childhood Parent Education*

In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 5563(b)(10) of the ESEA (20 U.S.C. 7273b). For FY 2006 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on how well the application meets this priority.

This priority is:

This priority supports applications that would implement effective plans to use at least 30 percent of the funds received in each fiscal year to establish, expand, or operate Parents as Teachers programs, Home Instruction for Pre-school Youngsters programs, or other early childhood parent education programs.

*Competitive Preference Priority 3—Geographic Distribution of Awards: Highest-Ranking Application in a State*

This priority is from the NFP for this program, published elsewhere in this issue of the **Federal Register**. Under 34 CFR 75.105(c)(2)(ii) we select an application that meets this priority over an application of comparable merit that does not meet the priority.

This priority is:

This priority supports an application that meets the following three conditions:

(1) The application is the highest-ranking application proposing to implement a PIRC project in a State, based on the selection criteria and competitive preference priorities used for this competition.

(2) The application's PIRC project proposes to provide services only in that State.

(3) The application is of sufficient quality to show that the proposed project is likely to succeed in meeting the purposes of the PIRC program, in implementing effective activities, and in achieving intended results.

For the purpose of selecting applications under this priority, we use the definition of the term *State* in 34 CFR 77.1(c).

*Competitive Preference Priorities 4, 5, 6, and 7:* These priorities are from the NFP for this program, published elsewhere in this issue of the **Federal Register**. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 40 points to an application, depending on how well the application meets these priorities. The maximum possible points for each priority are indicated in parentheses following the name of the competitive preference priority.

These priorities are:

*Competitive Preference Priority 4—Statewide Impact of PIRC Services (15 Points)*

This priority supports applications that would implement broad statewide strategies to provide parents from across the State, particularly parents who are educationally or economically disadvantaged, with services that enhance their ability to participate effectively in their child's education, including their ability to communicate effectively with public school personnel in the school that their child attends.

*Competitive Preference Priority 5—Understanding State and Local Report Cards and Opportunities for Public School Choice and Supplemental Educational Services (10 Points)*

This priority supports applications that would implement activities that effectively assist parents in understanding State and local report cards under Title I of the ESEA and, in cases where their child attends a school identified as in need of improvement, corrective action, or restructuring under Title I, in understanding their options for public school choice or supplemental educational services.

*Competitive Preference Priority 6—Technical Assistance in the Implementation of Local Educational Agency and School Parental Involvement Policy under Section 1118 of the ESEA (10 Points)*

This priority supports applications that would provide technical assistance in the implementation of LEA and school parental involvement policies under Title I of the ESEA in order to improve student academic achievement and school performance.

*Competitive Preference Priority 7—Geographic Distribution of Awards: Consideration of the Size of the Student Enrollment in a State (5 Points)*

Under this competitive preference priority, we award additional points to applications based on the number of students enrolled in the public schools of a State.

We award additional points to each application that proposes to provide services only in a single State based on the total number of students enrolled in the public elementary and secondary schools of that State. To determine the number of such students enrolled in each State, we use the most recent data reported by States to the National Center for Education Statistics, Common Core of Data.

We award a maximum of five points to an application. We award five points to each applicant proposing to serve a State with an enrollment of 2,000,000 or more students; four points to each applicant proposing to serve a State with an enrollment between 1,500,000 students and 1,999,999 students; three points to an applicant proposing to serve a State with an enrollment between 1,000,000 students and 1,499,999 students; two points to an applicant proposing to serve a State with an enrollment between 500,000 and 999,999 students; and one point to an applicant proposing to serve a State with an enrollment of less than 500,000 students.

For the purpose of selecting applications under this priority, we use the definition of the term *State* in 34 CFR 77.1(c).

*Invitational Priority:* Under this competition we are particularly interested in applications that address the following priority. For FY 2006 this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

*Invitational Priority—Experimental and Quasi-Experimental Evaluation Designs*

Projects proposing an evaluation plan that is based on rigorous scientifically based research methods to assess the effectiveness of a particular intervention. The Secretary intends that this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.

Evaluation methods using an experimental design are best for determining project effectiveness. Thus, when feasible, the project must use an experimental design under which participants—*e.g.*, students, teachers, classrooms, or schools—are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—*e.g.*, students, teachers, classrooms, or schools—with non-participants having similar pre-program characteristics.

In cases where random assignment is not possible and participation in the intervention is determined by a specified cutting point on a quantified continuum of scores, regression discontinuity designs may be employed.

For projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group nor regression discontinuity designs will not be considered responsive to the priority when sufficient numbers of participants are available to support these designs. Evaluation strategies that involve too small a number of participants to support group designs must be capable of demonstrating the causal effects of an intervention or program on those participants.

The proposed evaluation plan must describe how the project evaluator will collect—before the project intervention

commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

In determining the quality of the evaluation method, we will consider the extent to which the applicant presents a feasible, credible plan that includes the following:

(1) The type of design to be used (that is, random assignment or matched comparison). If matched comparison, include in the plan a discussion of why random assignment is not feasible.

(2) Outcomes to be measured.

(3) A discussion of how the applicant plans to assign students, teachers, classrooms, or schools to the project and control group or match them for comparison with other students, teachers, classrooms, or schools.

(4) A proposed evaluator, preferably independent, with the necessary background and technical expertise to carry out the proposed evaluation. An independent evaluator does not have any authority over the project and is not involved in its implementation.

*Definitions*

As used in this notice—

*Scientifically based research* (section 9101(37) of the ESEA as amended by NCLB, 20 U.S.C. 7801(37)):

(A) Means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) Includes research that—

(i) Employs systematic, empirical methods that draw on observation or experiment;

(ii) Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) Is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

*Random assignment or experimental design* means random assignment of students, teachers, classrooms, or schools to participate in a project being evaluated (treatment group) or not participate in the project (control group). The effect of the project is the difference in outcomes between the treatment and control groups.

*Quasi experimental designs* include several designs that attempt to approximate a random assignment design.

*Carefully matched comparison groups design* means a quasi-experimental design in which project participants are matched with non-participants based on key characteristics that are thought to be related to the outcome.

*Regression discontinuity design* means a quasi-experimental design that closely approximates an experimental design. In a regression discontinuity design, participants are assigned to a treatment or control group based on a numerical rating or score of a variable unrelated to the treatment such as the rating of an application for funding. Eligible students, teachers, classrooms, or schools above a certain score ("cut score") are assigned to the treatment group and those below the score are assigned to the control group. In the case of the scores of applicants' proposals for funding, the "cut score" is established at the point where the program funds available are exhausted.

*Single subject design* means a design that relies on the comparison of treatment effects on a single subject or group of single subjects. There is little confidence that findings based on this design would be the same for other members of the population.

*Treatment reversal design* means a single subject design in which a pre-treatment or baseline outcome measurement is compared with a post-treatment measure. Treatment would then be stopped for a period of time, a second baseline measure of the outcome would be taken, followed by a second application of the treatment or a different treatment. For example, this design might be used to evaluate a behavior modification program for disabled students with behavior disorders.

*Multiple baseline design* means a single subject design to address concerns about the effects of normal development, timing of the treatment, and amount of the treatment with treatment-reversal designs by using a varying time schedule for introduction of the treatment and/or treatments of different lengths or intensity.

*Interrupted time series design* means a quasi-experimental design in which the outcome of interest is measured multiple times before and after the treatment for program participants only.

Applicants who are planning to respond to this invitational priority are strongly encouraged to review the following technical assistance resources:

(1) Random Assignment in Program Evaluation, Qs and As: *http://www.ed.gov/rschstat/eval/resources/randomqa.pdf.* This document lists basic questions and answers that an educator or administrator might have about random assignment and why it is an effective and beneficial tool to use in education.

(2) How to Report the Results of Your Study: A User-Friendly Guide for Evaluators of Educational Programs and Practices: *http://www.whatworkshelpdesk.ed.gov/guide_SRF.pdf.* This guide can help grantees produce reports that are user-friendly and include the appropriate information needed to accurately and fully convey their findings to an audience.

(3) Key Items to Get Right When Conducting a Randomized Control Trial in Education: *http://www.whatworkshelpdesk.ed.gov/guide_RCT.pdf.* This guide discusses planning a study, the random assignment process, measuring outcomes, and analysis.

*Program Authority:* 20 U.S.C. 7273 *et seq.*

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 79, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The notice of final priorities and eligibility requirements, published elsewhere in this issue of the **Federal Register**.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $38,100,000.

*Estimated Range of Awards:* $250,000–$950,000 per year.

*Estimated Average Size of Awards:* $585,000 per year.

*Estimated Number of Awards:* 65.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to five years.

**III. Eligibility Information**

1. *Eligible Applicants:* Nonprofit organizations, or consortia of nonprofit organizations and LEAs. Faith-based and community organizations are eligible to apply for funding provided that they are nonprofit organizations, as defined elsewhere in this notice.

For an application submitted by a consortium that includes a nonprofit organization and one or more LEAs, the nonprofit organization must serve as the applicant and fiscal agent for the consortium. State and local governments, including LEAs, intermediate school districts, and schools, are not eligible to submit an application on behalf of a consortium or serve as the fiscal agent of a PIRC grant.

**Note:** We define the term *nonprofit organization* for purposes of the PIRC program as an organization that—

(1) Is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity, as set forth in 34 CFR part 77; and

(2) Represents the interests of parents of pre-school and school-age children (including parents who are educationally or economically disadvantaged); or is governed by a board of directors whose membership includes such parents.

2. *Cost Sharing or Matching:* Section 5565(a) of the ESEA requires that, after the first fiscal year of an award, a portion of the services provided by the organization or consortium must be supported through non-Federal contributions, either in cash or in kind.

**IV. Application and Submission Information**

1. *Address to Request Application Package:* Fatimah Dozier, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W236, FB6, Washington, DC 20202–5970. Telephone: (202) 260–8757 or by e-mail: *fatimah.dozier@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Apply: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department by sending a short e-mail message indicating the applicant's intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit it. This e-mail notification should be sent to Fatimah Dozier at *fatimah.dozier@ed.gov.*

Applicants that fail to provide this e-mail notification may still apply for funding.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria and competitive preference priorities that reviewers use to evaluate your application. The Secretary strongly encourages applicants to limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A "page" is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The suggested page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

3. *Submission Dates and Times:*

Applications Available: March 27, 2006.

Deadline for Notice of Intent to Apply: April 24, 2006.

Deadline for Transmittal of Applications: May 15, 2006.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements. We do not consider an application that does not address the application requirements, selection criteria, and other required information outlined in the application package. Deadline for Intergovernmental Review: July 14, 2006.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements.* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the PIRC program, CFDA Number 84.310A must be submitted electronically using the Grants.gov Apply site at: *http://www.grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the PIRC program at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete all of the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf*). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

*Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System:* If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

**Note:** Extensions referred to in this section apply only to the unavailability of or technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

*Exception to Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W229, FB6, Washington, DC 20202–5970. FAX: (202) 205–5630..

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

*By mail through the U.S. Postal Service:* U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.310A, 400 Maryland Avenue, SW., Washington, DC 20202–4260, or

*By mail through a commercial carrier:* U.S. Department of Education,

Application Control Center—Stop 4260, Attention: CFDA Number 84.310A, 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.310A, 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

*Note for Mail or Hand Delivery of Paper Applications:* If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

*Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 of EDGAR. The maximum score for all the selection criteria is 100 points. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that the reviewers will consider in determining how well an application meets the criterion. The *Note* following selection criterion (g) is guidance to help applicants in preparing their applications, and is not required by statute or regulations.

The selection criteria are:

(a) *Need for project* (10 points). The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure.

(b) *Quality of the project design* (20 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers—

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(2) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements; and

(3) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(c) *Quality of project services* (15 points). The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. The Secretary also considers—

(1) The likely impact of the services to be provided by the proposed project on the intended recipients of those services; and

(2) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(d) *Quality of project personnel* (15 points). The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. The Secretary also considers—

(1) The qualifications, including relevant training and experience, of key project personnel; and

(2) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(e) *Adequacy of resources* (10 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers—

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(2) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(f) *Quality of the management plan* (10 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(g) *Quality of the project evaluation* (20 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers—

(1) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible; and

(2) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

**Note:** A strong evaluation plan should be included in the application narrative and should be used to shape the development of the project from the beginning of the grant period. The plan should include benchmarks to monitor progress toward specific project objectives and outcome measures to assess the impact of project activities on project participants. A strong evaluation plan should describe the evaluation design, indicating the types of data that will be collected; when various types of data will be collected; what methods will be used; what instruments will be developed and when; how the data will be analyzed; and how the applicant will use the information collected through the evaluation to monitor progress of the funded project, provide performance feedback, and permit periodic assessment of progress in achieving results and outcomes. Applicants are encouraged to devote an appropriate level of resources to project evaluation.

Applicants planning to address the invitational priority for Experimental and Quasi-Experimental Evaluation Designs should place information responsive to this invitational priority in an application appendix in Part IV of the application. Do not include information responsive to the invitational priority for Experimental and Quasi-Experimental Evaluation Designs in the section of the application that responds to the application selection criteria.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we will notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. For specific requirements on grantee reporting, please go to the ED Performance Report Form 524B at *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* We have established three performance indicators for the PIRC program. These performance indicators are: (1) The number of parents who are participating in PIRC activities designed to provide them with the information necessary to understand their State accountability systems and the rights and opportunities for supplemental services and public school choice afforded to their children under section 1116 of the ESEA; (2) the percentage of customers (parents, educators in State and local educational agencies, and other audiences) reporting that PIRC services are of high quality; and (3) the percentage of customers reporting that PIRC services are highly useful to them.

The Department intends to collect data for the first indicator through annual performance reports and to collect data for the second and third indicators through a customer satisfaction survey to be administered for the first time in 2007.

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W229, FB6, Washington, DC 20202–5961. Telephone: (202) 260–2476 or by e-mail: *steve.brockhouse@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

## VIII. Other Information

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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

Dated: March 22, 2006.

**Christopher J. Doherty,**

*Acting Assistant Deputy Secretary for Innovation and Improvement.*

[FR Doc. 06–2936 Filed 3–24–06; 8:45 am]

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# Reader Aids

Federal Register

Vol. 71, No. 58

Monday, March 27, 2006

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

**H.R. 1287/P.L. 109–184**

To designate the facility of the United States Postal Service located at 312 East North Avenue in Flora, Illinois, as the "Robert T. Ferguson Post Office Building". (Mar. 20, 2006; 120 Stat. 292)

**H.R. 2113/P.L. 109–185**

To designate the facility of the United States Postal Service located at 2000 McDonough Street in Joliet, Illinois, as the "John F. Whiteside Joliet Post Office Building". (Mar. 20, 2006; 120 Stat. 293)

**H.R. 2346/P.L. 109–186**

To designate the facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, as the "John J. Hainkel, Jr. Post Office Building". (Mar. 20, 2006; 120 Stat. 294)

**H.R. 2413/P.L. 109–187**

To designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the "Lillian McKay Post Office Building". (Mar. 20, 2006; 120 Stat. 295)

**H.R. 2630/P.L. 109–188**

To redesignate the facility of the United States Postal Service located at 1927 Sangamon Avenue in Springfield, Illinois, as the "J.M. Dietrich Northeast Annex". (Mar. 20, 2006; 120 Stat. 296)

**H.R. 2894/P.L. 109–189**

To designate the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the "Abraham Lincoln Birthplace Post Office Building". (Mar. 20, 2006; 120 Stat. 297)

**H.R. 3256/P.L. 109–190**

To designate the facility of the United States Postal Service located at 3038 West Liberty Avenue in Pittsburgh, Pennsylvania, as the "Congressman James Grove Fulton Memorial Post Office Building". (Mar. 20, 2006; 120 Stat. 298)

**H.R. 3368/P.L. 109–191**

To designate the facility of the United States Postal Service located at 6483 Lincoln Street in Gagetown, Michigan, as the "Gagetown Veterans Memorial Post Office". (Mar. 20, 2006; 120 Stat. 299)

**H.R. 3439/P.L. 109–192**

To designate the facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, as the "Ava Gardner Post Office". (Mar. 20, 2006; 120 Stat. 300)

**H.R. 3548/P.L. 109–193**

To designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the "Heinz Ahlmeyer, Jr. Post Office Building". (Mar. 20, 2006; 120 Stat. 301)

**H.R. 3703/P.L. 109–194**

To designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building". (Mar. 20, 2006; 120 Stat. 302)

**H.R. 3770/P.L. 109–195**

To designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building". (Mar. 20, 2006; 120 Stat. 303)

**H.R. 3825/P.L. 109–196**

To designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial Post Office Building". (Mar. 20, 2006; 120 Stat. 304)

**H.R. 3830/P.L. 109–197**
To designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the "U.S. Cleveland Post Office Building". (Mar. 20, 2006; 120 Stat. 305)

**H.R. 3989/P.L. 109–198**
To designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the "Albert H. Quie Post Office". (Mar. 20, 2006; 120 Stat. 306)

**H.R. 4053/P.L. 109–199**
To designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office". (Mar. 20, 2006; 120 Stat. 307)

**H.R. 4107/P.L. 109–200**
To designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the "Maryland State Delegate Lena K. Lee Post Office Building". (Mar. 20, 2006; 120 Stat. 308)

**H.R. 4152/P.L. 109–201**
To designate the facility of the United States Postal Service located at 320 High Street in Clinton, Massachusetts, as the "Raymond J. Salmon Post Office". (Mar. 20, 2006; 120 Stat. 309)

**H.R. 4295/P.L. 109–202**
To designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the "Mont and Mark Stephensen Veterans Memorial Post Office Building". (Mar. 20, 2006; 120 Stat. 310)

**S. 2089/P.L. 109–203**
To designate the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the "Hiram L. Fong Post Office Building". (Mar. 20, 2006; 120 Stat. 311)

**S. 2320/P.L. 109–204**
To make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes. (Mar. 20, 2006; 120 Stat. 312)

**H.R. 1053/P.L. 109–205**
To authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine. (Mar. 23, 2006; 120 Stat. 313)

**H.R. 1691/P.L. 109–206**
To designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the "John H. Bradley Department of Veterans Affairs Outpatient Clinic". (Mar. 23, 2006; 120 Stat. 315)

**S. 2064/P.L. 109–207**
To designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the Malcolm Melville "Mac" Lawrence Post Office. (Mar. 23, 2006; 120 Stat. 316)

**S. 2275/P.L. 109–208**
National Flood Insurance Program Enhanced Borrowing Authority Act of 2006 (Mar. 23, 2006; 120 Stat. 317)

**H.R. 4826/P.L. 109–209**
To extend through December 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. (Mar. 24, 2006; 120 Stat. 318)

**S. 1184/P.L. 109–210**
To waive the passport fees for a relative of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member. (Mar. 24, 2006; 120 Stat. 319)

**S. 2363/P.L. 109–211**
To extend the educational flexibility program under section 4 of the Education Flexibility Partnership Act of 1999. (Mar. 24, 2006; 120 Stat. 320)

**Last List March 23, 2006**

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 1 | (869-060-00001-4) | 5.00 | [4]Jan. 1, 2006 |
| 2 | (869-060-00002-0) | 5.00 | Jan. 1, 2006 |
| 3 (2003 Compilation and Parts 100 and 101) | (869-056-00003-1) | 35.00 | [1] Jan. 1, 2005 |
| 4 | (869-060-00004-6) | 10.00 | Jan. 1, 2006 |
| **5 Parts:** | | | |
| 1-699 | (869-056-00005-7) | 60.00 | Jan. 1, 2005 |
| 700-1199 | (869-060-00006-2) | 50.00 | Jan. 1, 2006 |
| 1200-End | (869-056-00007-3) | 61.00 | Jan. 1, 2005 |
| 6 | (869-060-00008-9) | 10.50 | Jan. 1, 2006 |
| **7 Parts:** | | | |
| 1-26 | (869-056-00009-0) | 44.00 | Jan. 1, 2005 |
| *27-52 | (869-060-00010-1) | 49.00 | Jan. 1, 2006 |
| *53-209 | (869-060-00011-9) | 37.00 | Jan. 1, 2006 |
| 210-299 | (869-056-00012-0) | 62.00 | Jan. 1, 2005 |
| *300-399 | (869-060-00013-5) | 46.00 | Jan. 1, 2006 |
| 400-699 | (869-060-00014-3) | 42.00 | Jan. 1, 2006 |
| 700-899 | (869-056-00015-4) | 43.00 | Jan. 1, 2005 |
| 900-999 | (869-056-00016-2) | 60.00 | Jan. 1, 2005 |
| 1000-1199 | (869-060-00017-8) | 22.00 | Jan. 1, 2006 |
| 1200-1599 | (869-056-00018-9) | 61.00 | Jan. 1, 2005 |
| *1600-1899 | (869-060-00019-4) | 64.00 | Jan. 1, 2006 |
| *1900-1939 | (869-060-00020-8) | 31.00 | Jan. 1, 2006 |
| *1940-1949 | (869-060-00021-6) | 50.00 | Jan. 1, 2006 |
| 1950-1999 | (869-060-00022-4) | 46.00 | Jan. 1, 2006 |
| 2000-End | (869-060-00023-2) | 50.00 | Jan. 1, 2006 |
| 8 | (869-060-00024-1) | 63.00 | Jan. 1, 2006 |
| **9 Parts:** | | | |
| 1-199 | (869-056-00025-1) | 61.00 | Jan. 1, 2005 |
| 200-End | (869-060-00026-7) | 58.00 | Jan. 1, 2006 |
| **10 Parts:** | | | |
| *1-50 | (869-060-00027-5) | 61.00 | Jan. 1, 2006 |
| 51-199 | (869-056-00028-6) | 58.00 | Jan. 1, 2005 |
| 200-499 | (869-056-00029-4) | 46.00 | Jan. 1, 2005 |
| *500-End | (869-060-00030-5) | 62.00 | Jan. 1, 2006 |
| *11 | (869-060-00031-3) | 41.00 | Jan. 1, 2006 |
| **12 Parts:** | | | |
| 1-199 | (869-060-00032-1) | 34.00 | Jan. 1, 2006 |
| 200-219 | (869-060-00033-0) | 37.00 | Jan. 1, 2006 |
| 220-299 | (869-060-00034-8) | 61.00 | Jan. 1, 2006 |
| *300-499 | (869-060-00035-6) | 47.00 | Jan. 1, 2006 |
| 500-599 | (869-060-00036-4) | 39.00 | Jan. 1, 2006 |
| 600-899 | (869-056-00037-5) | 56.00 | Jan. 1, 2005 |
| *900-End | (869-060-00038-1) | 50.00 | Jan. 1, 2006 |
| 13 | (869-056-00039-1) | 55.00 | Jan. 1, 2005 |
| **14 Parts:** | | | |
| 1-59 | (869-060-00040-2) | 63.00 | Jan. 1, 2006 |
| 60-139 | (869-056-00041-3) | 61.00 | Jan. 1, 2005 |
| *140-199 | (869-060-00042-9) | 30.00 | Jan. 1, 2006 |
| 200-1199 | (869-060-00043-7) | 50.00 | Jan. 1, 2006 |
| *1200-End | (869-060-00044-5) | 45.00 | Jan. 1, 2006 |
| **15 Parts:** | | | |
| 0-299 | (869-060-00045-3) | 40.00 | Jan. 1, 2006 |
| *300-799 | (869-060-00046-1) | 60.00 | Jan. 1, 2006 |
| *800-End | (869-060-00047-0) | 42.00 | Jan. 1, 2006 |
| **16 Parts:** | | | |
| 0-999 | (869-056-00048-1) | 50.00 | Jan. 1, 2005 |
| *1000-End | (869-060-00049-6) | 60.00 | Jan. 1, 2006 |
| **17 Parts:** | | | |
| 1-199 | (869-056-00051-1) | 50.00 | Apr. 1, 2005 |
| 200-239 | (869-056-00052-9) | 58.00 | Apr. 1, 2005 |
| 240-End | (869-056-00053-7) | 62.00 | Apr. 1, 2005 |
| **18 Parts:** | | | |
| 1-399 | (869-056-00054-5) | 62.00 | Apr. 1, 2005 |
| 400-End | (869-056-00055-3) | 26.00 | [6]Apr. 1, 2005 |
| **19 Parts:** | | | |
| 1-140 | (869-056-00056-1) | 61.00 | Apr. 1, 2005 |
| 141-199 | (869-056-00057-0) | 58.00 | Apr. 1, 2005 |
| 200-End | (869-056-00058-8) | 31.00 | Apr. 1, 2005 |
| **20 Parts:** | | | |
| 1-399 | (869-056-00059-6) | 50.00 | Apr. 1, 2005 |
| 400-499 | (869-056-00060-0) | 64.00 | Apr. 1, 2005 |
| 500-End | (869-056-00061-8) | 63.00 | Apr. 1, 2005 |
| **21 Parts:** | | | |
| 1-99 | (869-056-00062-6) | 42.00 | Apr. 1, 2005 |
| 100-169 | (869-056-00063-4) | 49.00 | Apr. 1, 2005 |
| 170-199 | (869-056-00064-2) | 50.00 | Apr. 1, 2005 |
| 200-299 | (869-056-00065-1) | 17.00 | Apr. 1, 2005 |
| 300-499 | (869-056-00066-9) | 31.00 | Apr. 1, 2005 |
| 500-599 | (869-056-00067-7) | 47.00 | Apr. 1, 2005 |
| 600-799 | (869-056-00068-5) | 15.00 | Apr. 1, 2005 |
| 800-1299 | (869-056-00069-3) | 58.00 | Apr. 1, 2005 |
| 1300-End | (869-056-00070-7) | 24.00 | Apr. 1, 2005 |
| **22 Parts:** | | | |
| 1-299 | (869-056-00071-5) | 63.00 | Apr. 1, 2005 |
| 300-End | (869-056-00072-3) | 45.00 | Apr. 1, 2005 |
| 23 | (869-056-00073-1) | 45.00 | Apr. 1, 2005 |
| **24 Parts:** | | | |
| 0-199 | (869-056-00074-0) | 60.00 | Apr. 1, 2005 |
| 200-499 | (869-056-00074-0) | 50.00 | Apr. 1, 2005 |
| 500-699 | (869-056-00076-6) | 30.00 | Apr. 1, 2005 |
| 700-1699 | (869-056-00077-4) | 61.00 | Apr. 1, 2005 |
| 1700-End | (869-056-00078-2) | 30.00 | Apr. 1, 2005 |
| 25 | (869-056-00079-1) | 63.00 | Apr. 1, 2005 |
| **26 Parts:** | | | |
| §§ 1.0-1-1.60 | (869-056-00080-4) | 49.00 | Apr. 1, 2005 |
| §§ 1.61-1.169 | (869-056-00081-2) | 63.00 | Apr. 1, 2005 |
| §§ 1.170-1.300 | (869-056-00082-1) | 60.00 | Apr. 1, 2005 |
| §§ 1.301-1.400 | (869-056-00083-9) | 46.00 | Apr. 1, 2005 |
| §§ 1.401-1.440 | (869-056-00084-7) | 62.00 | Apr. 1, 2005 |
| §§ 1.441-1.500 | (869-056-00085-5) | 57.00 | Apr. 1, 2005 |
| §§ 1.501-1.640 | (869-056-00086-3) | 49.00 | Apr. 1, 2005 |
| §§ 1.641-1.850 | (869-056-00087-1) | 60.00 | Apr. 1, 2005 |
| §§ 1.851-1.907 | (869-056-00088-0) | 61.00 | Apr. 1, 2005 |
| §§ 1.908-1.1000 | (869-056-00089-8) | 60.00 | Apr. 1, 2005 |
| §§ 1.1001-1.1400 | (869-056-00090-1) | 61.00 | Apr. 1, 2005 |
| §§ 1.1401-1.1550 | (869-056-00091-0) | 55.00 | Apr. 1, 2005 |
| §§ 1.1551-End | (869-056-00092-8) | 55.00 | Apr. 1, 2005 |
| 2-29 | (869-056-00093-6) | 60.00 | Apr. 1, 2005 |
| 30-39 | (869-056-00094-4) | 41.00 | Apr. 1, 2005 |
| 40-49 | (869-056-00095-2) | 28.00 | Apr. 1, 2005 |
| 50-299 | (869-056-00096-1) | 41.00 | Apr. 1, 2005 |

| Title | Stock Number | Price | Revision Date |
|---|---|---|---|
| 300–499 | (869–056–00097–9) | 61.00 | Apr. 1, 2005 |
| 500–599 | (869–056–00098–7) | 12.00 | [5]Apr. 1, 2005 |
| 600–End | (869–056–00099–5) | 17.00 | Apr. 1, 2005 |
| **27 Parts:** | | | |
| 1–199 | (869–056–00100–2) | 64.00 | Apr. 1, 2005 |
| 200–End | (869–056–00101–1) | 21.00 | Apr. 1, 2005 |
| **28 Parts:** | | | |
| 0–42 | (869–056–00102–9) | 61.00 | July 1, 2005 |
| 43–End | (869–056–00103–7) | 60.00 | July 1, 2005 |
| **29 Parts:** | | | |
| 0–99 | (869–056–00104–5) | 50.00 | July 1, 2005 |
| 100–499 | (869–056–00105–3) | 23.00 | July 1, 2005 |
| 500–899 | (869–056–00106–1) | 61.00 | July 1, 2005 |
| 900–1899 | (869–056–00107–0) | 36.00 | [7]July 1, 2005 |
| 1900–1910 (§§ 1900 to 1910.999) | (869–056–00108–8) | 61.00 | July 1, 2005 |
| 1910 (§§ 1910.1000 to end) | (869–056–00109–6) | 58.00 | July 1, 2005 |
| 1911–1925 | (869–056–00110–0) | 30.00 | July 1, 2005 |
| 1926 | (869–056–00111–8) | 50.00 | July 1, 2005 |
| 1927–End | (869–056–00112–6) | 62.00 | July 1, 2005 |
| **30 Parts:** | | | |
| 1–199 | (869–056–00113–4) | 57.00 | July 1, 2005 |
| 200–699 | (869–056–00114–2) | 50.00 | July 1, 2005 |
| 700–End | (869–056–00115–1) | 58.00 | July 1, 2005 |
| **31 Parts:** | | | |
| 0–199 | (869–056–00116–9) | 41.00 | July 1, 2005 |
| 200–499 | (869–056–00117–7) | 33.00 | July 1, 2005 |
| 500–End | (869–056–00118–5) | 33.00 | July 1, 2005 |
| **32 Parts:** | | | |
| 1–39, Vol. I | | 15.00 | [2]July 1, 1984 |
| 1–39, Vol. II | | 19.00 | [2]July 1, 1984 |
| 1–39, Vol. III | | 18.00 | [2]July 1, 1984 |
| 1–190 | (869–056–00119–3) | 61.00 | July 1, 2005 |
| 191–399 | (869–056–00120–7) | 63.00 | July 1, 2005 |
| 400–629 | (869–056–00121–5) | 50.00 | July 1, 2005 |
| 630–699 | (869–056–00122–3) | 37.00 | July 1, 2005 |
| 700–799 | (869–056–00123–1) | 46.00 | July 1, 2005 |
| 800–End | (869–056–00124–0) | 47.00 | July 1, 2005 |
| **33 Parts:** | | | |
| 1–124 | (869–056–00125–8) | 57.00 | July 1, 2005 |
| 125–199 | (869–056–00126–6) | 61.00 | July 1, 2005 |
| 200–End | (869–056–00127–4) | 57.00 | July 1, 2005 |
| **34 Parts:** | | | |
| 1–299 | (869–056–00128–2) | 50.00 | July 1, 2005 |
| 300–399 | (869–056–00129–1) | 40.00 | [7]July 1, 2005 |
| 400–End & 35 | (869–056–00130–4) | 61.00 | July 1, 2005 |
| **36 Parts:** | | | |
| 1–199 | (869–056–00131–2) | 37.00 | July 1, 2005 |
| 200–299 | (869–056–00132–1) | 37.00 | July 1, 2005 |
| 300–End | (869–056–00133–9) | 61.00 | July 1, 2005 |
| **37** | (869–056–00134–7) | 58.00 | July 1, 2005 |
| **38 Parts:** | | | |
| 0–17 | (869–056–00135–5) | 60.00 | July 1, 2005 |
| 18–End | (869–056–00136–3) | 62.00 | July 1, 2005 |
| **39** | (869–056–00139–1) | 42.00 | July 1, 2005 |
| **40 Parts:** | | | |
| 1–49 | (869–056–00138–0) | 60.00 | July 1, 2005 |
| 50–51 | (869–056–00139–8) | 45.00 | July 1, 2005 |
| 52 (52.01–52.1018) | (869–056–00140–1) | 60.00 | July 1, 2005 |
| 52 (52.1019–End) | (869–056–00141–0) | 61.00 | July 1, 2005 |
| 53–59 | (869–056–00142–8) | 31.00 | July 1, 2005 |
| 60 (60.1–End) | (869–056–00143–6) | 58.00 | July 1, 2005 |
| 60 (Apps) | (869–056–00144–4) | 57.00 | July 1, 2005 |
| 61–62 | (869–056–00145–2) | 45.00 | July 1, 2005 |
| 63 (63.1–63.599) | (869–056–00146–1) | 58.00 | July 1, 2005 |
| 63 (63.600–63.1199) | (869–056–00147–9) | 50.00 | July 1, 2005 |
| 63 (63.1200–63.1439) | (869–056–00148–7) | 50.00 | July 1, 2005 |
| 63 (63.1440–63.6175) | (869–056–00149–5) | 32.00 | July 1, 2005 |
| 63 (63.6580–63.8830) | (869–056–00150–9) | 32.00 | July 1, 2005 |
| 63 (63.8980–End) | (869–056–00151–7) | 35.00 | [7]July 1, 2005 |
| 64–71 | (869–056–00152–5) | 29.00 | July 1, 2005 |
| 72–80 | (869–056–00153–5) | 62.00 | July 1, 2005 |
| 81–85 | (869–056–00154–1) | 60.00 | July 1, 2005 |
| 86 (86.1–86.599–99) | (869–056–00155–0) | 58.00 | July 1, 2005 |
| 86 (86.600–1–End) | (869–056–00156–8) | 50.00 | July 1, 2005 |
| 87–99 | (869–056–00157–6) | 60.00 | July 1, 2005 |
| 100–135 | (869–056–00158–4) | 45.00 | July 1, 2005 |
| 136–149 | (869–056–00159–2) | 61.00 | July 1, 2005 |
| 150–189 | (869–056–00160–6) | 50.00 | July 1, 2005 |
| 190–259 | (869–056–00161–4) | 39.00 | July 1, 2005 |
| 260–265 | (869–056–00162–2) | 50.00 | July 1, 2005 |
| 266–299 | (869–056–00163–1) | 50.00 | July 1, 2005 |
| 300–399 | (869–056–00164–9) | 42.00 | July 1, 2005 |
| 400–424 | (869–056–00165–7) | 56.00 | [8]July 1, 2005 |
| 425–699 | (869–056–00166–5) | 61.00 | July 1, 2005 |
| 700–789 | (869–056–00167–3) | 61.00 | July 1, 2005 |
| 790–End | (869–056–00168–1) | 61.00 | July 1, 2005 |
| **41 Chapters:** | | | |
| 1, 1–1 to 1–10 | | 13.00 | [3]July 1, 1984 |
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| 7 | | 6.00 | [3]July 1, 1984 |
| 8 | | 4.50 | [3]July 1, 1984 |
| 9 | | 13.00 | [3]July 1, 1984 |
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| 101 | (869–056–00170–3) | 21.00 | July 1, 2005 |
| 102–200 | (869–056–00171–1) | 56.00 | July 1, 2005 |
| 201–End | (869–056–00172–0) | 24.00 | July 1, 2005 |
| **42 Parts:** | | | |
| 1–399 | (869–056–00173–8) | 61.00 | Oct. 1, 2005 |
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| 430–End | (869–056–00175–4) | 64.00 | Oct. 1, 2005 |
| **43 Parts:** | | | |
| 1–999 | (869–056–00176–2) | 56.00 | Oct. 1, 2005 |
| 1000–end | (869–056–00177–1) | 62.00 | Oct. 1, 2005 |
| **44** | (869–056–00178–9) | 50.00 | Oct. 1, 2005 |
| **45 Parts:** | | | |
| 1–199 | (869–056–00179–7) | 60.00 | Oct. 1, 2005 |
| 200–499 | (869–056–00180–1) | 34.00 | Oct. 1, 2005 |
| 500–1199 | (869–056–00171–9) | 56.00 | Oct. 1, 2005 |
| 1200–End | (869–056–00182–7) | 61.00 | Oct. 1, 2005 |
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| 41–69 | (869–056–00184–3) | 39.00 | [9]Oct. 1, 2005 |
| 70–89 | (869–056–00185–1) | 14.00 | [9]Oct. 1, 2005 |
| 90–139 | (869–056–00186–0) | 44.00 | Oct. 1, 2005 |
| 140–155 | (869–056–00187–8) | 25.00 | Oct. 1, 2005 |
| 156–165 | (869–056–00188–6) | 34.00 | [9]Oct. 1, 2005 |
| 166–199 | (869–056–00189–4) | 46.00 | Oct. 1, 2005 |
| 200–499 | (869–056–00190–8) | 40.00 | Oct. 1, 2005 |
| 500–End | (869–056–00191–6) | 25.00 | Oct. 1, 2005 |
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| 0–19 | (869–056–00192–4) | 61.00 | Oct. 1, 2005 |
| 20–39 | (869–056–00193–2) | 46.00 | Oct. 1, 2005 |
| 40–69 | (869–056–00194–1) | 40.00 | Oct. 1, 2005 |
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

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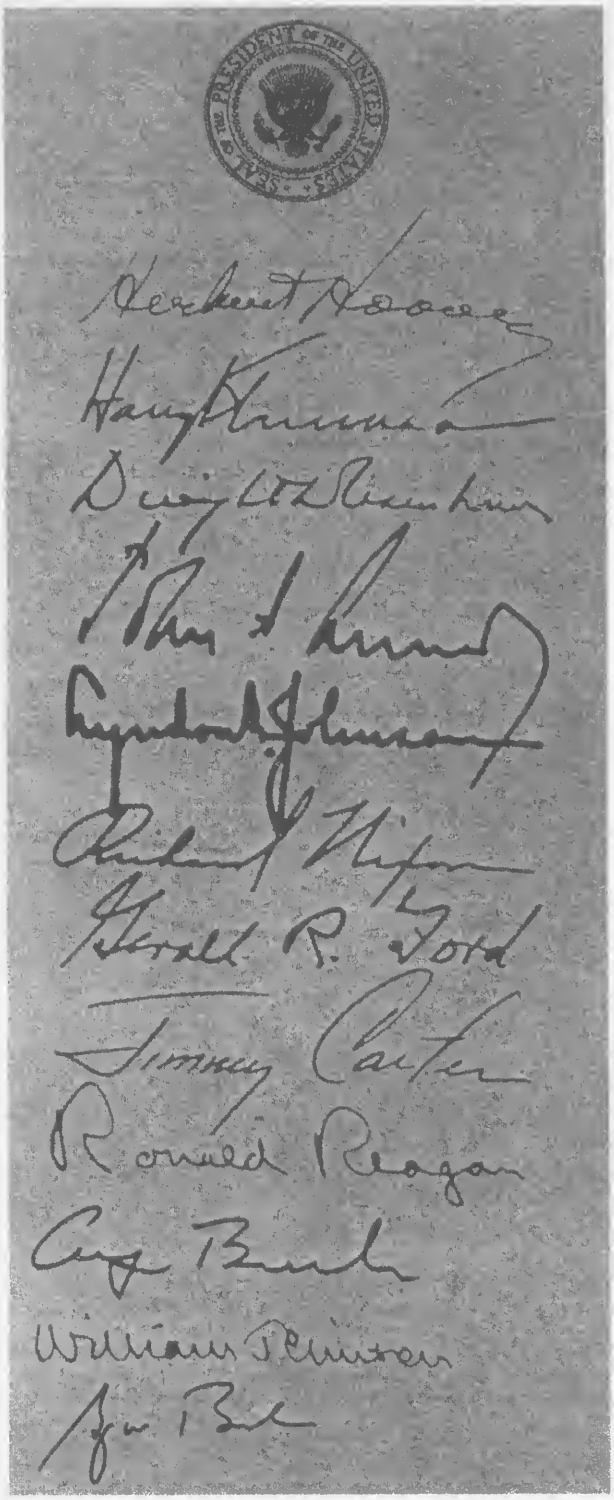


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